

Missouri Clean Water Commission
Department of Natural Resources
Lewis and Clark State Office Building
LaCharrette/Nightingale Conference Rooms
1101 Riverside Drive
Jefferson City, Missouri 65102

May 2, 2012

Public Hearing
10 CSR 20-6.100 General Pretreatment Regulation

Issue: Public Hearing on the Proposed Rescission and the new Proposed Rule 10 CSR 20-6.100 General Pretreatment Regulation.

Background: The Environmental Protection Agency (EPA) amended the federal pretreatment rule, 40 CFR Part 403 General Pretreatment Regulations for Existing and New Sources of Pollution, in 2005. Some provisions were more restrictive, while other provisions reduce the regulatory burden on regulated industries and cities. The Department is proposing to rescind the current state rule and adopt the federal rule by reference. Included in this new Proposed Rule are additions, modifications, and substitutions that clarify the state's legal authority to implement the pretreatment regulations.

The Regulatory Impact Report (RIR) was open for public comment from May 27, 2011 through July 26, 2011. Two comments letters were received from cities with approved pretreatment programs. Both letters were generally favorable of the new Proposed Rule, but expressed the concern that notifying regulated industrial users of Missouri Hazardous Waste and Solid Waste rules would be burdensome for the cities. The proposed rulemaking was not changed as a result of the comments.

On December 15, 2011 the proposed rescission and new rule 10 CSR 20-6.100 General Pretreatment Regulation was placed on public notice. The rule was published in the Missouri Register on December 15, 2011 and republished March 1, 2012 to set a new public hearing date and extend the public comment period. The public comment period is from December 15, 2011 through May 16, 2012.

Recommended Action: No action is requested. This is an opportunity for staff, and the public, to present and comment on the proposed rescission and new rule for 10 CSR 20-6.100 General Pretreatment Regulation.

Suggested Motion Language: None.

List of Attachments:

- Proposed rulemaking for 10 CSR 20-6.100 General Pretreatment Regulation published in the Missouri Register on December 15, 2011.

operator in matters pertaining to the Emissions Banking and Trading Program in place of the authorized account representative.

(E) Authorized account representative—The person who is authorized by the owners or operators of the unit to represent and legally bind each owner and operator in matters pertaining to the Emissions Banking and Trading Program.

(F) Emission reduction credit (ERC)—A certified emission reduction that is created by eliminating future emissions and expressed in tons per year. One (1) ERC is equal to one (1) ton per year. An ERC must be real, properly quantified, permanent and surplus.

(G) Emissions unit—Any part of a source or activity at a source that emits or would have the potential to emit criteria pollutants or their precursors.

(H) Generating activity—Any process modification that results in a permanent reduction in emissions.

(I) Generator source—Any source that generates an ERC.

(J) Maintenance area—Any area with a maintenance plan approved under section 175 of the Act.

(K) Maintenance plan—A revision to the applicable Missouri State Implementation Plan (SIP), meeting the requirements of section 175A of the Act.

(L) Modeling domain—A geographic area covered by an air quality model.

(M) National Ambient Air Quality Standards (NAAQS)—The standards defined by 10 CSR 10-6.010 Ambient Air Quality Standards.

(N) New Source Review (NSR)—The permitting requirements found in state rule 10 CSR 10-6.060 Construction Permits Required.

(O) Normal source operation—The average actual activity rate of a source necessary for determining the actual emissions rate for the two (2) years prior to the date necessary for determining actual emissions, unless some other time period is more representative of the operation of the source or otherwise approved by the staff director.

(P) Protocol—A replicable and workable method to estimate the mass of emissions reductions, or the amount of ERCs needed for compliance.

(Q) Quantifiable—The quantity of emission reductions can be measured or estimated by accurate and replicable techniques. These techniques shall be at least as accurate and replicable as the techniques accepted by the U.S. EPA, where accepted techniques exist.

(R) Shutdown—Rendering an installation or unit inoperable by physically removing, dismantling or otherwise disabling the installation or unit so that it could not be reactivated without obtaining a new permit in accordance with 10 CSR 10-6.060.

(S) Stationary source—Any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act. Building, structure, facility or installation includes all pollutant emitting activities that are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control).

(T) U.S. EPA—The United States Environmental Protection Agency.

(U) User source—Any source that seeks to use ERCs to comply with an applicable emission reduction requirement.]

[(V)](B) Definitions of certain terms specified in this rule, other than those defined in this section, may be found in 10 CSR 10-6.020.

AUTHORITY: sections 643.050[, RSMo 2000] and [section] 643.220, RSMo Supp. [2008] 2011. Original rule filed Aug. 2, 2002, effective April 30, 2003. Amended: Filed May 17, 2004, effective

Dec. 30, 2004. Amended: Filed Oct. 15, 2008, effective July 30, 2009. Amended: Filed Jan. 31, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred (\$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., April 26, 2012. The public hearing will be held at the University Plaza, 333 John Q. Hammons Parkway, Iowa Meeting Room, Springfield, 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., May 3, 2012. 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 apcprule-spn@dnr.mo.gov.

