

Missouri Department of Natural Resources  
**Regulatory Impact Report**  
In Preparation For Proposing  
An Amendment to 10 CSR 20-8.500

**Division/Program:** DEQ / WPP

**Rule number:** 10 CSR 20-8.500 **Rule title:** Design Requirements for Agrichemical Facilities

**Type of rule action:** Amendment to Existing Rule

**Nature of the rulemaking:** Align the regulation to remove the obligation to obtain construction permits for applicable facilities and to make minor edits to improve rule language

**Approval of the Completed Regulatory Impact Report**

*John Madros*  
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Program Director

*12/17/15*  
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Date

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**Applicability:** Pursuant to Section 640.015 RSMo, “all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources...shall... be based on the regulatory impact report...” This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department “without variance.”

**Determination:** The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.

The primary purpose of the amendment is to eliminate the construction permitting requirement for all non-domestic wastewater treatment systems except those requiring earthen structures. This change is a result of House Bill 28 (2013) which amended RSMo 644.051.

The amendment will also clarify and reorganize certain portions of the rule. Almost all of these proposed changes do not prescribe standards related to environmental conditions; they only serve to improve language. The one exception is the clarification that catchment basins and mixing or loading pads need to be constructed beneath all material transfer operations so that spillage can be dealt with, dry materials can be swept up, and any liquid spills can be more easily contained. While this is a new requirement in the rule, it has been the standard practice when designing these systems.

2. A report on the peer-reviewed scientific data used to commence the rulemaking process.

No peer-reviewed scientific data was necessary to develop this amendment. The amendment removes construction permitting requirements and clarifies rule language. The department did host a stakeholder meeting on April 15, 2014 to discuss the elements of this rulemaking.

3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.

10 CSR 20-8.500 applies to new or expanding agrichemical facilities. This regulation does not apply to agrichemical facilities that have already been constructed. Agrichemical facility is defined in 10 CSR 10-2.010 (3) as: “Any site, with the exception of chemical production facilities, where bulk agrichemicals are stored in non-mobile containers or dedicated containers and are being mixed, applied, repackaged or transferred between containers for more than thirty (30) consecutive days per year.”

Future owners of these facilities and operators that are expanding their facilities are expected to benefit from the proposed amendments because they will no longer need to apply for and receive construction permits from the Department of Natural Resources. The clarifications to the rule are also expected to provide a benefit because the rule will be better organized and more easily understood.

As explained previously, this amendment will also specify that mixing or loading pads need to be constructed beneath all dry material transfer operations so that spilled dry materials can be contained and swept up. While there are costs associated with the construction of these elements (such as loading pads), when dry materials are spilt, the materials will be much easier to contain and clean up.

#### 4. A description of the environmental and economic costs and benefits of the proposed rule.

The overarching purpose of 10 CSR 20-8.500 is to serve as a guide for the design of containment structures at bulk agrichemical facilities. These construction standards serve to help prevent fertilizers and pesticides from escaping and entering the environment. The primary purpose of the proposed amendment is to eliminate the construction permitting requirement and to clarify certain language in the rule. The proposed rule retains all of the existing design requirements; the department does not expect there to be any environmental costs associated with the amendment. Eliminating the construction permit review will allow businesses to avoid delay and permitting costs.

The requirement to construct mixing or loading pads beneath all material transfer operations is expected to result in some economic costs. The cost of a five-hundred square foot pad can range from \$2,000 to \$2,700 depending on local labor and delivered concrete costs. Most facilities would choose to construct these elements even if they were not required by regulation because it facilitates clean-up of spillage and a permanent, solid access area for unloading to fertilizer vehicles.

5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.

This amendment will remove the requirement for new or expanding agrichemical operations to apply for and receive construction permits. Although it is impossible to predict the number of new or expanding agrichemical facilities, a review of the previous four years indicates that the department received thirteen construction permit applications in 2010, six in 2011, and six in 2012. HB 28 amended RSMo 644.051 in 2013. No permits were issued after the bill became effective. For purposes of estimation it is assumed that there are thirteen new or expanded agrichemical facilities for each year into the future.

