

Missouri Clean Water Commission  
Department of Natural Resources  
Lewis and Clark State Office Building  
Gasconade Camp Conference Room  
1101 Riverside Drive  
Jefferson City, Missouri 65102  
November 20, 2013

**Clean Water Commission Adoption of the Order of Rulemaking for  
10 CSR 20-6.011 Fees**

**Issue:** The Department is presenting the proposed Order of Rulemaking for 10 CSR 20-6.011 Fees, for adoption by the Commission.

**Background:** The Department held many stakeholder meetings to discuss clean water fees. This amendment would establish the clean water fee structure in rule, as allowed by Section 644.057 (House Bill 29, 2013). To complete this process, the adopted Order of Rulemaking would undergo legislative review before the fee structure would become effective. In addition to establishing the fee structure, other changes proposed in the rule amendment would modify the rule to reflect administrative changes, such as addresses, as well as remove the prohibition on authorizing the operation of mechanical treatment plants through a general permit, a potential efficiency measure.

**Recommended Action:** Adoption of the proposed Order of Rulemaking amending 10 CSR 20-6.011.

**Suggested Motion Language:** I move the Commission adopt the proposed Order of Rulemaking for 10 CSR 20-6.011.

**List of Attachments:**

- Proposed Order of Rulemaking with Response to Comments and Revised Fiscal Note
- Written Comments



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

**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission, Section 644.026, RSMo. Supp. 2012, the Clean Water Commission adopts a rule as follows:

10 CSR 20-6.011 Fees is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1534-1548). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*. The new fee structure within the rule, if not disapproved by the General Assembly, will become effective January 1, 2015.

**SUMMARY OF COMMENTS:** A public hearing on this proposed rescission was held November 6, 2013, and the public comment period ended November 13, 2013. At the public hearing, the Clean Water Commission staff explained the new proposed rule. Two (2) comments were made at the public hearing by Kevin Perry of REGFORM and Phil Walsack of Missouri Public Utilities Alliance. Two (2) written comments were received from Robert Brundage with Newman, Comley & Ruth, PC and Lesley Oswald with the Boone County Regional Sewer District.

**COMMENT #1:** Kevin Perry, REGFORM, and Phil Walsack, MPUA expressed support for the adoption of the proposed fee structure.

**RESPONSE:** The Department of Natural Resources (Department) appreciates and acknowledges the support. No changes in the proposed revisions were made in response to these comments.

**COMMENT #2:** Kevin Perry, REGFORM, stated an interest in working toward the elimination of the additional one-half (1/2) percent administration fee for SRF loans.

**RESPONSE:** The Department of Natural Resources (Department) acknowledges the interest in reducing the fee, and this can be part of the discussion as the clean water fees deliberation recommences in 2014. The SRF administration fee is part of the picture of support for the state's clean water efforts, but is outside of the scope of this rulemaking. No changes in the proposed revisions were made in response to these comments.

**COMMENT #3:** Robert Brundage, Newman, Comley & Ruth, PC, commented that the fee for a Class 1A concentrated animal feeding operation specifies the fee is for a national pollutant discharge elimination permit, but does not specify the fee for a Missouri state operating permit.

**RESPONSE AND EXPLANATION OF CHANGE:** The same fee would be applicable for either permit. Rule language is changed to include the Missouri state operating permit in this fee category. Other language was also added to specify that portions of the rule apply to class 1A concentrated animal feeding operations and the state permit is a Missouri state operating permit.

**COMMENT #4:** The Boone County Regional Sewer District (BCRSD) stated it is supportive of the increases in the clean water fee structure if this increase is accompanied by a decrease in the state revolving fund administrative fee.

**RESPONSE:** The SRF administrative fee has been part of the stakeholder discussion of clean water fees throughout the process. It is part of the funding mix that supports the state meeting our clean

water responsibilities, although it is not part of this rule. At this point the proposed clean water fee structure increases funding available for program activities, although there would remain a funding shortfall of about \$1 million per year. The department will readily take up all topics related to conduct and support of clean water work, including the SRF administrative fee, when the discussion with stakeholders recommences in 2014. No changes in the proposed revisions were made in response to these comments.