Due to the recent change in the meeting date for the Clean Water Commission from March 7 to March 9, 2012, the public hearing date, March 7, 2012, and end of public comment date, March 14, 2012, for the proposed rescission of 10 CSR 20-6.100 General Pretreatment Regulation and the proposed rule 10 CSR 20-6.100 General Pretreatment Regulation, as originally published in the December 15, 2011, *Missouri Register* (36 MoReg 2906-2919) are cancelled. This results in a new public hearing date and an extension of the public comment period. The public hearing is rescheduled for May 2, 2012, and the public comment period will end May 16, 2012. The proposed rescission and proposed rule, as published in the December 15, 2011, *Missouri Register*, are reprinted below with the new public hearing date and end of public comment date to give adequate notice of this change in dates.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

PROPOSED RESCISSION

10 CSR 20-6.100 General Pretreatment Regulation. This rule set forth procedures to prevent the introduction of pollutants into publicly-owned treatment works which will interfere with the operation of publicly-owned treatment works, including interference with its use or disposal of municipal sludge, to prevent the introduction of pollutants into publicly-owned treatment works which will pass through the treatment works or otherwise be incompatible with these works, and to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

PURPOSE: This rule is being rescinded so that a new proposed rule may replace it. Substantive federal changes to general pretreatment regulations require this rescission. A new proposed rule in place of this rescission will incorporate by reference the Environmental Protection Agency's federal regulation 40 CFR Part 403. The proposed rule for general pretreatment will allow for continued implementation and enforcement of the federal requirements under the current delegation agreement with the EPA.

AUTHORITY: section 644.041, RSMo 1994. Original rule filed Feb. 1, 1988, effective June 13, 1988. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Rescinded: Filed Nov. 9, 2011.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Walter Fett, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Walter.Fett@dnr.mo.gov. Public comments must be received by May 16, 2012. The Missouri Clean Water Commission will hold a public hearing at 9:00 a.m., May 2, 2012, at the Lewis and Clark State Office Building, LaCharrette/ Nightingale Creek Conference Room, 1 East, 1101 Riverside Drive, Jefferson City, Missouri.

Due to the recent change in the meeting date for the Clean Water Commission from March 7 to March 9, 2012, the public hearing date, March 7, 2012, and end of public comment date, March 14, 2012, for the proposed rescission of 10 CSR 20-6.100 General Pretreatment Regulation and the proposed rule 10 CSR 20-6.100 General Pretreatment Regulation, as originally published in the December 15, 2011, *Missouri Register* (36 MoReg 2906-2919) are cancelled. This results in a new public hearing date and an extension of the public comment period. The public hearing is rescheduled for May 2, 2012, and the public comment period will end May 16, 2012. The proposed rescission and proposed rule, as published in the December 15, 2011, *Missouri Register*, are reprinted below with the new public hearing date and end of public comment date to give adequate notice of this change in dates.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

PROPOSED RULE

10 CSR 20-6.100 General Pretreatment Regulation

PURPOSE: This rule sets forth procedures to prevent the introduction of pollutants into publicly-owned treatment works which will interfere with the operation of publicly-owned treatment works, including interference with its use or disposal of municipal sludge, to prevent the introduction of pollutants into publicly-owned treatment works which will pass through the treatment works or otherwise be incompatible with these works, and to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The Environmental Protection Agency federal regulations, 40 CFR parts 403 through 471, inclusive, that are in effect as of January 1, 2011, herein incorporated by reference, are available by writing to the Office of the Federal Register and the National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954. This rule does not incorporate any subsequent amendments or additions. The substitution of terms set forth shall

apply in this rule in addition to any other modifications set forth in this rule.

(2) Provisions Incorporated.

(A) The provisions of the *General Pretreatment Regulations for Existing and New Sources of Pollution*, 40 CFR part 403, as in effect January 1, 2011, are hereby adopted and incorporated by reference subject to the additions, modifications, and substitutions set forth in 10 CSR 20-6.100(4) through (14).

(B) The provisions of the following rules, as in effect January 1, 2011, are hereby adopted and incorporated by reference. The rules in this list refer to only the rules that contain pretreatment standards or limitations for industrial facilities that discharge to the local publicly-owned treatment works.

