

PUBLIC HEARING ON
PROPOSED AMENDMENT TO
10 CSR 10-1.010
GENERAL ORGANIZATION

This amendment will change subsections (3)(B) and (3)(C).

Subsection (3)(B) is being amended to remove the unnecessary use of restrictive words.

Subsection (3)(C) is being amended for clarification and to remove the unnecessary use of restrictive words.

NOTE 1 - Legend for rule actions to be presented at public hearing is as follows:

- * *Shaded Text - Rule sections or subsections not proposed for amendment. This text is only for reference.*
- * *Unshaded Text - Rule sections or subsections that are proposed for change.*

NOTE 2 - All unshaded text below this line is printed in the Missouri Register.

**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

Division 10—Air Conservation Commission

Chapter 1—Organization

PROPOSED AMENDMENT

10 CSR 10-1.010 General Organization. The commission proposes to amend subsections (3)(B) and (3)(C). If the commission adopts this rule action, the department does not intend to submit this rule amendment to the U.S. Environmental Protection Agency because the rule is administrative, and the rule has never been approved as part of the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule provides a description of the organization and general methods and scope of operation of the Missouri Air Conservation Commission and the Air Pollution Control Program of the Missouri Department of Natural Resources and provides for public information and participation. This amendment will remove the unnecessary uses of restrictive words. The

evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 and the public hearing testimony for this rulemaking.

PURPOSE: This rule provides a description of the organization and general methods and scope of operation of the Missouri Air Conservation Commission and the Air Pollution Control Program of the Missouri Department of Natural Resources and provides for public information and participation.

(1) Applicability. *(Not Applicable)*

(2) Definitions. *(Not Applicable)*

(3) General Provisions.

(A) Authorization. Chapter 643, RSMo.

(B) Organization and Operation.

1. Air Conservation Commission. The seven (7) member commission is the state's governing body for the control, abatement, and prevention of air pollution (643.030 and 643.040, RSMo) having authority (643.050, 643.055, 643.225, and 643.305, RSMo) to—
 - A. Adopt, promulgate, amend, and rescind rules;
 - B. Establish air quality control regions;
 - C. Require submission of relevant information;
 - D. Conduct and hold hearings upon appeals from orders, permit denials, and other actions of the director, settle compliance disputes at public hearings before the commission, or refer alleged violations to the county prosecutor or attorney general;
 - E. Develop facts, make investigations, and make orders and determinations;
 - F. Prepare and develop a comprehensive plan for the prevention, abatement, and control of air pollution, including emergency alert procedures;
 - G. Grant authority to political subdivisions to control air pollution;
 - H. Grant, modify, and revoke exceptions and variances to rules; and
 - I. Suspend the order of rulemaking when necessary for public health, safety, and welfare prior to filing the final order of rulemaking.
2. Director. The director of the Department of Natural Resources, serving at the pleasure of the governor, or the director's authorized representative, has the responsibility and the authority (643.060, RSMo) to—
 - A. Employ staff and consultants as necessary to carry out the Missouri Air Conservation Law;
 - B. Accept, receive, and administer grants, gifts, or other funds from public and private agencies;
 - C. Receive, budget, and expend appropriated moneys;
 - D. Arrange, notify, attend, and record all meetings of the Missouri Air Conservation Commission (MACC);
 - E. Investigate complaints, issue abatement orders, recommend that the MACC request legal action be taken by the attorney general

- under 643.090.2, RSMo, recommend legal action be taken by the attorney general under 643.090.2, RSMo, and enforce provisions of the Missouri Air Conservation Law;
- F. Receive and act upon reports, plans, specifications, and permit applications submitted under rules promulgated by MACC;
 - G. Receive and investigate petitions for variances and submit recommendations to MACC;
 - H. Carry out the directions of MACC between meetings including conducting inspections and investigations, obtaining and assembling data, and preparing reports;
 - I. Submit revisions of the State Implementation Plan (SIP) to the United States Environmental Protection Agency (EPA) for approval; and
 - J. Enact air pollution emergency alert procedures.
3. Staff director. The staff director of the Air Pollution Control Program of the Department of Natural Resources serves at the pleasure of the commission and handles the day-to-day matters, including all responsibilities delegated to the director's authorized representative.
4. Air Pollution Control Program. The program is divided into five (5) sections with the main task descriptions listed below—
- A. The Fiscal and Budget Section—
 - (I) Serves as human resource liaison and training coordinator;
 - (II) Oversees sunshine request responses and record management;
 - (III) Prepares annual program budget;
 - (IV) Coordinates proposed legislation and fiscal note responses at the department's request;
 - (V) Processes all financial transactions for procurement, deposits, collections, and payroll;
 - (VI) Manages the cash accounts;
 - (VII) Administers grants; and
 - (VIII) Maintains physical inventory and fixed assets;
 - B. The Compliance and Enforcement Section—
 - (I) Provides compliance assistance to regulated entities;
 - (II) Coordinates with and provides oversight of the regional offices and the local air pollution control agencies in matters of compliance and enforcement;
 - (III) Administers an asbestos program[-as required];
 - (IV) Administers a gasoline vapor recovery program[-as required];
 - (V) Administers a motor vehicle inspection/maintenance program[-as required];
 - (VI) Oversees source compliance testing;
 - (VII) Resolves violations through out-of-court settlements or orders with the assistance of the attorney general's office or the department's legal counsel;
 - (VIII) Requests approval from MACC for referral to the attorney

