

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of
Personnel
Chapter 5—Working Hours, Holidays and Leaves of
Absence**

PROPOSED AMENDMENT

1 CSR 20-5.010 Hours of Work and Holidays. The board is proposing to amend subsection (2)(C).

PURPOSE: This amendment is being made to accommodate for officially retiring employees who are exhausting their annual leave balance and who will continue to accrue time while that balance is being exhausted.

(2) Holidays shall be governed by the following provisions:

(C) An employee shall be credited for a holiday only if it falls during the employee's period of employment and the employee is in pay status. An employee whose effective date of appointment or return to pay status is before or on the day of a holiday shall receive credit for the holiday. An employee whose appointment or return to pay status is effective after a holiday will receive no credit for the holiday, except when the holiday occurs at the start of a month and the employee's appointment or return to pay status is effective the first scheduled working day following the holiday. An employee shall not receive credit for a holiday which occurs after they have ceased active duty preliminary to separation from the service except that an employee who is terminating employment and who has worked the last scheduled working day before the holiday shall receive credit for the holiday. **This provision shall not apply to an employee who has submitted a formal notice of retirement; such employee may be credited for additional holidays occurring prior to the effective date of the retirement;**

AUTHORITY: section 36.070, RSMo [Supp. 1999] 2000. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 15, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment is scheduled at 1:00 p.m., Tuesday, February 13, 2001, in Room 400 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Comments would be directed to the Director of Personnel, Office of Administration, P.O. Box 388, Jefferson City, MO 65102.

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of
Personnel
Chapter 5—Working Hours, Holidays and Leaves of
Absence**

PROPOSED AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The board is proposing to amend subsections (1)(A) and (F) and subsections (2)(B) and (F).

PURPOSE: This amendment is being made to accommodate for officially retiring employees who are exhausting their annual leave balance and who will continue to accrue time while that balance is being exhausted. This amendment also changes the method used for liquidating sick and annual leave when there is a need to exhaust a leave balance.

(1) Annual leave or vacation with pay shall be governed by the following provisions:

(A) Employees who are employed on a full-time basis in positions of a continuing or permanent nature shall be entitled to annual leave or vacation with full pay as follows:

1. If they are paid on a monthly pay period, computed at the rate of ten (10) hours for each calendar month of service in which they are in pay status for one hundred sixty (160) or more hours, until they complete ten (10) years of total state service. Employees

who have completed ten (10) years of total state service shall earn annual leave at the rate of twelve (12) hours per month. Employees who have completed fifteen (15) years of total state service shall earn annual leave at the rate of fourteen (14) hours per month;

2. If they are paid on a semi-monthly pay period, computed at the rate of five (5) hours for each semi-month of service, in which they are in pay status for eighty (80) or more hours, until they complete ten (10) years of total state service. Employees who have completed ten (10) years of total state service shall earn annual leave at the rate of six (6) hours per semi-month. Employees who have completed fifteen (15) years of total state service shall earn annual leave at the rate of seven (7) hours per semi-month;

3. For the purposes of this rule—

A. For employees paid on a monthly pay period, this shall mean, any month during which an employee is eligible to earn any annual leave credit under this and subsequent sections shall be a month of state service. For employees paid on a monthly pay period, annual leave will be credited at the rate of one-half (1/2) the full-time accrual rate for months in which the employee is in pay status from eighty to one hundred nineteen (80–119) hours and three-fourths (3/4) the full-time rate for months in which they are in pay status from one hundred twenty to one hundred fifty-nine (120–159) hours;

B. For employees paid on a semi-monthly pay period, any semi-month during which an employee is eligible to earn any annual leave credit under this and subsequent sections shall be a semi-month of state service. For employees paid on a semi-monthly pay period annual leave will be credited at the rate of one-half (1/2) the full-time accrual rate for semi-months in which the employee is in pay status from forty (40) hours and prorated for all hours in which they are in pay status from forty to eighty (40–80) hours;

C. Personnel whose normal duties require them to remain on duty at their workstation for shifts of twenty-four (24) hours or longer shall be exempt from the provisions of this section. Their annual leave compensation shall be as established by the appointing authority, subject to review and approval by the personnel advisory board, consistent with the work schedule necessary to accommodate the safety and convenience of the public;

4. Annual leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service **except that this provision shall not apply to an employee who has submitted a formal notice of retirement;**

5. Except when granted in accordance with subsection (1)(E), annual leave or vacation with pay shall be granted at the times public service will best permit and only on written application approved by the appointing authority;

6. Annual leave shall not be credited to any employee while on a paid leave of absence for educational purposes when that leave is for a period of three (3) or more months;

(F) Annual leave shall be granted and liquidated in multiples of one-quarter (1/4) hour **except that this provision shall not apply in the case of an employee required to exhaust all appropriate leave balances in accordance with 1 CSR 20-5.020(7)(A)2.F. or when it is appropriate and necessary for an employee to exhaust balances in one leave category prior to using another leave category;**

(2) Sick leave shall be governed by the following provisions:

(B) Employees who are employed on a full-time basis in positions of a continuing or permanent nature shall be allowed sick leave with full pay as follows:

1. If they are paid on a monthly pay period, computed at the rate of ten (10) hours for each calendar month of service in which they are in pay status for one hundred sixty (160) or more hours. Sick leave will be credited at the rate of one-half (1/2) the full-time accrual rate for months in which they are in pay status from eighty to one hundred nineteen (80–119) hours and three-fourths (3/4) the full-time rate for months in which they are in pay status from one hundred twenty to one hundred fifty-nine (120–159) hours.