40 CFR part 406 Grain Mills Point Source Category
40 CFR part 413 Electroplating Point Source Category
40 CFR part 414 Organic Chemicals, Plastics, and Synthetic Fibers Point Source Category
40 CFR part 415 Inorganic Chemicals Manufacturing Point Source Category
40 CFR part 417 Soap and Detergent Manufacturing Point Source Category
40 CFR part 418 Fertilizer Manufacturing Point Source Category
40 CFR part 419 Petroleum Refining Point Source Category
40 CFR part 420 Iron and Steel Manufacturing Point Source Category
40 CFR part 421 Nonferrous Metals Manufacturing Point Source Category
40 CFR part 423 Steam Electric Power Generating Point Source Category
40 CFR part 425 Leather Tanning and Finishing Point Source Category
40 CFR part 426 Glass Manufacturing Point Source Category
40 CFR part 428 Rubber Manufacturing Point Source Category
40 CFR part 429 Timber Products Processing Point Source Category
40 CFR part 430 The Pulp, Paper, and Paperboard Point Source Category
40 CFR part 433 Metal Finishing Point Source Category
40 CFR part 439 Pharmaceutical Manufacturing Point Source Category
40 CFR part 443 Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources for the Paving And Roofing Materials (Tars and Asphalt) Point Source Category
40 CFR part 446 Paint Formulating Point Source Category
40 CFR part 447 Ink Formulating Point Source Category
40 CFR part 455 Pesticide Chemicals
40 CFR part 458 Carbon Black Manufacturing Point Source Category
40 CFR part 461 Battery Manufacturing Point Source Category
40 CFR part 464 Metal Molding and Casting Point Source Category
40 CFR part 465 Coil Coating Point Source Category
40 CFR part 466 Porcelain Enameling Point Source Category
40 CFR part 467 Aluminum Forming Point Source Category
40 CFR part 468 Copper Forming Point Source Category
40 CFR part 469 Electrical and Electronic Components Point Source Category
40 CFR part 471 Nonferrous Metals Forming and Metal Powders Point Source Category

Note: 40 CFR part 412 Concentrated Animal Feeding Operations (CAFO) Point Source Category has been adopted at 10 CSR 20-6.300(4)(C).

(3) Federal statutes and regulations that are cited in 40 CFR parts 403 through 471 that are not specifically adopted by reference shall be used as guidelines in interpreting the federal regulations in parts 403 through 471.

(4) The “director” as used in the provisions of the *Code of Federal Regulations* which are incorporated by reference, means the director of staff of the Missouri Clean Water Commission or that person’s delegated representative.

(5) In the provisions of 40 CFR part 403, for all occurrences of the citation to 40 CFR part 136, substitute the citation 10 CSR 20-7.015(9)(A).

(6) In lieu of 40 CFR section 403.4, the following shall apply:

(A) Local Law. The provisions of 10 CSR 20-6.100 shall not supersede any pretreatment requirements, including any standards or prohibitions established by any local law, as long as the local requirements are not less stringent than any set forth in the pretreatment requirements of 10 CSR 20-6.100 or other requirements or prohibitions established by the state or federal government.

(7) State Enforcement Actions. In lieu of 40 CFR section 403.5(e), the following shall apply:

(A) If, within thirty (30) days after notice of an interference or pass-through violation has been sent by the state to the publically-owned treatment works (POTW) and to persons or groups who have requested the notice, the POTW fails to commence appropriate enforcement action to correct the violation, the state may take appropriate enforcement action.

(8) Substitute “Missouri Clean Water Commission” for “Regional Administrator” in 40 CFR section 403.6(a)(5).

(9) Substitute “Missouri Clean Water Law, Chapter 644, Water Pollution, Powers and Duties of the Commission—rules, procedure. Section 644.026(13), RSMo,” for “section 402(b)(1)(C) of the Act” in 40 CFR 403.8(e).

(10) Substitute “the Missouri Hazardous Waste Management Law, Chapter 260, Environmental Control, sections 260.350 to 260.430 RSMo, and the Missouri Solid Waste Management Law, Chapter 260, Environmental Control, sections 260.200 to 260.345, RSMo,” for “subtitles C and D of the Resource Conservation and Recovery Act” in 40 CFR section 403.8(f)(2)(iii).

(11) Substitute “Missouri Department of Natural Resources” for the term “agency” in the 40 CFR section 403.16.

(12) Confidentiality.

(A) In lieu of 40 CFR section 403.14(a), the following shall apply:

1. Authorities. Any claim for confidentiality to the control authority must be in accordance with the Missouri Sunshine Law, Chapter 610, Governmental Bodies and Records, sections 610.010 through 610.028, RSMo, inclusive. If no claim is made at the time of submission, the control authority may make the information available to the public without further notice.

(B) In lieu of 40 CFR section 403.14(b), the following shall apply:

1. Effluent data. Information and data provided to the control authority pursuant to this part which is effluent data shall be available to the public without restriction.

(C) The provisions of 40 CFR section 403.14(c) are omitted.