In addition, staff noted that fees in the proposed rule for permit modifications for facilities with service connections differs from those prescribed by current law. While the Clean Water Commission has the latitude to change these fees, such changes were not subject to discussion and therefore the proposed rule is changed to make this part of the fee structure consistent with existing law. There are small edits to the fiscal note reflecting this change. This section may be reviewed in future fee discussions and changed if appropriate. Rule language is changed to reflect the current law.

### 10 CSR 20-6.011 Fees

(2)(C) Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay—

1. Five thousand dollars (\$5,000) if the industry is a class IA concentrated animal feeding operation as defined by the commission; or

...

(2)(F)3. For the operation of an animal feeding operation or a concentrated animal feeding operation—

A. Five thousand dollars (\$5,000) per year for a national pollutant discharge elimination system permit or a Missouri state operating permit for a class IA concentrated animal feeding operation as defined by the commission;

B. Four hundred fifty dollars (\$450) per year for a national pollutant discharge elimination system permit for a class IB concentrated animal feeding operation as defined by the commission;

C. Three hundred fifty dollars (\$350) per year for a national pollutant discharge elimination system permit for a class IC or class II concentrated animal feeding operation as defined by the commission;

D. Three hundred dollars (\$300) per year for a Missouri state operating permit for a class IB concentrated animal feeding operation as defined by the commission; or

E. One hundred fifty dollars (\$150) per year for a Missouri state operating permit for a class IC or class II concentrated animal feeding operation as defined by the commission;

(2)(H) For the purpose of permit modification fees, non-substantive changes are those listed as minor modifications in 40 CFR section 122.63. Persons requesting modifications to state operating permits that charge a service connection fee shall pay two hundred dollars (\$200). Persons requesting a modification to an operating permit shall pay:

1. One hundred dollars (\$100) for name changes, address changes or other non-substantive changes, or for a modification of a general permit; or

2. A fee equal to twenty-five percent (25%) of the annual operating fee assessed for the facility for other changes;

**FISCAL NOTE  
PUBLIC COST**

- I. Department Title: Department of Natural Resources  
Division Title: Division of Environmental Quality  
Chapter Title: Permits**

<b>Rule Number and Name:</b>	<i>10 CSR 20-6.011</i>
<b>Type of Rulemaking:</b>	<i>Rule Amendment</i>

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
<i>No direct costs to DNR to implement rule.</i>	<b>Estimated Additional Cost of Compliance in the Aggregate:</b>
<p><i>The Dept. of Natural Resources permits both public and private entities –</i></p> <p><b><u>Construction Permits</u></b> – 80 avg. # permit applicants per year</p> <p><b><u>Site Specific</u></b> – 55 avg. # permit applicants per year</p>	<p><b><u>Lost Revenue Per Year</u></b></p> <p><i>Projected Additional Revenue Loss: \$41,500</i></p> <p><i>Projected Additional Revenue Loss: \$55,000</i></p> <p><i>Total Revenue Loss: \$96,500</i></p>
<p><b><i>Other State Agencies &amp; Other Political Subdivisions; City Government, Municipal Districts or other public entities</i></b></p> <p><b><u>Construction Permits</u></b> - 133 avg. # permit applicants per year</p> <p><b><u>General Permits</u></b> - 111 avg. # permit applicants per year</p> <p><b><u>Other Fees</u></b> – 64 avg. # permit applicants per year</p>	<p><b><u>Estimated Cost of Compliance</u></b></p> <p><i>Projected Additional Costs: \$26,034</i></p> <p><i>Projected Additional Costs: \$ 86,382</i></p> <p><i>Projected Additional Costs: \$14,250</i></p> <p><i>Total Additional Costs: \$126,666</i></p>
<b><i>Dept. Natural Resources and Other State Agencies &amp; Political Subdivisions</i></b>	<p><b>FY 2017 Additional Cost of Compliance in the Aggregate:</b>  <b>\$96,500 (Dept. revenue loss) &amp; \$126,666 (the other public costs) expected to recur</b>  <b>Note: FY2016 Additional Cost of Compliance in the Aggregate for the partial fiscal year, is ½ of FY2017 revenue loss for the Dept. and the Cost of Compliance for Other Public State Agencies</b></p>

### III. WORKSHEET

#### *Department of Natural Resources*

<u>Permits</u>	<u>Projected Additional Revenue Loss</u>
Construction	\$41,500
Site-Specific	\$55,000
Other Fees	\$0
<u>Total</u>	<u>\$96,500</u>

