

PUBLIC HEARING ON
PROPOSED AMENDMENT TO
10 CSR 10-6.220

RESTRICTION OF EMISSION OF VISIBLE AIR CONTAMINANTS

This amendment will change the rule purpose and sections (1) – (5).

The rule purpose is being updated.

Section (1) is being amended to clarify the rule does not apply to indoor emissions or water vapor; and to revise, update, and add exemptions to eliminate regulatory overlap and unnecessary requirements.

Section (2) is being amended to remove definitions that can be found in 10 CSR 10-6.020, Definitions and Common Reference Tables.

Section (3) is being amended to remove an impermissible statement and clarify compliance requirements.

Section (4) is being amended to clarify the rule applies to individual units.

Section (5) is being amended to clarify the test methods to be used for demonstrating compliance.

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

PROPOSED AMENDMENT

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants. The commission proposes to amend the rule purpose and sections (1)–(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’ Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This amendment removes a statement from the compliance and performance testing provisions that does not meet Clean Air Act requirements, adds exemptions for emission units regulated by stricter federal and state regulations or that do not have the capability of exceeding the emission limits of this rule, and adds an alternative test method. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Federal Register notice 78 FR 12460, dated February 22, 2013.

PURPOSE: This rule specifies the maximum allowable opacity of visible air contaminant emissions, unless specifically exempt or regulated by 10 CSR 10-6.070 and requires the use of continuous monitoring systems [~~(COMS)~~](CMS) on certain air contaminant [~~sources~~]emission units.

- (1) Applicability. This rule applies to all sources of visible emissions, **excluding water vapor**, throughout the state of Missouri with the exception of the following:
 - (A) Internal combustion engines [~~operated outside the Kansas City or St. Louis metropolitan areas and stationary internal combustion engines operated in the Kansas City or St. Louis metropolitan areas~~];
 - (B) Wood burning stoves or fireplaces used for heating;
 - (C) Fires used for recreational or ceremonial purposes or fires used for the noncommercial preparation of food by barbecuing;
 - (D) Fires used solely for the purpose of fire-fighter training;
 - (E) Smoke generating devices when a required permit (under 10 CSR 10-6.060 or 10 CSR 10-6.065) has been issued or a written determination that a permit is not required has been obtained;
 - (F) The pyrolysis of wood for the production of charcoal in batch-type charcoal kilns (Emissions from batch-type charcoal kilns shall comply with the requirements of 10 CSR 10-6.330 Restriction of Emissions From Batch-Type Charcoal Kilns);
 - (G) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher;
 - (H) Emission [~~sources~~]units regulated by 10 CSR 10-6.070 and the provisions of 40 CFR [~~part~~]-60, promulgated as of July 1, [~~2007~~]2013, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions; [~~and~~]
 - (I) Any open burning that is exempt from open burning rule 10 CSR 10-6.045[~~;~~];

- (J) **Emission units regulated by 40 CFR 63 subpart DDDDD—*National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters* that meet one (1) of the following criteria:**
 - 1. **Constructed or reconstructed after June 4, 2010;**
 - 2. **The unit is subject to a ten percent (10%) opacity limit as described in Table 4 of 40 CFR 63 subpart DDDDD; or**
 - 3. **The unit is in Table 2 of 40 CFR 63 subpart DDDDD and has a filterable particulate matter limitation of less than or equal to 4E-02 pounds per million British thermal units (lbs/MMBtu);**
 - (K) **Fugitive emissions subject to 10 CSR 10-6.170;**
 - (L) **Any emission unit burning only natural gas, landfill gas, propane, liquefied petroleum gas, digester gas, or refinery gas;**
 - (M) **Emission units regulated by 40 CFR 63 subpart JJJJJ—*National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources* that meet all of the following criteria:**
 - 1. **Constructed or reconstructed after June 4, 2010;**
 - 2. **In compliance with the 3.0E-02 lbs/MMBtu filterable particulate matter emission limit described in Table 1 of 40 CFR 63 subpart JJJJJ or maintaining opacity to less than or equal to 10 percent as described in Table 3 of 40 CFR 63 subpart JJJJJ; and**
 - 3. **Demonstrating compliance with a continuous monitoring system (CMS), including a continuous emission monitoring system (CEMS), a continuous opacity monitoring system (COMS), or a continuous parameter monitoring system (CPMS);**
 - (N) **Emission units regulated by 40 CFR 63 subpart UUUUU—*Mercury and Air Toxics Standards*, and demonstrating compliance with a particulate matter continuous emission monitoring system; and**
 - (O) **Emission units that are contained within and emit only within a building space. This does not include emission units with a collection device vented outside the building space.**
- (2) **Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.**
- ~~[(A) Capacity factor—Ratio (expressed as a percentage) of a power generating unit's actual annual electric output (expressed in Mwe-hr) divided by the unit's nameplate capacity multiplied by 8,760 hours.~~
 - ~~—(B) Continuous Opacity Monitoring System (COMS)—All equipment required to continuously measure and record the opacity of emissions within a stack or duct. Continuous Opacity Monitoring Systems consist of sample interface, analyzer and data recorder components and usually include, at a minimum: transmissometers, transmissometer control equipment, and data transmission, acquisition, and recording equipment.~~
 - ~~—(C) Six (6) minute period—A three hundred sixty (360) consecutive second time interval. Six (6) minute block averages shall be utilized for COMS data per the provisions of Appendix B to 40 CFR part 60, Performance Specification 1,~~

promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

- ~~(D) Smoke generating device— A specialized piece of equipment which is not an integral part of a commercial, industrial or manufacturing process and whose sole purpose is the creation and dispersion of fine solid or liquid particles in a gaseous medium.~~
- ~~(E) Source— Any part or activity of an installation that emits or has the potential to emit any regulated air pollutant.~~
- ~~(F) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.]~~

(3) General Provisions.

(A) **Visible Emissions Limitations.**

- ~~[(A)]~~ 1. Maximum Visible Emissions Limitations. Unless specified otherwise in this rule, no owner or ~~[other person]~~**operator** shall cause or permit to be discharged into the atmosphere from any ~~[source]~~**emission unit**, not exempted under this rule, any visible emissions greater than the limitations in the following table **for any continuous six (6)-minute period as measured by the test method used to demonstrate compliance with this rule:**

Area of State	Visible Emission Limitations	
	Existing [Sources] Emission Units	New [Sources] Emission Units
Kansas City Metropolitan Area	20%	20%
St. Louis Metropolitan Area	20%*	20%
Springfield-Greene County Area	40%	20%
Outstate Area	40%	20%

* Exception: Existing ~~[sources]~~**emission units** in the St. Louis metropolitan area that are not incinerators and emit less than twenty-five (25) lbs/hr of particulate matter shall be limited to forty percent (40%) opacity.

- ~~[(B)]~~ 2. Visible Emissions Limitations, Exceptions Allowed In One (1) **Continuous Six (6)-Minute Period.** The visible emissions limitations in the following table shall be allowed for ~~[a period not aggregating more than]~~ one (1) **continuous six (6)-minute period in any sixty (60) minutes as measured by the test method used to demonstrate compliance with this rule:**

Area of State	Visible Emission Limitations, Exceptions	
	Existing [Sources] Emission Units	New [Sources] Emission Units
Kansas City Metropolitan Area	60% **	60% **
St. Louis Metropolitan Area	40%	40%
Springfield-Greene County Area	60% **	60% **
Outstate Area	60%	60%

** This exception does not apply to existing and new incinerators in the Kansas City metropolitan area and Springfield-Greene County.

~~[(C)]~~ Visible emissions over the limitations shown in subsection (3)(B) of this rule are in violation of this rule unless the director determines that the excess emissions do not warrant enforcement action based on data submitted under 10 CSR 10-6.050 Start-Up, Shutdown and Malfunction Conditions.]

~~[(D)]~~(B) Failure to meet the requirements of subsection (3)(A) solely because of the presence of uncombined water shall not be a violation of this rule.

~~[(E)]~~ The following emission sources shall have COMS installed, calibrated, maintained and operated in accordance with 40 CFR part 60, Performance Specification 1:

- ~~1.~~ Coal fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement;
- ~~2.~~ Portland cement calcining kiln operations; and
- ~~3.~~ Sources that require COMS under 10 CSR 10-6.070 New Source Performance Regulations.

~~[(F)]~~ All sources shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.]