(13) Pretreatment Authorization. Where the director is also the control authority, the director may issue a pretreatment authorization to a categorical industrial user which discharges industrial process wastewater to a POTW. This authorization will be used to set forth the conditions governing the user’s discharge to the POTW, where the POTW does not have an approved pretreatment program or the POTW has not issued discharge permits that meet the requirements set forth in 10 CSR 20-6.100(2) and (3).

(14) Judicial Relief.

(A) The director shall have authority to seek judicial relief pursuant to Missouri Clean Water Law, Chapter 644, Water Pollution, Unlawful acts prohibited—false statements and negligent acts prohibited—penalties—exception, section 644.076, RSMo, for noncompliance by industrial users when the POTW has failed to act or has acted to seek such relief but has sought judicial relief which the director finds to be insufficient. The procedures for notice to dischargers where the POTW is seeking ex parte temporary judicial injunctive relief will be governed by applicable state or federal law and not by this provision.

(B) The director shall have authority to seek judicial relief pursuant to the Missouri Clean Water Law, Chapter 644, Water Pollution, Unlawful acts prohibited—false statements and negligent acts prohibited—penalties—exception, section 644.076, RSMo, for noncompliance by industrial users where the director is the control authority.

AUTHORITY: section 644.041, RSMo 2000. Original rule filed Feb. 1, 1988, effective June 13, 1988. Amended Filed March 1, 1996, effective Nov. 30, 1996. Rescinded and readopted: Filed Nov. 9, 2011.

PUBLIC COST: This proposed rule requires a one-time cost of compliance by the Missouri Department of Natural Resources and the forty-three (43) cities or political subdivisions with pretreatment ordinances of one hundred fifteen thousand one hundred thirty-six dollars (\$115,136), in the aggregate, over a five- (5-) year period from 2013 through 2017. Cost savings to the cities occur after the adoption, implementation, and approval of the pretreatment ordinances.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate. The cost savings in this proposed rule will save private entities two hundred forty-eight thousand dollars (\$248,000) in the aggregate, over the life of the rule. Cost savings are realized by the affected private entities after the ordinances are implemented.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Walter Fett, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Walter.Fett@dnr.mo.gov. Public comments must be received by May 16, 2012. The Missouri Clean Water Commission will hold a public hearing at 9:00 a.m., May 2, 2012, at the Lewis and Clark State Office Building, LaCharrette/Nightingale Creek Conference Room, 1 East, 1101 Riverside Drive, Jefferson City, Missouri.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

Rule Number and Name:	10 CSR 20-6.100 General Pretreatment Regulation
Type of Rulemaking:	New Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate*
Department of Natural Resources	Cost of Compliance is \$48,233 through 2017. *The Cost of Compliance in the aggregate after 2017 over the life of the rule is \$0.
Cities or Publically Owned Treatment Works	Cost of Compliance is \$66,904* from 2013 through 2017. The Cost of Compliance in the aggregate after 2017, over the life of the rule, is \$0.
Total	Cost of Compliance is \$115,136 from 2013 through 2017. *The Cost of Compliance in the aggregate after 2017, over the life of the rule, is \$0.

*The Cost of Compliance is a one-time implementation cost under the federal regulation 40 CFR 403, effective October 14, 2005 for both the State of Missouri and the cities (Publicly Operated Treatment Works, POTWs) After the adoption of an ordinance the cost of compliance over the life of the rule is \$0, due to the savings available each year, both to the Department and to the cities.

II. Worksheet

Missouri Department of Natural Resources – Water Protection Program

	FTEs Required to Review and Approve Municipal Ordinances	Annual Salary	FY 2013 (3 Months)	FY 2014 9 Approvals	FY 2015 9 Approvals	FY 2016 10 Approvals	FY 2017 12 Approvals	TOTALS FY 2013 through 2017
EE II - Ordinance Review and Approval - 16 hours	0.0077	\$55,548	\$1,282	\$3,846	\$3,961	\$4,533	\$5,440	
SOSA - Admin. Support - 8 hours	0.0038	\$27,564	\$318	\$954	\$983	\$1,125	\$1,350	
FTE PS TOTAL	0.0115		\$1,600	\$4,800	\$4,944	\$5,658	\$6,789	43
FRINGE - 53.09%			\$849	\$2,548	\$2,625	\$3,004	\$3,605	
EE			\$0	\$106	\$108	\$111	\$115	
Personal Service Cost + Fringe + EE TOTAL			\$2,449	\$7,454	\$7,676	\$8,773	\$10,509	
Indirect - 30.85%			\$756	\$2,300	\$2,368	\$2,706	\$3,242	
Indirect with TOTAL			\$3,205	\$9,754	\$10,045	\$11,479	\$13,750	\$48,233
		FY 2013 (6 Months)	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL POTWS	Remaining POTW FY 2018
POTW Ordinance Adoptions:	3		9	9	10	12	43	0
Total Ordinance Reviews and Approvals:	3		9	9	10	12	43	0

Personal Service amounts are based on the market level pay rates for each classification
 43 ordinance approvals over 5 years = 8.6 approvals per year. Cities required to submit newly adopted city ordinances, requires less than 1 FTE to review and approve.
 FTE calculation = EE II review and approval of ordinance = 16 / 2,080 hours = .0077 FTE per year.
 Number of ordinances reviewed and approved varies each year.
 FTE calculation = SOSA for admin support = 8 (hours) = 8 / 2,080 hours = .0038 FTE
 After 2017 the annual cost to comply, based on the federal regulation, 40 CFR403 in effect October 14, 2005, becomes a cost savings.