- general's office for those violations in which a settlement was not achieved; and
- (IX) Provides technical reviews and recommendations for variance requests to MACC;
- C. The Air Quality Analysis Section—
- (I) Develops and quality-assures the point, area, and mobile source emission inventory for EPA National Emissions Inventory (NEI) submittal and program use;
 - (II) Coordinates with the Environmental Services Program and local air pollution control agencies when applicable on establishing and maintaining ambient air monitoring sites and collecting ambient air data;
 - (III) Develops and implements the annual Monitoring Network Plan and coordinates Ambient Air Monitoring Network Reviews;
 - (IV) Reviews and approves permit applicant ambient air quality monitoring Quality Assurance Project Plans (QAPPs);
 - (V) Conducts and provides emissions and ambient air quality analysis for other sections in the program;
 - (VI) Updates and maintains the program's air quality monitoring, emissions, and other databases; and
 - (VII) Develops risk assessment levels in support of the Title V program for review and approval by the Department of Health and Senior Services;
- D. The Air Quality Planning Section—
- (I) Maintains state air rules and Missouri SIP for consistency with the latest federal and state requirements;
 - (II) Develops, tracks, and implements rulemakings for new rules, amendments to rules, and rescissions of rules;
 - (III) Develops, tracks, and implements SIP revisions;
 - (IV) Conducts air quality modeling[~~required~~] to support rule and SIP actions;
 - (V) Implements public participation requirements of state and federal laws for rulemakings and SIP revisions;
 - (VI) Coordinates rulemakings and SIP actions with the secretary of state, EPA, other regulatory bodies, private industries, environmental interests, and other stakeholders; and
 - (VII) Establishes mobile source emissions budgets and participates in inter-agency consultation processes in accordance with federal transportation conformity requirements to ensure transportation activities are consistent with air quality goals; and
- E. The Permits Section—
- (I) Receives, evaluates, and makes recommendations to the director to approve, approve with conditions, or deny applications for construction permits;
 - (II) Provides technical support to legal counsel for permits

- issued and appealed by an applicant or citizen;
 - (III) Reviews construction permits prepared by local air pollution control agencies;
 - (IV) Processes operating permit applications, amendments, and modifications in a timely manner according to the rules and requirements;
 - (V) Processes relocation notification for portable equipment; and
 - (VI) Maintains the Missouri Clean Air Act Title V Program to ensure continued authorization of the program in Missouri.
- (C) Public Information. The Air Pollution Control Program provides information to the public as follows:
 1. Publish a notice in the Jefferson City, Missouri newspaper to provide information on how the public may review and provide comment on draft rule text and Regulatory Impact Reports for a period of at least sixty (60) days;
 2. Post public hearing notices for rule and SIP actions at least thirty (30) days prior to public hearing on the Air Pollution Control Program’s website and send via email to established program distribution list that includes[~~required~~] parties and other interested stakeholders. These notices provide information on timing of proposed MACC actions and how the public may participate in all rulemaking and SIP actions. Contact the Air Pollution Control Program Air Quality Planning Section Chief to be added to the email distribution list;
 3. Publish in the *Missouri Register*—
 - A. Proposed rule actions at least thirty (30) days prior to a public hearing; and
 - B. Final rule actions adopted by MACC with recognition of public hearing comments;
 4. Provide construction and operating permit notices as described in 10 CSR 10-6.060 Construction Permits Required and 10 CSR 10-6.065 Operating Permits; **and**
 - ~~[5. Present any revision to department-supplied forms to the regulated community for a forty-five (45) day comment period; and]~~
 - ~~[6.]~~**5.** Make all records retained for or by the Air Pollution Control Program available for public inspection and copying by any person, except for records which~~[either are required to be or which may be kept]~~ **are designated as confidential** under Missouri law.
- (D) Reorganization of 1974. The Omnibus Reorganization Act of 1974 transferred the Air Conservation Commission and its functions (Chapter 643, RSMo) by Type II transfer. Under this act, the position of executive secretary was abolished and the director of the Department of Natural Resources assumed the responsibilities delegated to the executive secretary by 643.060, RSMo. The position of staff director was created to provide the day-to-day operation of the Air Pollution Control Program and the Air Pollution Control Program staff was transferred to the Department of Natural Resources (DNR). The director of DNR, the staff director of the Air Pollution Control Program, and the program staff enforce the

rules and implement the policy of the Air Conservation Commission.

