



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

14 MAY 2015

Ms. Sara Parker Pauley, Director
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

Dear Ms. Pauley:

On March 19, 2014, the U.S. Environmental Protection Agency received a submittal of new and revised water quality standards from the Missouri Department of Natural Resources.¹ The new and revised WQS were approved by the Missouri Clean Water Commission on November 6, 2013, were published in the Code of State Regulations on January 29, 2013, and became effective under state law on February 28, 2014. The submittal package included a certification letter from the Missouri Attorney General's Office, dated January 13, 2014.

On October 22, 2014, the EPA acted on the following components of the WQS submittal:

- (1) The renaming/redefining of the uses applied by Missouri for the protection and propagation of fish, shellfish and wildlife;
- (2) New regulatory language identifying categories of lakes and streams in Missouri designated for the beneficial uses discussed in section 101(a)(2) of the Clean Water Act (i.e., "fishable and swimmable" uses) and other designated uses;
- (3) The adoption of the Missouri Use Designation Dataset (MUDD, version 1.0) as well as certain terms and definitions applicable to this dataset;
- (4) Revisions to Table G and Table H reflecting the results of recent use attainability analyses and the adoption of MUDD.

This letter addresses three additional elements in the state's WQS submittal, all bearing on the development and application of site-specific criteria for the protection and propagation of fish, shellfish and wildlife. These elements include:

- (1) 10 CSR 20-7.031(5)(S)l.B, a revised provision describing some of the physical and chemical factors that may be considered by the state in the development of site-specific criteria and including a new reference to water effect ratios (WERs);

¹ Some supporting electronic files were inadvertently omitted from the original WQS submittal package. These files were subsequently forwarded by the MDNR, arriving at the EPA regional office in Lenexa on or before June 9, 2014.



- (2) 10 CSR 20-7.031(5)(S)2.A, a revised provision identifying three additional guidance documents useful in the development of site-specific criteria and establishing that the methods and procedures described in these documents are acceptable for use in Missouri²;
- (3) 10 CSR 20-7.031(5)(S)2.B, a new provision incorporating the documents identified at 10 CSR 20-7.031(5)(S)2.A by reference and requiring that the methods and procedures described in these documents be applied in the development of site-specific criteria for the protection and propagation of fish, shellfish and wildlife.

The EPA has completed its review of 10 CSR 20-7.031(5)(S)1.B, (5)(S)2.A and (5)(S)2.B, finds that these new and revised provisions comport with the requirements of 40 CFR 131.11, and hereby approves these provisions. This approval provides the state with additional options for developing and implementing site-specific criteria, especially when these criteria are based on WERs. As noted in one of the guidance documents adopted by the state (EPA-822-R-01-005):

WER-based site-specific criteria provisions are subject to EPA review under Section 303(c) of the Clean Water Act and its implementing regulations at 40 CFR Part 131. This can be structured in two ways.

1. *A state may submit each individual determination of a WER-based site-specific criteria value to the EPA for review and approval.*
2. *A state may incorporate WER adjustment provisions into its water quality standards, submitted to the EPA for review and approval. Once the provisions are in place, the results of each site-specific application of the procedure would be subject to public participation requirements, but would not be submitted for further Section 303(c) review.*

In all cases, it should be noted that the WER derivation is part of the standards setting process. In the absence of an appropriate specification of the site criterion, WERs are not used for adjusting reasonable potential calculations, wasteload allocations, or permit limits.

Because the state has adopted EPA-822-R-01-005 and the adjustment provisions (methods and procedures) described therein by reference, it has placed itself in a position to apply WERs for discharges of copper using either the first or second option, above. The EPA emphasizes that if the state elects to use the second option, it must rigorously adhere to (1) the methods and procedures described in EPA-822-R-01-005, and (2) all applicable water quality certification and public participation requirements for discharge permits established pursuant to sections 401 and 402 of the Clean Water Act.

WER-based copper criteria developed and adopted by the state pursuant to the second option, above, are not required to undergo further section 303(c) review. In contrast, all other forms of site-specific criteria developed and adopted by the state must be submitted to and approved by the EPA on a case-by-case basis prior to becoming effective for CWA purposes.

² These documents include: (1) *Interim Guidance on Determination and Use of Water-Effect Ratios Procedure for Metals* (EPA-823-B-94-001) as modified in 1997; (2) *Streamlined Water-Effect Ratio Procedure for Discharges of Copper* (EPA-822-R-01-005); (3) *Aquatic Life Ambient Freshwater Quality Criteria – Copper 2007 Revision* (EPA-822-R-07-001).

The EPA appreciates Missouri's continuing efforts to protect and restore water quality and its overall commitment to the triennial WQS review and revision process. We look forward to working with the MDNR, the Commission and interested stakeholders on future WQS revisions. Should you have any questions or comments regarding today's action, please contact John DeLashmit, Chief, Water Quality Management Branch, at (913) 551-7821.

Sincerely,



Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division

cc: Mr. John Madras, MDNR
Mr. Corey Buffo, EPA HQ