43 Cities (POTWs) Required to Adopt the New Ordinance

	No. of FTEs Required to Prepare and Adopt the New Ordinance	Annual Salary	FY 2013 (3 Months) Ordinance Adoptions	FY 2014 10 Ordinance Adoptions	FY 2015 10 Ordinance Adoptions	FY 2016 11 Ordinance Adoptions	FY 2017 12 Ordinance Adoptions	TOTALS FY 2013 through 2017
	Number of Ordinance Adoptions							
Engineer - (43) ordinance preparation - 40 hours	0.0192	\$70,400	\$4,062	\$12,185	\$12,550	\$14,363	\$17,753	
Clerk - (43) admin support - 20 hours	0.0096	\$28,010	\$808	\$2,424	\$2,497	\$2,857	\$3,532	
Attorney - (43) ordinance review - 40 hours	0.0192	\$111,000	\$6,404	\$19,212	\$19,788	\$22,646	\$27,991	
PS TOTAL	0.0481		\$11,273	\$33,820	\$34,835	\$39,866	\$49,275	
FRINGE			\$5,985	\$17,955	\$18,494	\$21,165	\$26,160	
EE - \$4,800 est.			\$30	\$30	\$30	\$30	\$30	
PS + Fringe + EE TOTAL			\$17,258	\$51,805	\$53,358	\$61,061	\$75,465	
Indirect			\$5,324	\$15,982	\$16,461	\$18,837	\$23,281	
COSTS TO CITIES SUBTOTAL			\$22,583	\$67,787	\$69,820	\$79,899	\$98,746	\$338,834
*SAVINGS TO CITIES Actual Cost, Savings TOTAL			-\$7,416	-\$29,665	-\$51,914	-\$76,635	-\$106,300	-\$271,930
			\$15,166	\$38,122	\$17,906	\$3,264	-\$7,554	\$66,904

Env. Engineer & municipal clerk, personal service, including EE, see Missouri May 2010 mean annual wages/salaries. engineer \$70,000 & clerk \$28,010 respectively, http://www.bls.gov/oes/current/oes_mo.

City Attorney personal service see Missouri May 2010 mean annual wages/salaried lawyers \$11,000. http://www.bls.gov/oes/current/oes_mo. Forty-three (43) ordinances require .05 FTEs per each ordinance.

FTE calculation varies depending on the estimated number of ordinances adopted per year.

FTE calculation = City Engineer, (pretreatment coord.) = 40 hours ordinance preparation = 40/2,080 hours = .0192 FTE per ordinance

FTE calculation = City Clerk = 20 hours per ordinance = 20/2,080 hours preparation = .0096 FTE

FTE calculation = City Attorney = 40 hours per ordinance preparation = 40/2,080 hours = .0192 FTE

Savings to city is realized upon adoption of new pretreatment ordinance, and occurs year-to-year after adoption, depending on how quickly an ordinance is adopted

Saving to each city is \$2,472 annually for each city (derived from the federal rule)

Saving to 3 cities for FY 2013 = 3*2,472 = \$7,416
 Savings to cities for FY 2014 = previous years savings plus the savings for 9 additional cities = \$7,416 + 9*\$2,472 = \$29,665.
 Savings to cities for subsequent years calculated in the same way as for FY 2014.
 Savings to all cities from FY 2013 through FY 2014 = \$271,930
 Savings annually over the life of the rule are \$106,300.

	FY 2013 (3 Months)	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL POTWS	Remaining POTW FY 2018
POTW Ordinance Adoptions:	3	9	9	10	12	43	0
Total Ordinance Reviews and Approvals:	3	9	9	10	12	43	0

Total for DNR and POTWS	
DNR:	\$48,233
POTW:	\$66,904
	\$115,136

***Savings To Cities:** Under the federal regulation, 40 CFR 40 *General Pretreatment Regulations for Existing and New Sources of Pollution*, in effect October 14, 2005, the basis for the cost savings in this public fiscal note, the estimated cost savings in annual burden hours and costs to the affected respondents is calculated for industrial users, POTWs, and the States. Applied nationally, the annual cost savings were estimated to be \$10.1 million dollars (in 2005 dollars). A 3% inflation rate, consistent with the rate used by the Legislative Oversight Committee, is applied to the savings annually over a six year period. The savings to Missouri cities was initially derived from the federal cost savings calculations, and is presented as follows:

1) 10.1 (annual cost savings applied nationally) * $(1.03)^6$ (inflation rate over six yrs.) = 12.06
The total annual cost savings after the application of the inflation rate is then \$12.06 million for the federal rule, nationwide.