#### *Other State Agencies & Political Subdivisions*

<u>Permits</u>	<u>Projected Additional Costs</u>
Construction	\$26,034
General	\$86,382
Other/Fees	\$14,250
<u>Total</u>	<u>\$126,666</u>

**\*Projected Additional Public Savings: \$783**

**\*Although there are some projected savings for the Other State agencies & Political Subdivisions, there is an overall increase in costs of \$126,666.**

**For detailed information displayed in the Water Protection Program's Rules In Development web page see the electronic spreadsheet at <http://www.dnr.mo.gov/env/wpp/rules/wpp-rule-dev.htm> for the "Projected Fee Revenues for the Water Protection Program for 2013 for 10 CSR 20-6.011 Fees Rule Amendment" The electronic spreadsheet displays the overall current fee structure, the proposed fee structure as recommended, permit type, and the average number of permits per year. The number of applicants is stated as a public or private percentage of the total number of permit applicants for any one type of permit. All projected revenues to the Department are calculated by multiplying the proposed permit fee amounts by the average number of applicants per year.**

**Revenues to the Department are costs to the public and private sectors. A savings to the public or private sector, are loss revenues (costs) to the Department.**

### IV. ASSUMPTIONS

**This proposed amendment and fiscal notes, if not disapproved by the General Assembly, become effective May 30, 2014. The proposed fee structure within the amendment, if not disapproved, is implemented January 1, 2015 under statute.**

**This public fiscal note assumes that the proposed fees to be paid by the public entities to the Department are essentially the *costs of the projected revenues* as displayed in the electronic spreadsheet.**

**The projected additional revenue lost to the Department, \$96,500, is a projected additional savings to public and private permittees. The projected additional cost to the public agencies and political subdivisions, \$126,666, is projected additional revenue to the Department.**

**The projected additional revenue to the Department each year is \$1,997,645, while the total projected revenue to the Department, \$6,780,486, per year, the revenue affect. For those interested, total projected revenue details may be viewed in the electronic spreadsheet.**

#### **Summary –**

**Generally, a 20% overall increase was part of the on-going discussions in the development of the department's recommended fee structure. The fees have not been revised since expiring in 2007, but have received a number of extensions from the legislature.**

**The Department met several times with stakeholders over the past two years presenting information on clean water activities, expenditures and funding sources. Clean water fee recommendations are the basis for this public fiscal note. The recommendations include changes to fees and changes to construction permits.**

**The fee setting process through Commission rulemaking is a cyclical process that may be revisited for adjustment.**

**Missouri has responsibility for implementation of federal clean water requirements. The most visible aspects of these duties are permitting, inspection and enforcement, as these involve direct interactions between the department and the regulated community. The Department's responsibilities also include water quality monitoring and analysis, technical assistance and education.**

**Over time, changes to the federal clean water law lead to more responsibilities, the most significant of which is stormwater management, permitting and, the nonpoint source management effort. Also, the Department's staffing costs have increased considerably over time as well.**

**Although EPA has previously allowed flexibility in spending funds allocated to other sections within the Clean Water Act, continued flexibility is limited.**

**In this public fiscal note the revenue loss of \$96,500 to the Department accounts for only a small fraction of the projected shortfall, of \$2,944,036, the additional amount needed to fully fund Clean Water permitting. While the revenues from the recommended fee**

structure serve to mitigate the shortfall, it is not eliminated. The Department has based this shortfall calculation on average annual revenues from all sources over a four year period.

The projected additional costs to other state agencies and political subdivisions or, \$126,666 (revenue paid to the Department) is the result of the recommended fee structure as proposed for construction, general, and other fee types. Antidegradation is included with the construction permits because of the overlap between the construction permits and those undergoing anti-degradation review.

*Department's Loss of Revenues –*

**Construction Permits – Sewer Extensions –** There are projected additional cost for some of the public construction permits, due to fee increases.

**Other Sewer Extensions – Construction sewer extensions other –** the same fee is proposed and, therefore. No additional projected revenue.

**Ag-Chemical and CAFOs – Construction permits for Ag-Chemical and CAFOs (Concentrated Animal Feeding Operations) are no longer required. These private entities are *not* exempt from inspections.**

**Site-Specific – Domestic Sewage Non-POTWs (Non-Publicly Owned Treatment Works) –** Permit fee loss revenue to the Department is due to the consolidation in fees and a sliding scale for those fees.