Based on this estimate, the department will not receive 13 construction permit applications for agrichemical facilities each year. The fees associated with these projects (\$750) will not be collected resulting in an estimated fee loss of \$11,200. This loss in collected fees, however, is offset by the fact that the department no longer has to issue these permits or review these applications. Reviews were conducted by an Environmental Engineer III, and each project required several hours of review. Each project also had a certain amount of administrative expense associated with it. The loss in fees is offset by the savings to the department in terms of staff and administrative expense.

6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.

RSMo 643.051 was revised in 2013 to eliminate the requirement that new or expanded agrichemical operations obtain a construction permit from the department. Inaction would result in the continuing situation in which the regulation is in conflict with the statute. Inaction regarding the contemplated language clarifications would be a missed opportunity to improve the regulation's readability and understanding. There are no direct economic or environmental costs or benefits associated with these elements.

As explained in the response to question four, there is a cost and potential environmental impact associated with not taking action to amend the rule requiring the construction of mixing or loading pads beneath all dry material transfer operations. If there is no action to include the mixing or loading pads requirement, spills may not be captured and materials that fall onto unpaved areas may escape with the potential to enter the soils or be washed into receiving waters.

7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.

The department is not aware of a less intrusive method for achieving the goals of the proposed rule. Elimination of the construction permit requirement for new and expanding agrichemical facilities can only be done by amendment of the rule. The same is true of the proposed rule clarifications. Regarding the proposed requirement to install catchment basins and mixing or loading pads, other options to capture spillage, such as total enclosures, are more costly.

8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.

The department is not aware of any alternative method for achieving the purpose of this proposed amendment.

9. An analysis of both short-term and long-term consequences of the proposed rule.

The department is not aware of any difference between the short-term and long-term consequences of this proposed rulemaking. The costs and benefits in the short-term are the same as in the long-term.

10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

The purpose of the 10 CSR 20-8.500 is to provide a design guide for the construction and operation of secondary and operational area containment structures at agrichemical facilities that handle pesticides or fertilizers. If these materials escape into the environment they can cause a number of water quality issues. Depending on their fate and transport, these materials may be toxic to aquatic organisms and may contribute to violations of narrative water quality standards, such as causing odors, colors, or contributing to algae blooms.

The rule amendments are limited to 1) removing the requirement that new or expanding agrichemical facilities receive a construction permit, 2) clarifying rule language and, 3) specifying that catchment basins and mixing or loading pads need to be constructed beneath all material transfer operations. The first two elements of the amendment do not directly address risks to human health, public welfare or the environment. The third element is intended to help prevent spilled fertilizers and pesticides from escaping to the environment by making spillage easier to contain and control.

11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information

No scientific information was used to evaluate the risks associated with this rulemaking. The primary purpose of this amendment is to 1) remove the requirement that new or expanding agrichemical facilities receive a construction permit, 2) to clarify rule language, and 3) to require the construction of catchment basins and mixing or loading pads beneath all material transfer operations.

12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.

This rulemaking was developed to address a change in statute. No evaluation of risk is necessary. The rule will be made consistent with Missouri Statute. The department is not aware of any uncertainties and assumptions associated with the proposed rule revisions.

13. A description of any significant countervailing risks that may be caused by the proposed rule

The department is not aware of any countervailing risks associated with the proposed amendment.

14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.

Inaction would impact the regulated community and regulators by allowing a continuing conflict between rule and statute. Clarification of rule language provides regulatory certainty to the permittees. Regarding the requirement to install catchment basins and mixing or loading pads beneath transfer operations, the only alternative would be complete enclosure of these processes. Complete enclosure would be more expensive and would not provide cost-effective additional control.

15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State

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16. Provide information on how to request a copy of comments or the web information where the comments will be located.

Comments will be posted to the Water Protection Program Rule Development web page.  
<http://dnr.mo.gov/env/wpp/rules/wpp-rule-dev.htm>