2) Next, the savings was calculated for the State of Missouri, adjusting for the number of POTWs (43 cities, i.e. publicly owned treatment works) with approved pretreatment programs. The number of POTWs, 43, is compared to the number of POTWs considered in the development of the federal rule. There were 1,464 POTWs cited in the Federal Register notification in 2005, and there were 43 POTWs in Missouri as of 2009.

The ratio of POTWs is 43 to 1464.

$\$12,060,000$ (the total federal annual cost savings) * $43/1,464$ (POTWs) = $\$354,219$

The total annual savings is \$354,000 (rounded). Savings are realized by implementing the federal pretreatment rule changes in Missouri.

3) The next step at the State level is to separate the federal public savings from the private savings.

The public savings in this fiscal note is based on the annual cost savings portion of total federal savings or,

$\$354,000$ (Missouri's annual savings) x 0.30 = $\$106,300$ cost savings in the aggregate, after 2017.

The 0.30 (30%) represents the estimated public portion of the federal total savings. The federal regulation assumes the costs savings based on reduced sampling and analysis.

The total cost savings is \$271,930 for the cities (POTWs) in the State of Missouri, once the new rule is adopted and implemented, in this fiscal note, from 2013 through 2017.

The average savings to each city, after adoption of the ordinance, is as follows: $\$106,300 \div 43 = \$2,472.00$ (cost savings per city or POTW).

There will be a transition period as cities revised their ordinances in order to implement the new rule. The total cost savings expected annually are based on the assumption that cities will adopt new ordinances within five years (2013 through 2017).

IV. Assumptions

The fiscal impacts in this rulemaking are estimated costs for the Department to review and approve city ordinances for publicly operated treatment works (POTWs) and for the cities, i.e. the POTWs, to adopt and implement this new rule. The public entities affected are the State of Missouri and the 43 cities that have an approved pretreatment ordinance. Each city's approved pretreatment ordinance contains its legal authority. The Department is required under federal regulation to approve each pretreatment ordinance.

Although cost savings were predicted in the federal rulemaking, the cost to change a city's pretreatment ordinance was not considered. There is a one-time cost to the city to change the pretreatment program ordinance and, the cost to the State to review and approve. This one-time cost is included in this fiscal note. The costs of adopting this revised ordinance is spread over 5 years. Once ordinances are adopted, cities are expected to benefit annually from the cost savings.

The duration of the proposed rule is indefinite. There is no sun-set clause. Costs imposed by the proposed rule are shown on an annual basis through 2017. Savings are shown through 2017 and continue over the life of the rule. It is assumed that additional years will be consistent with the assumptions used to calculate the annual costs and savings identified in this fiscal note.

The State of Missouri is adopting the federal rule 40 CFR 403 with modifications as a new rule, 10 CSR 20-6.100 and, at the same time, is rescinding the current rule at 10 CSR 20-6.100 through a separate rulemaking rescission.

The new rule incorporates 40 CFR 403 *General Pretreatment Regulations for Existing and New Sources of Pollution* by reference and, includes modifications. The cost savings shown nationally in the Federal Register, 70 FR 60187, and Table at 70 FR 60188, are an accurate estimate of the expected annual savings due to the adoption of the federal rule 40 CFR 403 by states.

A 3% inflation rate is applied in this public fiscal note for personnel services costs, consistent with the practice of the Legislative Oversight Committee. Current wage/salary rates determine the pay used for Department classifications. Wage/salary pay for Department classifications. Wage/salary employment estimates for the cities (POTWs) are based on the May 2010 National Occupational Employment Statistics (OES) estimates for each state.

The footnotes below Table 1 at 70 FR 60188 in the federal rule contain information on the *costs savings* attributed to public entities. A thorough breakdown of the cost to public entities is not available. It is assumed in this public fiscal note that a 30% cost savings will be realized by public entities. For instance, where sampling and analysis is reduced for the Non-Significant Categorical Industrial User under this rule, one sampling event for a city may be eliminated and two sampling events for the industrial user may be eliminated. In this 2 to 1 ratio, the public costs savings would be 30%.

There currently are 43 cities with approved and active pretreatment programs. This is based on the 2009 annual pretreatment reports from the POTWs which were reviewed in the development of this rule. There were one thousand, four-hundred and sixty-four (1,464) POTWs considered

in the development of the federal rule. Savings were considered relative to the number of POTWs in the state of Missouri, 43 (forty-three) and compared to the national number for POTWs in the federal rule.