**Other Fees – POTW major and minor permit fees are based on the statute.**

*Other State Agencies and Other Political Subdivisions; City Government, Municipal Districts or other public entity costs –*

**Construction Permits – Wastewater Treatment –** Permits fees have been increased, a cost to the public entities.

**Antidegradation Reviews –** Reviews for construction permits are an additional cost to the public sector.

**General Permits – Public Land Disturbance –** Public land disturbance fees have increased based on estimated total acreage.

**The General Permit for Pesticide applicator permits remain the same.**

**Other Fees – Water Quality Certifications 401-404 Major Modification and MS4s fees, for general stormwater permits are increased, a cost to the public.**

The cost to the public and, or private sectors to comply with the new fees is the *costs of the projected revenue*, or, the revenue affect. The Department's projected revenues (costs to the public or private entities) may be viewed in detail in the electronic spreadsheet at <http://www.dnr.mo.gov/env/wpp/rules/wpp-rule-dev.htm> .

**FISCAL NOTE  
PRIVATE COST**

**Department Title: Department of Natural Resources  
Division Title: Division of Environmental Quality  
Chapter Title: Permits**

<b>Rule Number and Title:</b>	10 CSR 20-6.011 Fees
<b>Type of Rulemaking:</b>	Rule Amendment

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate of the number of entities by class which would likely be affected by the adoption of the rule:</b>	<b>Classification by types of the business entities which would likely be affected:</b>	<b>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</b>
<b><u>Estimated Private Entities</u> Total 383</b>	<b><u>Construction Permits</u></b> <b>Sewer Extensions or Other Extensions</b>  <b>Wastewater Treatment &lt; 500,000 or ≥ 500,000</b>  <b>Ag Chemical &amp; CAFO</b>  <b>Antidegradation Water Quality Reviews</b>	<b><u>Estimate in the Aggregate</u> Projected Additional Cost of Compliance: \$28,566</b>
<b><u>Estimated Private Entities</u> Total 1,654,581</b>	<b><u>Private Service Connections</u></b> Residential Industrial/Commercial	<b><u>Estimate in the Aggregate</u> Projected Additional Cost of Compliance: \$174,676</b>
<b><u>Estimated Private Entities</u> 5,367</b>	<b><u>General Permits</u></b> <b>Land Disturbance</b> <b>Land Disturbance - Multiple Sites</b> <b>Domestic Wastewater</b> <b>Pesticide Applicators</b> <b>Other - Car Washes, Limestone Quarries, Petro Storage, Metal Fabrication, etc.</b>	<b><u>Estimate in the Aggregate</u> Projected Additional Cost of Compliance: \$1,172,962</b>

	<b>CAFO NPDES &amp; MSOP Stormwater-excludes MS4 communities</b>	
<b><u>Estimated Private Entities</u> 2,420</b>	<b>Site-Specific Industrial Process Flows Industrial Stormwater Only Domestic Sewage</b>	<b><u>Estimate in the Aggregate</u> Projected Additional Cost of Compliance: \$443,900</b>
<b><u>Estimated Private Entities</u> 606</b>	<b><u>Other Fees</u> 401/404 Cert Fees Minor Permit by Rule - Hydro- static Testing Permit Modifications  CAFO NPDES Class 1A Other Site-Specific, Major Mods &amp; Minor Mods Permit Variance</b>	<b><u>Estimate in the Aggregate</u> Projected Additional Cost of Compliance: \$ 50,875</b>
<b><u>Estimated Total # All Fees &amp; Permits</u> 1,663,357</b>	<b><u>Private Permitted Entities</u></b>	<b><u>FY2017 Total Projected Additional Costs of Compliance expected to recur: \$ 1,870,979</u></b>
		<b>Note: FY2016 Total Partial Projected Additional Costs of Compliance, equal to ½ yr. \$ 935,490</b>

**I. WORKSHEET Permit Private Entities**

<b><u>Permit Types</u></b>	<b><u>Projected Additional Costs</u></b>
<b>Construction</b>	<b>\$28,566</b>
<b>*Savings</b>	<b>(\$40,717)</b>
<b>Service</b>	<b>\$174,676</b>
<b>General</b>	<b>\$1,172,962</b>
<b>Site-Specific</b>	<b>\$443,900</b>
<b>*Savings</b>	<b>(\$55,000)</b>
<b>Other</b>	<b>\$50,875</b>