~~[(G)]~~(C) Compliance Determination. Compliance for any [source] **emission unit** to which this rule applies shall be determined from opacity measurements taken in accordance with subsection (3)~~[(E)]~~(D) or (3)~~[(F)]~~(E) of this rule. ~~[If a COMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.]~~ If opacity measurements taken by a non-department qualified observer differ from visual measurements taken by a qualified department observer, the qualified department observer's opacity measurements shall be used to determine compliance.

(D) The following emission units shall install a CMS in accordance with subsection (3)(F) of this rule:

- 1. Unless exempt under section (1) of this rule, coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement; and**

2. **Portland cement calcining kiln operations.**
- (E) **Unless otherwise specified in this rule, owners or operators shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.**
- ~~[(H) Continuous Opacity Monitoring Systems (COMS) General Requirements.]~~
- (F) **Continuous Monitoring Requirements. Sources with emission units that are required to install a CMS must select one (1) of the following options:**
1. **Install, calibrate, and maintain a COMS according to the following conditions:**
 - A. Source operating time includes any time fuel is being combusted and/or a fan is being operated[-];
 - ~~[2.]~~ B. Cycling time. Cycling times include the total time a monitoring system requires to sample, analyze, and record an emission measurement. Continuous monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive ten (10)-second period[-];
 - ~~[3.]~~ C. Certification. All COMS shall be certified by the director after review and acceptance of a demonstration of conformance with 40 CFR ~~[Part-]~~60, Appendix B, Performance Specification 1[-]
 - ~~[4.]~~ D. Audit authority. All COMS shall be subject to audits conducted by the department, and all COMS records shall be made available upon request to department personnel[-]; **or**
 - ~~[5.]~~2. ~~[Alternative monitoring methods.]~~**Install, calibrate, and maintain an alternative CMS according to the following conditions:**
 - A. All alternative **CMS**, monitoring systems requirements, system locations, **reporting and record keeping requirements**, and procedures for operation and maintenance ~~[which do not meet the requirements of this rule]~~ must be approved by the staff director **and the U.S. Environmental Protection Agency (EPA); and incorporated into this rule and the state implementation plan (SIP) prior to implementation[-]**. ~~Submittals for approval determination must—;~~
 - ~~[A.]~~**B.** Demonstrate that a requirement of ~~[subsection (3)(H), (4)(A) and/or (4)(B)]~~**paragraph (3)(F)1. or section (4)** of this rule cannot be practically met; and
 - ~~[B.]~~**C.** Demonstrate that the alternative **CMS** produces results that adequately verify compliance.
- (G) **If a CMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.**
- ~~[(4)](H)~~ Time Schedule for Compliance.
1. All new ~~[sources]~~**emission units** shall comply when operations begin; and
 2. All existing ~~[sources]~~**emission units** shall comply as of the effective date of this rule.

(4) Reporting and Record Keeping.

(A) COMS Reporting. Owners or operators~~[of sources]~~ required to install COMS shall submit a quarterly written report to the director. All quarterly reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter and shall include the following emissions data:

1. A summary including total time for each cause of excess emissions and/or monitor downtime;
2. Nature and cause of excess emissions, if known;
3. The six (6)-minute average opacity values greater than the opacity emission requirements (The average of the values shall be obtained by using the procedures specified in the Reference Method used to determine the opacity of the visible emissions);
4. The date and time identifying each period during which the COMS was inoperative (except for zero and span checks), including the nature and frequency of system repairs or adjustments that were made during these times; and
5. If no excess emissions have occurred during the reporting period and the COMS has not been inoperative, repaired or adjusted, this information shall be stated in the report.

(B) COMS Records to be Maintained. Owners or operators of affected ~~[sources]~~**emission units** shall maintain a file (hard copy or electronic version) of the following information for a minimum of two (2) years from the date the data was collected:

1. All information reported in the quarterly summaries; and
2. All six (6)-minute opacity averages and daily Quality Assurance (QA)/Quality Control (QC) records.

(5) Test Methods.