The Department requested that a number of cities estimate the costs of a new or modified ordinance needed to implement pretreatment. A true cost estimate is difficult to calculate due to the strong variability of the responses received. The number of hours selected to develop an ordinance reflects the need for professional and administrative personnel services including the time expended to approve and adopt.

The State of Missouri will have no additional costs related to this rule change after the ordinances are approved and adopted.

Adoption of the proposed changes in the city ordinances is assumed to begin in fiscal year 2013. It is assumed that all pretreatment programs will have adopted and implemented their ordinances by the end of FY2017.

Cost of Ordinances needed to implement changes

This fiscal note provides cost estimates for the Department and other public entities for implementing the new rule, 10 CSR 20-6.100. The cost to the Department is a one-time cost to review and approve the cities pretreatment ordinance based on the rule changes. Other public entities affected are the forty-three (43 cities) having Publically Owned Treatment Works (POTWs) with their one-time cost to prepare and adopt a pretreatment ordinance as a result of changes in the 2005 federal pretreatment regulation.

A city's review and adoption of the approved pretreatment ordinance, is not addressed in the federal rule. A city ordinance contains the legal authority, pollutant limitations, and reporting requirements and, is needed to implement the pretreatment program required under the federal regulation 40 CFR 403, effective October 14, 2005.

Costs to adopt the ordinance are spread over 5 years. After the ordinances are adopted, cities are expected to benefit from an annual cost savings as predicted under the federal rule and in this fiscal note. The cost of compliance after adoption of a pretreatment ordinance, in the aggregate, after 2017, over the life of the rule, is \$0, having met the requirements under 40 CFR 403, effective October 14, 2009.

Cost savings realized after implementation of ordinance

A cost savings was predicted in the federal rule making at 70FR 60187 and 60188.

This fiscal note provides estimated cost savings to public entities for implementing the new rule, 10 CSR 20-6.100. The public entities affected are the forty-three (43 cities) having Publically Owned Treatment Works (POTWs) with approved pretreatment ordinances. A city's approved pretreatment ordinance contains the legal authority, pollutant limitations, and reporting requirements to implement the pretreatment program requirements under the federal regulation 40 CFR 403, effective October 14, 2005.

The federal rulemaking did consider the savings to the city with implementation of the pretreatment ordinance. The cost estimate to the cities (POTWs) is a one-time cost to prepare and adopt a pretreatment ordinance. After the ordinances are adopted, cities are expected to benefit from an annual cost savings. The cost of compliance in the aggregate, after 2017, over the life of the rule is \$0, having met the requirements under 40 CFR 403, effective October 14, 2009.

A cost savings was predicted in the federal rule making at 70FR 60187 and 60188.

Statements explaining the spreadsheet totals

- one time cost to the Department to review and approve the city pretreatment ordinances is \$48,233
- one time cost to the Cities (POTWs) to prepare and submit the pretreatment ordinance is \$338,834
- 2013 through 2017, the total savings to the Cities as a result of changes, assuming reduced monitoring and analysis, is \$271,930
- cost of compliance for the POTWs is a total of \$66,904 from 2013 through 2017
- the average savings to each city after adoption of the ordinance each year is \$2,472 = \$106,300/43 cities (POTWs)
- assuming all ordinances have been adopted through 2017, the cost of compliance is zero over the life of the rule under this specific federal rule change

Statements explaining the cost of the ordinance per city based on the spreadsheet totals

- the average cost of an ordinance is \$7,879.86 or, \$338,834/43 cities (POTWs) without savings

Summary –

This rule requires a one time cost of compliance by the Missouri Department of Natural Resources and the 43 cities or political subdivisions with pretreatment ordinances, of \$115,136, in the aggregate, over a five year period from 2013 through 2017. Cost savings to the cities occur after the adoption, implementation and approval of the pretreatment ordinances.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	10 CSR 20-6.100 General Pre-treatment Regulations
Type of Rulemaking	New Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected: (NAICS code)	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
156	Metal Finishing (subsectors 332, 333, 334, 335)	Savings \$113,123
31	Electroplating (332813, 334412)	Savings \$22,480
28	Pharmaceutical (325411, 325412)	Savings \$20,304
18	Soap, Detergent (325611)	Savings \$13,053
14	Organic Chemicals (subsectors in 325)	Savings \$10,152
10	Metal Casting (subsectors in 331)	Savings \$7,251
85	Various other categorical industries, examples: Electric utilities, metal forming, leather, porcelain, paper manufacturer	Savings \$61,637
Subtotal 342	Categorical industries, subject to federal limitations.	---
Total 228	Various non-categorical significant industrial users, examples: Hospitals Food Processing Industries	Cost of Compliance = 0 Savings in the aggregate = 0 (Not affected by the new rule)
Total 570		Cost of Compliance = 0 Savings in the aggregate over the life of the rule = \$248,000

This fiscal note will estimate the cost savings to all private entities. Private entities affected by the pretreatment rules currently the are three hundred forty-two (342) of the total five hundred seventy (570) regulated industries that discharge industrial wastewater into the sewer system.