**Total Projected Additional Costs**

All Private,  
Fees & Permits     \$1,870,979

**Projected Additional Savings to Private Entities:**

\$95,717

**Information on the Projected Fee Revenues for the “Water Protection Program for 2013 for 10 CSR 20-6.011 Fees Rules Amendment” may be viewed as an electronic spreadsheet on the Water Protection Program’s Rules In Development web page at <http://www.dnr.mo.gov/env/wpp/rules/wpp-rule-dev.htm> . The Water Protection Program’s electronic spreadsheet displays the proposed fee structure as recommended, including the overall current fees for permit type, average number of permits per year, and proposed fees, and projected additional revenues. The Department’s additional projected revenues from the private sector are the additional projected costs to the private entities.**

**\*A savings to the private sector is a revenue loss to the Department.**

**IV. ASSUMPTIONS**

**This proposed amendment and fiscal notes, if not disapproved by the General Assembly, become effective May 30, 2014. The proposed fee structure within the amendment, if not disapproved, is implemented January 1, 2015 under statute.**

**This private fiscal note assumes that the proposed fees to be paid by the private entities to the Department are essentially the *costs of the projected revenues* as displayed in electronic spreadsheet.**

**All proposed fees and, the average number of private permit applicants per year are displayed in the excel spreadsheet. The costs to the private entities are calculated by multiplying the proposed fee amounts by the number of private permit applicants per year. The projected additional revenues to the Department from the private sector are the projected additional costs to the private sector. Projected additional costs to the private sector are the Estimated Costs in the Aggregate. The footnotes in the electronic spreadsheet provide additional details.**

**Summary –**

Generally, a 20% overall increase was part of the on-going discussions in the development of the department's recommended fee structure. Fees have not been revised since expiring in 2007, but have received a number of extensions by the legislature.

The fee setting process through Commission rulemaking is a cyclical process that may be revisited for adjustment.

There are two types of permits issued by the department, construction and operating. Construction permits involve review and approval of engineering plans and specifications to assure that wastewater facilities are properly designed and, operating permit reviews involve site-specific and general permits that establish effluent limitations for particular discharges.

To maintain a viable program that meets the expectations of Missouri's delegation agreement with the U.S. EPA, the department must have a program that is robust enough to ensure permitted entities comply with the law. In this proposed fee structure as recommended, some permit applicants are assuming the responsibility to build and design their facilities in conformance with state and federal requirements.

Stakeholder interest in expedited permits centers on construction permits and initial operating permits because these permits are necessary for private parties to build and operate and execute their business plans. With this exemption private entities will assume full responsibility in meeting effluent limits. The electronic spreadsheet on the Department's Rules in Development web site identifies future construction permit classes exempt from fees, namely, the private industrial facilities.

The Department has granted exemptions for certain construction permits in order to help businesses meet their construction and operating budgets, shifting responsibility and risks to business owners to make sure that their facilities will effectively treat wastewater. At the same time the Department must have the revenues to monitor, inspect and enforce permitting law.

*Private Cost or Savings in the Department's recommended fee structure\_*

**Construction Permits** – Cost savings accrue to some public sewer construction and to some businesses, who no longer are required to apply for a construction permit.

**Wastewater Treatment** – Wastewater treatment plants, in line with their design flows have fee increases. This excludes Concentrated Animal Feeding Operations.

**Antidegradation Reviews** – These reviews are charged on a sliding scale and are new costs to the permit applicant who may request anti-degradation review.

**Industrial /Commercial Connections** – Fees for connections, depending on the length of the service line, have remained the same, or, have increased.