(A) ~~[Emissions from Stationary Sources—Use one (1) of the following four (4) methods:~~

- ~~1.]Qualified observer in accordance with 10 CSR 10-6.030(9)(A),[Reference] Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources[;].~~
- ~~2. Qualified observer in accordance with the provisions of 40 CFR part 51, Appendix M—Recommended Test Methods, Method 203A—Visual Determination of Opacity of Emissions from Stationary Sources for Time Averaged Regulations, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;~~
- ~~3. Qualified observer in accordance with the provisions of 40 CFR part 51, Appendix M—Recommended Test Methods, Method 203B—Visual Determination of Opacity of Emissions from Stationary Sources for Time Exception Regulations, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S.~~

Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions; or

4. ~~Continuous Opacity Monitoring System that complies with and is installed, calibrated, maintained, and operated in accordance with proposed Test Method 203—Visual Determination of the Opacity of Emissions from Stationery Sources by Continuous Opacity Monitoring Systems (as proposed in the October 7, 1992, *Federal Register*, Volume 57, pp. 46114–46119).]~~

(B) ~~[Emissions from Mobile Internal Combustion Engines—Use a qualified observer in accordance with the provisions of 40 CFR part 60, Appendix A—Test Methods, Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.]~~

Photogrammetric opacity measurement in accordance with EPA Method ALT-082— Digital camera opacity technique.

(C) ~~[Fugitive Emissions from Material Sources, Smoke Emissions from Flares and As Required by Permit Condition—Use a qualified observer in accordance with the provisions of 40 CFR part 60, Appendix A—Test Methods, Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.]~~ **A modification of the test methods listed in subsections (5)(A) or (5)(B) of this rule. Any modification of a test method listed in subsections (5)(A) or (5)(B) of this rule must be approved by the director and the EPA; and incorporated into this rule and the SIP prior to implementation.**

AUTHORITY: section 643.050, RSMo [2000] **Supp. 2013**. Original rule filed March 31, 1999, effective Nov. 30, 1999. Amended: Filed Feb. 28, 2002, effective Nov. 30, 2002. Amended: Filed Feb. 4, 2008, effective Sept. 30, 2008. Amended: Filed March 28, 2016.

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 28, 2016. 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

written or email statement of their views until 5:00 p.m., August 4, 2016. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**PUBLIC HEARING ON
PROPOSED AMENDMENT TO
10 CSR 10-6.210**

Confidential Information

This amendment will clarify the procedures for handling confidential business information.

Section (1) is being amended to clarify the rule applicability.

Sections (2), (4), and (5) are being combined into section (3) and the requirements are being clarified.

Existing section (3) is being renumbered to section (2) and amended to remove definitions that can be found in 10 CSR 10-6.020, Definitions and Common Reference Tables.

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 10-6.210 Confidential Information. The commission proposes to amend sections (1)–(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’ Environmental Regulatory Agenda website,

PURPOSE: This rule provides procedures and conditions for handling confidential information. This amendment clarifies the procedures for submitting and handling confidential business information, clarifies requirements for granting a claim of confidentiality, reorganizes the rule into the standard rule organization format, and removes the definitions currently listed in section (3) of the rule since they can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is September 19, 2013, meeting minutes for a meeting with Missouri Department of Natural Resources management to discuss issues with the procedures for submitting and handling confidential business information and claims of confidentiality, and a Rule Comment Form dated December 23, 2003 from a Missouri Department of Natural Resources staff member.

PURPOSE: This rule provides procedures and conditions for handling confidential information.

(1) ~~[Application]~~**Applicability.** This rule shall apply to all business information requested to be designated confidential **under Chapter 643, RSMo.** ~~[by the Missouri Air Conservation Commission. This rule shall not apply to emission data included in the information that shall not be entitled to confidential treatment, as provided by section 643.050.4., RSMo.]~~

~~[(2) General. Any information submitted pursuant to this rule or other rules of the Missouri Air Conservation Commission that contains, or from which could be derived, confidential business information, shall be kept confidential by the commission and employees and agents of the Department of Natural Resources if a timely request for confidentiality is made by the person submitting the information.]~~

~~[(3)]~~(2) **Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.**

~~[(A) Definitions for key words used in this rule may be found in 10 CSR 10-6.020(2).~~

~~[(B) Additional definitions specific to this rule are as follows:~~

~~1. Confidential business information—Secret processes, secret methods of manufacture or production, trade secrets and other information possessed by a business that, under existing legal concepts, the business has a right to preserve as confidential, and to limit its use by not disclosing it to others in order that the business may obtain or retain business advantages it derives from its rights in the information; and~~