A cost savings is predicted in the federal rule making. A federal cost analysis used to measure the fiscal impact to all states, including the Missouri industrial users, was published in the Federal Register at 70 FR 60187-60188. The federal register publication is available at:

http://www.epa.gov/npdes/regulations/streamlining_fr_notice.pdf

This cost savings is largely attributed to two changes to the federal rule. First, there are reduced monitoring and reporting requirements for new classifications of industrial users, a Nonsignificant Categorical Industrial User, and a Middle-Tier Categorical Industrial User. Second, the sampling and analysis for pollutants in the categorical limitations can be eliminated if the pollutants are not present and are not suspected to be present. These cost savings to Missouri industrial users will be realized after cities with approved pretreatment programs revise their ordinances and issues permits incorporating the changes. Cost savings may realized by the 342 categorical industrial users subject to federal pollutant limitations in 40 CFR 405 to 471 under the new classifications, Non-significant Categorical Industrial User and the Middle-Tier Categorical Industrial User or, if the pollutants are not expected to be present under these less restrictive provisions. In the above table the cost savings are equally distributed among the types of business entities that are subject to categorical limitations.

III. Worksheet

Federal regulation, 40 CFR 40 *General Pretreatment Regulations for Existing and New Sources of Pollution*. is used as a basis for this private fiscal note.

The total private and public fiscal costs were calculated in the adoption of the federal rule, 40 CRR 403. Applied nationally, the annual cost savings were estimated to be \$10.1million dollars (in 2005 dollars).

For the purposes of this fiscal note, a 3% inflation rate is applied annually over six years, 2005 through 2011, the federal cost savings are as follows:

$$10.1 * (1.03)^6 = 12.06$$

The total annual cost savings is \$12.06 million for the federal rule, nationwide.

Next, the cost savings was calculated for the State of Missouri, adjusting for the number of Publically Owned Treatment Works (POTWs or cities) with approved pretreatment programs, compared to the number of POTWs considered in the development of the federal rule. There were 1,464 POTWs cited in the Federal Register notification, and there were 43 POTWs in Missouri in 2009.

$$\$12.06 \text{ Million} / 1464 * 43 = \$354,219$$

Therefore, \$354,000 annually will be saved in the State of Missouri by implementing the pretreatment rule changes.

The private cost in this fiscal note is an annual cost savings of the total private and public costs as presented in the federal rule.

$$\$354,000 * 0.70 = \$248,000 \text{ (0.70 represents the private cost estimate in the federal rule)}$$

\$248,000 in the aggregate will be saved by private industries in the State of Missouri when the new rule is fully implemented.

There will be a transition period as cities revised their ordinances in order to implement the new rule. The total cost savings expected after 2017, as indicated above, are based on the assumption that cities will adopt new ordinances within five years.

IV. Assumptions

The cost analysis for the adoption of the federal rule 40 CFR 403 can be found in the Federal Register at 70 FR 60187 and Table 1 at 70 FR 60188. The federal analysis is assumed to be an accurate estimate of the expected annual costs attributed to the adoption of this federal rule. The cost analysis was not broken down into manhours and job classification because this information is not available.

An annual inflation rate of 3% is applied for 6 years since 2005, the year the federal rule was adopted. This value is consistent with the inflation rate used in the public fiscal note.

There were 43 cities with approved and active pretreatment programs. This is based on the 2009 annual pretreatment reports from the cities, which were reviewed in the development of this rule. There were 1,464 Publically-Owned Treatment Works (POTWs or cities) considered in the development of the federal rule. The savings here are assumed to be proportional to the number of cities with active pretreatment programs, as compared to the national number of all cities considered in development of the federal rule.

The footnotes in Table 1 at 70 FR 60188 in the federal rule contain information on the costs attributed to private entities. A thorough breakdown of the cost to private entities is not available. It is assumed a 70% cost savings will be realized by private entities. For instance, where sampling and analysis can be reduced for the Non-Significant Categorical Industrial User under this rule, one sampling event for a city may be eliminated and two sampling events for the industrial user may be eliminated. In this 2 to 1 ratio, the private costs savings would be 70%.

For the purpose of this fiscal note estimate cost savings were equally distributed among the types of business entities that are subject to categorical limitations.

This proposed rule will not cost private entities more than \$500.00 in the aggregate. Cost savings occur over the life of the rule. These cost savings are realized after cities with approved pretreatment programs revise their ordinances and issue the permits incorporating the required changes.