***General Permits –***

**Land Disturbance – Fees are now paid on a sliding scale, the more acres disturbed the higher the cost incurred.**

**Multiple-site Permits – Fee costs for a permit issued to a private entity for multiple sites, is paid based upon the estimated acreage of all of the sites, on a graduated fee scale. No private total projected additional revenue for general permits for private parties is projected currently, although fees are proposed.**

**Domestic Wastewater – The general permit for small Domestic Wastewater is not addressed.**

**The fee for the Pesticide Applicators remains the same.**

***General Permits Other – Fees***

**Fees for car washes, limestone quarries, petroleum storage and metal fabrication, etc. have increased.**

**NPDES CAFO – Nation Pollution Discharge Elimination System, CAFO (Concentrated Feeding Operations) permit fees for CAFO 1A remains the same, while NPDES CAFO 1B, 1C /II, and MSOP 1B, and MSOP 1C/11, fees are proposed on a sliding scale.**

**General Stormwater –Permitting fee has been increased, excluding MS4s communities**

***Site-Specific Permits –***

**Industrial Process Flows – Fees for the Categoricals and Non-Categoricals have increased, with the exception of the larger categorical where the fee is capped at \$5,000 by statute.**

**Industrial Stormwater – Fees for the industrial stormwater permits have increased.**

**Domestic Sewage Sludge Non-POTWs – Fees have increased, with the exception of one Non-POTW permit, where the fee has decreased, (a savings to this permit applicant) due to consolidation of the Non-POTW fees along a sliding scale.**

***Other Fees –***

**401/404 Certification Fees both minor and major have increased due to the level of service required. The CAFO General Permit Major modification no longer requires a construction permit. Some site-specific major modifications remain the same while other site-specific minor modifications are now charged a flat fee. The Permit by Rule fee has been increased.**

**The Permit Variance fee remains the same. No additional projected revenue is expected.**

***Cost Savings provided through technological improvement in the Department's operations\_–***

**Expedited permitting will, in many cases, help the Department to issue permits within the regulated deadlines. For instance e-permitting, recently available for land disturbance permits, will be a cost savings to the permit applicant. This is reflected in the consolidation of the permitting fees, mitigating fees overall for the land disturbance permit.**

**Centralization as opposed to regional permitting will, and has, sped up the issuance of the site-specific permit. Newly implemented and future efficiencies and expedited permit processes are expected to help the department sustain and improve permit timeliness.**

**The Department and regulated entities have found that the current pre-review and exchange of information processes have been instrumental in working out potential issues and in avoiding unnecessary appeals, saving costs and time in permitting and, are a good use of fee revenues by the Department.**

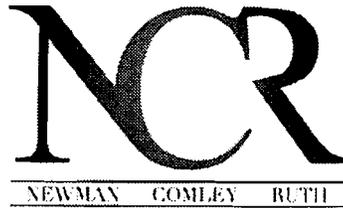
**The Department must respond to any operation alleged to be causing pollution. Preventing pollution and, pollution control is the most important reason why a good fee structure is necessary.**

**Many stakeholder meetings supported open discussions between stakeholders and department staff. Meetings were open to the public and streamed live over the internet over a period of more than two years.**

**The fiscal focus is on the costs to conduct permitting, inspection and enforcement activities for both private (and public) permittees. The proposed fees structure helps to make up for the shortfall in clean water funding. Funding from other sources has been used to meet immediate needs. While EPA has previously allowed flexibility in spending funds allocated to other sections within the Clean Water Act, continued flexibility is limited.**

**The private projected additional costs to comply, \$ 1,870,979, will be paid by private entities. This provides most of the total \$1,997,645 projected additional revenues to the Department to help fund the permitting and inspection and enforcement programs. Projected Additional Savings to private entities are \$95,717. The private total projected cost to comply is \$6,561,591. The private total projected additional cost to comply provides most of the total projected revenue to the Department, \$6,780,486.**

ROBERT J. BRUNDAGE  
EDWARD C. CLAUSEN  
MARK W. COMLEY  
SHARIE L. HAHN  
JOSHUA L. HILL  
CATHLEEN A. MARTIN



STEPHEN G. NEWMAN  
JOHN A. RUTH  
THOMAS C. SMITH  
NICOLE L. SUBLETT  
ALICIA EMBLEY TURNER

November 12, 2013

**VIA EMAIL ONLY**

John Madras, Director  
Water Protection Program  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102-0176  
[john.madras@dnr.mo.gov](mailto:john.madras@dnr.mo.gov)

Re: Proposed rulemaking - Clean Water Regulation 10 CSR 20-6.011

Dear Mr. Madras:

I would like to offer comments on behalf of my clients the Missouri Pork Association and Missouri Agribusiness Association (Mo-Ag) in relation to the proposed amendments to the water permit fee rules found at 10 CSR 20-6.011 as published in the October 1, 2013 *Missouri Register* at pages 1534-1548. Missouri Pork Association and Mo-Ag were intimately involved in the stakeholder process to agree upon revised water permit fees for concentrated animal feeding operations (CAFOs). There was consensus between the Missouri Pork Association, Mo-Ag and the MDNR on recommended fees going forward. The proposed rule generally follows the agreed upon fees. These comments will address potential discrepancies that depart from the mutually agreed upon fee increases for concentrated animal feeding operations.