~~2. Emission data—~~

~~A. The identity, amount, frequency, concentration or other characteristics (related to air quality) of any air contaminant which—~~

~~(I) Has been emitted from an emission unit;~~

~~(II) Results from any emission by the emissions unit;~~

~~(III) Under an applicable standard or limitation, the emissions unit was authorized to emit; or~~

~~(IV) Is a combination of any of the parts (3)(B)2.A.(I), (II) or~~

(III) of this rule;

- ~~B.~~ The name, address (or description of the location) and the nature of the emissions unit necessary to identify the emission units including, a description of the device, equipment, or operation constituting the emissions unit; and
- ~~C.~~ The results of any emission testing or monitoring required to be reported under this rule or other rules of the commission.]

(3) **General Provisions. Any information or records submitted or obtained pursuant to Chapter 643, RSMo, is subject to public disclosure unless a request for confidentiality is made by the person submitting the information or records and the request has been approved pursuant to the following procedures:**

~~(4)~~ (A) Procedures.

- ~~(A)~~ 1. An owner or operator who wishes to claim confidentiality for any information submitted pursuant to this rule or other rules of the commission ~~[shall]~~**should** submit a claim of confidentiality ~~[within ten (10) working days following the time]~~**when** the information is **initially** submitted. ~~[Failure to submit a claim of confidentiality within the required time shall result in a waiver of any claim to confidentiality.]~~**Failure to submit a claim of confidentiality when the information is initially submitted may result in public disclosure.**
- ~~(B)~~ 2. The claim of confidentiality shall be accompanied by a justification that the information is entitled to confidential treatment.
- 3. **When information claimed to be confidential is being submitted with a permit application, emissions report, or any other documentation containing information subject to public disclosure, a separate version that may be viewed by the public shall be provided by the owner or operator.**
- ~~(C)~~ 4. Upon receipt of a ~~[timely]~~claim of confidentiality, the director shall evaluate the claim and inform the owner or operator that the claim has been ~~[granted]~~**approved**, or that a preliminary decision has been made to deny the claim in whole or in part. Until that time in which the claim is reviewed it shall be held in confidence.
- ~~(D)~~ 5. ~~[The owner or operator shall have fifteen (15) working days from the receipt of the preliminary decision to deny the claim in which to submit further justification or comments to the director.]~~**If a claim of confidentiality is denied in the preliminary review, the owner or operator will have fifteen (15) days from the date of the denial letter to submit further justification or comments to the director for consideration in the final decision on confidentiality.** The director shall inform the owner or operator of his/her final decision on whether the claim will be denied in whole or in part within ten (10) working days **of receiving the owner or operator's further justification or comments.**
- ~~(E)~~ 6. The owner or operator may appeal ~~[to the commission from]~~the director's final decision to deny a claim of confidentiality, in whole or part, **to the administrative hearing commission pursuant to 621.250,**

RSMo, and 10 CSR 10-1.030~~[by filing a notice of appeal with the staff director within twenty (20) working days after receipt of the director's final decision].~~ Upon the timely filing of a notice of appeal, the confidentiality of the information shall be preserved until the entry of a final order by the commission.

- [~~F~~] 7. If the commission's final decision is to deny the claim of confidentiality, in whole or in part, the director shall treat the information as subject to public disclosure unless the owner or operator files a timely action for judicial review pursuant to ~~[section-]~~536.110, RSMo. If a timely action for judicial review is filed, the confidentiality of the information shall be preserved until adjudication of the matter upon judicial review.
- [~~G~~] 8. A claim of confidentiality under this rule shall be ~~[granted]~~**approved** if—
- [~~1-~~] A. The owner or operator has asserted a business confidentiality claim that has not expired by its terms~~[-been waived]~~ or **been** withdrawn;
 - [~~2-~~] B. The owner or operator has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to take those measures;
 - [~~3-~~] C. The information is not, and has not been, reasonably obtained without the owner's or operator's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special needs in a judicial or quasi-judicial proceeding);
 - [~~4-~~] D. No statute specifically requires public disclosure of the information;
 - [~~5-~~] E. The information is not emission data **that is required to be reported to the U.S. Environmental Protection Agency under 40 CFR 51.15 with the exception of the following data elements which can be claimed to be confidential with justification the department approves:**
 - (I) **Activity/throughput (for each period reported);**
 - (II) **Emission factor;**
 - (III) **Winter throughput (percent);**
 - (IV) **Spring throughput (percent);**
 - (V) **Summer throughput (percent);**
 - (VI) **Fall throughput (percent);**
 - (VII) **Design capacity (including boiler capacity, if applicable) (MHDR);**
 - (VIII) **Primary capture and control efficiencies (percent); and**
 - (IX) **Total capture and control efficiency (percent); and**
 - [~~6-~~] F. The owner or operator has satisfactorily shown that— ~~[public disclosure of the information—]~~
 - [~~A-~~] (I) ~~[Is]~~**Public disclosure of the information is** likely to cause substantial harm to the business' competitive position; or
 - [~~B-~~] (II) ~~[Was]~~**The information was** voluntarily submitted and **if disclosed, the submitter would be reluctant to provide**