(4) Reporting and Record Keeping. *(Not Applicable)*

(5) Test Methods. *(Not Applicable)*

AUTHORITY: sections 643.050, **643.055**, and 643.225, RSMo [~~Supp. 2012~~2016], ~~and section 643.055, RSMo 2000~~. Original rule filed May 12, 1976, effective Oct. 11, 1976. Rescinded and readopted: Filed May 13, 1982, effective Oct. 11, 1982. Amended: Filed April 2, 1987, effective Aug. 27, 1987. Amended: Filed May 12, 1998, effective Dec. 30, 1998. Amended: Filed Oct. 2, 2012, effective July 30, 2013. Amended: Filed March 27, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., May 31, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., June 7, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**PUBLIC HEARING ON
PROPOSED AMENDMENT TO
10 CSR 10-6.180**

MEASUREMENT OF EMISSIONS OF AIR CONTAMINANTS

This amendment will change sections (1) and (2) and add sections (3), (4), and (5).

Section (1) is being rewritten to include applicability requirements to restructure the rule into the standard rule organization format.

Section (2) is being rewritten to restructure the rule into the standard rule organization format and include definitions specific to this rule.

Sections (3), (4), and (5) are being added to restructure the rule into the standard rule organization format.

NOTE 1 - Legend for rule actions to be presented at public hearing is as follows:

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

Division 10—Air Conservation Commission

**Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air
Pollution Control Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.180 Measurement of Emissions of Air Contaminants. The commission proposes to amend the purpose and sections (1) and (2) and add sections (3), (4), and (5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This rulemaking will also restructure the rule into the standard rule organization format and add definitions specific to this rule. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03.

PURPOSE: This rule [~~provides that upon request any source shall complete, or have completed, tests of emissions or, at the option of the agency, make the source available for tests of emissions~~]allows the director to obtain air contaminant emissions data upon request.

(1) [~~Responsible Persons to Have Tests Made. The director may require any person responsible for the source of emission of air contaminants to make or have made tests to determine the quantity or nature, or both, of emission of air contaminants from the source. The director may specify testing methods to be used in accordance with good professional practice. The director may observe the testing. All tests shall be conducted by reputable, qualified personnel. The director shall be given a copy of the test results in writing and signed by the person responsible for the tests.~~]**Applicability. This rule applies to all sources and persons responsible for the emission of air contaminants throughout the state of Missouri.**

(2) [~~Director May Make Tests. The director may conduct tests of emissions of air contaminants from any source. Upon request of the director, the person responsible for the source to be tested shall provide necessary ports in stacks or ducts and other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.~~]

Definitions.

- (A) **Air contaminant—Any particulate matter or any gas or vapor or any combination of them.**
- (B) **Director—Director of the Missouri Department of Natural Resources or a representative designated to carry out the duties as described in 643.060, RSMo.**
- (C) **Facility—All contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.**
- (D) **Qualified personnel—A reputable person or group possessing the necessary experience, knowledge, education, training, or certification to accurately conduct a given emission test.**
- (E) **Source—Any governmental, institutional, commercial, or industrial structure, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the Clean Air Act (CAA).**

(3) **General Provisions.**

- (A) **The director may require any person or owner/operator of a source responsible for the emission of air contaminants to conduct tests to determine the quantity or nature, or both, of their air contaminant emissions.**

1. The director may specify test methods to be used and observe testing as it is performed.
 2. All tests must be performed by qualified personnel.
 3. The director shall be provided a copy of the test results in writing and signed by the person responsible for the tests.
- (B) The director may conduct tests of emissions of air contaminants from any source. Upon the director's request, the person responsible for the source to be tested shall provide necessary ports in stacks or ducts and other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.

(4) Reporting and Record Keeping. *(Not Applicable)*

(5) Test Methods. *(Not Applicable)*

AUTHORITY: section 643.050, RSMo [~~Supp. 1992~~]**2016**, Original rule filed Aug. 2, 1990, effective Dec. 31, 1990. Amended: Filed May 1, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., July 26, 2018. The public hearing will be held at the St. Louis Regional Office, 7545 South Lindbergh, Suite 220, DESE Conference Room, St. Louis, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., August 2, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