COMMENT NO. 1: On page 1534, paragraph (2)(C) describes permit fees for “industrial process wastewater which requires treatment and who apply for or possess a site-specific permit.” In subparagraph 1 is a \$5,000 fee for “Class IA animal feeding operation as defined by the commission.” It is my understanding that this permit could be either a site-specific NPDES permit or a Missouri state operating permit (a state-only permit). I also suggest the word “concentrated” be inserted before the words “animal feeding operation” to be more accurate.

COMMENT NO. 2: The only other reference to CAFO fees are found on page 1535 under proposed rule (2)(F)3. Subparagraph 3 defines the permit fees for CAFO general permits. The fees are broken down by CAFO class and whether the permit is a NPDES permit or a “state operating permit.” There are permit fees for the three classes of NPDES permits (Class IA, Class IB and Class IC/II). However, there are state permit fees for only two classifications (Class IB and Class IC/II). There is no permit fee for a Class IA Missouri state operating permit. This may be an oversight. My clients suggest the rule be clarified to add a permit fee of \$5,000 for a Class IA CAFO for a general Missouri state operating permit (a state-only permit).

Mr. John Madras  
November 12, 2013  
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Thank you for the opportunity to comment on these proposed rules.

Sincerely,

By:



Robert J. Brundage  
[rbrundage@ncrpc.com](mailto:rbrundage@ncrpc.com)

RJB:la

c: Don Nikodim, Missouri Pork Association (via email)  
Steve Taylor, Missouri Agribusiness Association (via email)



# BCRSD

Boone County Regional Sewer District

*Clean water for your future*

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[www.bcrsd.com](http://www.bcrsd.com)

November 13, 2013

Department of Natural Resources  
Division of Environmental Quality  
Water Protection Program  
John Madras  
P.O. Box 176  
Jefferson City, MO 65102

RE: Public Comment on Revisions to 10 CSR 20-6.011 Fees

Dear Mr. Madras:

The Boone County Regional Sewer District (BCRSD) is supportive of the increases in the Clean Water Fee Structure if this increase is accompanied by a decrease in the State Revolving Fund Administration Fee.

BCRSD has participated in most of the stakeholder meetings regarding the need for fee increases. Much information was shared by MDNR staff regarding the current funding for the Water Protection Program (WPP) including the subsidy from SRF Administration fees. The group agreed that the WPP should be self-supporting and the cost of services such as permitting, inspections and water quality monitoring should be covered by WPP fees.

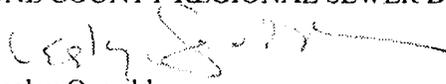
The SRF Administration Fee was increased recently during the time of very lean budgets exacerbated by unwillingness by the legislature to renew and increase fees. Charging entities that participate in the SRF fund increased fees in order to fund the WPP means the SRF participants are paying to reduce costs for any entity seeking the services of the WPP. The same entities are now facing increased WPP fees without assurance that they will no longer be subsidizing permit fees for everyone else as well.

As the group worked to determine the fees needed to fund the program the question was often raised, "Will the SRF admin fees return to .5% and furthermore, will the loans that have been closed with the 1% admin fee be reduced to .5%?"

During the stakeholder meetings MDNR staff reported that the SRF Admin Fee is not a part of the Clean Water Fee structure and would be addressed under a separate policy. Our understanding was the SRF Admin Fee policy was being addressed in conjunction with this effort to make the WPP self-supporting. The BCRSD requests a copy of this policy. If the policy includes a reduction in the SRF Admin fee, the BCRSD can fully support an increase in the Clean Water Fee structure.

Yours truly,

BOONE COUNTY REGIONAL SEWER DISTRICT

  
By Lesley Oswald  
Manager, Finance and Administration

C: BCRSD Board  
Tom Ratermann, General Manager