additional information to the director ~~[its disclosure would be likely to impair the director's ability to obtain necessary information]~~ in the future. Information is voluntarily submitted if the **facility has no statutory, regulatory, or contractual obligation to provide the information; or the director has no statutory, regulatory, or contractual authority to obtain** ~~[some benefit or avoid some disadvantage under the Missouri Air Conservation Law and implementing rules (for example, information required to obtain a permit or other approval is submitted to obtain a benefit from the Missouri Air Conservation Commission)]~~ **the information under federal or state law[.]; and**

- ~~[(5)]~~ **(B)** Conditions for Any Disclosure.
- ~~[(A)]~~ **1.** Public ~~[Request]~~**request.** Upon receipt of a request from a member of the public for release of any information submitted under a claim of confidentiality, and for which the claim has not been finally denied, the director shall inform both the person making the request and the owner or operator that the request for the information is denied or that a tentative decision has been made to release the information. A preliminary decision to release the information shall be treated in the same manner as a preliminary decision to deny a claim of confidentiality under ~~[subsections (4)(C)–(G)]~~**paragraphs (3)(A)4.–8.** of this rule.
- ~~[(B)]~~ **2.** Confidential and ~~[Public Information]~~**public information.** ~~[If the information submitted under a claim of confidentiality contains both information which is entitled to confidential treatment and emission data or other information not entitled to confidential treatment, the director may take reasonable steps to segregate that information entitled to confidential treatment from that subject to public disclosure. These steps may include, without limitation, photocopying for the public file only portions of the submitted information or applying techniques that would result in confidential information being blacked out in the photocopying process.]~~ If information entitled to confidentiality cannot reasonably be separated from ~~[emission data]~~**information not entitled to confidentiality**, all the information must be treated as subject to public disclosure.
- ~~[(C)]~~ **3.** Public ~~[Release]~~**release.** The director and his/her designees shall not release to the public, or place in the public file, any information for which a ~~[timely]~~ claim of confidentiality has been made until the procedures under ~~[subsections (4)(C)–(G)]~~**paragraphs (3)(A)4.–8. and (3)(B)1.**~~[(5)(A)]~~ of this rule have been observed.
- ~~[(D)]~~ **4.** Disclosure to ~~[Local Agencies]~~**local agencies.** Information submitted under a claim of confidentiality, ~~[and]~~ where the claim has not been finally denied, may be disclosed to local air pollution control agencies if—

- [1-] A. The owner or operator is given prior notice fifteen (15) working days in which to obtain an order from a court of competent jurisdiction restraining or enjoining the disclosure to the local agency, and if no such order is obtained, or obtained and later dissolved; or
- [2-] B. The local agency has ordinances or regulations respecting the treatment of confidential business information that is equivalent to this rule, the director provides notice to the owner or operator that the information is being disclosed to the local agency, and the director informs the local agency that the information is subject to a claim of confidentiality.
- [(E)] 5. Disclosure to ~~Administrator~~**administrator**. Information submitted under a claim of confidentiality, ~~and~~**where** the claim has not been finally denied, may be disclosed to the administrator provided the administrator agrees, pursuant to 40 CFR 2.215, that the information will be kept confidential.
- [(F)] 6. Subpoenas for ~~Confidential Information~~**confidential information**. The director shall respond to subpoenas and discovery requests for information submitted under a claim of confidentiality, if the claim has not been finally denied, in a manner that is designed to preserve the claim of confidentiality until a confidentiality determination is made by a court or other tribunal of competent jurisdiction.

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

(5) Test Methods. (Not Applicable)

AUTHORITY: section 643.050, RSMo, Supp. [1992]2013. Original rule filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed May 2, 2016.

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 28, 2016. 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 any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., August 4, 2016. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

PUBLIC HEARING ON
PROPOSED REVISION TO
MISSOURI STATE IMPLEMENTATION PLAN –
REDESIGNATION REQUEST AND MAINTENANCE PLAN FOR THE ST. LOUIS
(MISSOURI) 2008 OZONE STANDARD NONATTAINMENT AREA

The Missouri Department of Natural Resources' Air Pollution Control Program is proposing to amend the Missouri State Implementation Plan (SIP).

This SIP revision addresses redesignation requirements for the St. Louis (MO) nonattainment area under the 2008 ozone standard, per the Clean Air Act. The St. Louis (MO) area counties of Franklin, Jefferson, St. Charles, St. Louis and St. Louis city were designated nonattainment by the U.S. Environmental Protection Agency (EPA) on May 21, 2012, and monitoring data for 2013 to 2015 show the area has attained the standard of 75 parts per billion. The SIP revision includes a maintenance plan to demonstrate St. Louis will continue to meet the standard in future years as outlined in emission inventory projections, contingency measures, and motor vehicle budgets. Redesignation to attainment will occur when EPA gives final approval of this plan.

The complete plan is not reprinted in the briefing document due to its volume, but the Executive Summary is included for reference. The entire plan is available for review at the Missouri Department of Natural Resources' Air Pollution Control Program, 1659 East Elm Street, Jefferson City, Missouri 65101, (573) 751-4817. It is also available online at <http://dnr.mo.gov/env/apcp/stateplanrevisions.htm>

If the commission adopts this plan, the department intends to submit it to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan.

Executive Summary

Missouri is submitting a revision to its State Implementation Plan (SIP) as a part of a formal request to the U.S. Environmental Protection Agency (EPA) to redesignate the Missouri portion of the St. Louis [St. Louis (MO)] nonattainment area to attainment for the 2008 ozone National Ambient Air Quality Standard (NAAQS). This SIP revision addresses all of the redesignation elements of the federal Clean Air Act Amendments of 1990 (CAA) Section 107(d)(3)(E), and includes a maintenance plan which demonstrates how the area will continue to comply with this NAAQS pursuant to the CAA Section 175A. The maintenance plan contains, among other things, an emissions inventory, future year emissions projections, Motor Vehicle Emissions Budgets (MVEBs) for transportation conformity and contingency measures.

Ozone air quality has dramatically improved in the St. Louis region as a result of the implementation of State and Federal control measures since the designation of the St. Louis area as marginal nonattainment in July 2012 [77 FR 30088]. On February 2, 2016, Missouri requested a “Clean Data Determination” from EPA to show that the entire St. Louis (MO) nonattainment area realized at least three consecutive ozone seasons (2013-2015) of complete, quality assured ambient air quality monitoring data demonstrating attainment with the 0.075 parts per million (ppm) 8-hour ozone NAAQS. These air quality improvements are due to permanent and enforceable emission control measures as demonstrated in this plan.

This maintenance plan provides for continued attainment of the 2008 8-hour ozone NAAQS in the St. Louis (MO) nonattainment area for the next ten years (i.e. until 2030). In the event of a violation of the 2008 ozone NAAQS, additional control options, called contingency measures, are listed in this plan that can be quickly implemented to prevent any future violations.

This plan includes emissions inventories analyses of the ozone precursors - Nitrogen Oxides (NO_x), Volatile Organic Compounds (VOCs) and Carbon Monoxide (CO)– for both the redesignation demonstration period (2011- 2014) and the maintenance plan period (2014 – 2030). These analyses show that emissions levels in the St. Louis nonattainment area will continue to decrease from attainment year 2014 levels, thereby maintaining the 2008 ozone NAAQS in future years. A part of the inventory has been set aside to create new MVEBs pursuant to Clean Air Act Section 176(c) for the St. Louis (MO) nonattainment area. Once approved by EPA, these new budgets will replace previously approved MVEBs.