2. If they are paid on a semi-monthly pay period, computed at the rate of five hours for each semi-month of service in which they are in pay status for eighty (80) or more hours. For employees paid on a semi-monthly pay period sick leave will be credited at the rate of one-half (1/2) the full-time accrual rate for semi-months in which the employee is in pay status from forty (40) hours and prorated for all hours in which they are in pay status from forty to eighty (40–80) hours. Sick leave will be credited for semi-months in which they are in pay status;

3. Sick leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service **except that this provision shall not apply to an employee who has submitted a formal notice of retirement;**

4. In all cases where an employee has been absent on sick leave, the employee immediately upon return to work shall submit a statement in a form the appointing authority may require indicating that the absence was due to illness, disease, disability or other causes for which sick leave is allowed under these rules. The appointing authority shall establish and advise employees of required procedures for initial and continuing notification by the employee to the appointing authority regarding absence due to illness and for submission of a written request for allowance of sick leave together with proof of illness as the appointing authority deems necessary;

5. Sick leave shall not be credited to any employee while on a paid leave of absence for educational purposes when that leave is for a period of three (3) or more months;

(F) Sick leave shall be granted and liquidated in multiples of one-quarter (1/4) hour **except that this provision shall not apply in the case of an employee required to exhaust all appropriate leave balances in accordance with 1 CSR 20-5.020(7)(A)2.F. or when it is appropriate and necessary for an employee to exhaust balances in one leave category prior to using another leave category;**

AUTHORITY: section 36.070, RSMo [Supp. 1999] 2000. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 15, 2000.

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**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of
Personnel [Division]
Chapter 6—Management Training**

PROPOSED AMENDMENT

1 CSR 20-6.010 Management Training. The board is proposing to amend sections (1) and (2), deleting sections (3)–(7) and adding new sections (3)–(14).

PURPOSE: This amendment is being made to incorporate the concept of competency based training.

(1) As used in this rule, unless the context clearly indicates otherwise, the following terms shall mean:

[(A) Management position, a position involving responsibility for participation in the management process of a state agency either as a supervisor or manager;]

[(B)] (A) Supervisor, a person directly and immediately responsible for planning, organizing, directing, controlling and evaluating the work of employees to accomplish a limited function or activity; [and]

[(C)] (B) Manager, a person responsible for various general management processes including activities such as general program planning, development and coordination, or the organization, direction and evaluation of major program functions and operations or a combination of these[.];

(C) Executive, for the purposes of this rule, Executive shall be defined as Senior Level Managers including Division Director, Deputy, Assistant Director, or their equivalent; and

(D) For purposes of this rule, the terms Supervisor, [m/Manager, and Executive shall include all positions in [merit] Uniform Classification and Pay (UCP) agencies which the [Personnel] Division of Personnel finds to involve substantial supervisory or administrative responsibilities, and [also] shall also include comparable positions in [nonmerit] non-UCP agencies of the state. The final determination of such comparability shall be made by department directors after careful review of information furnished by the [Personnel] Division of Personnel [regarding these merit positions and the criteria used to identify them. Department directors of non-merit agencies will advise the Personnel Division] of the job classifications and approximate number of incumbents considered. [For application of this rule, the term manager shall not include division and department directors or their equivalent.]

(2) Each department in state government shall establish programs, systems and procedures, as *[it deems] deemed* necessary to implement and administer the guidelines and standards for training personnel in *[management] the* positions as defined in this rule. A department may request technical assistance from the *[Personnel] Division of Personnel* concerning the implementation and administration of the guidelines and standards. A department also may request formal training courses and other management-supervisory training programs from the *[Personnel] Division of Personnel* or may establish alternative training programs *[which are recognized by the Personnel Division as having substantially equivalent quality and content as its central training programs]*. Each department shall provide *[that] training* which it requires without cost to its employees. Departments may reimburse employees for additional job-related training courses in accordance with uniform state policies and procedures issued by the Office of Administration and the department's own policies and procedures which are not in conflict and which provide uniform treatment of employees.

(3) For the purposes of coordination, *[annually] the* departments shall **annually** review their projections of training needs for personnel in *[management] these* positions *[and provide this information to the Personnel Division for its use in developing central programs and administering the guidelines and standards contained in this rule]*. **The information provided will be used by the Division of Personnel, State Training Advisory Council (STAC), and individual agencies in developing training programs and administering the guidelines and standards contained in this rule.**

[(3) The Personnel Division, within available resources and upon request from a department, shall provide technical assistance concerning the administration of the guidelines for mandatory management training as set out in this rule. The Personnel Division shall design, develop and present or otherwise make available formal training courses and

other management development programs which meet the needs of the department and the minimum requirements of these guidelines. To the extent permitted by Personnel Division resources, the division, upon request, also shall develop or otherwise make available other specialized training courses and management development programs to meet the needs of departments or their divisions, facilities or other work units by strengthening performance and capability of personnel in management positions.

(4) Each individual employee shall have responsibility to effectively use, for personal self-growth and career development, the training opportunities provided by the employing department, or the Personnel Division, or both.

(5) Each department shall ensure through its programs, systems and procedures that equal employment opportunity and upward mobility objectives are implemented as part of its supervisory and management career development processes.

(6) For supervisors the minimum mandatory training guidelines and standards consist of certain basic requirements which must be completed successfully before a person becomes a supervisor or must be scheduled for completion within a period not to exceed one (1) year after becoming one, unless the department extends this period because appropriate training was not available to the department on a timely basis and notifies the Personnel Division of those extensions on an annual basis.

(A) Departments of state government shall require their supervisory employees to meet both of the following basic requirements:

1. State departments which in whole or in part have adopted a standard performance planning and appraisal system meeting the basic requirements of the Personnel Division as established in accordance with section 36.510.1(5), RSMo shall require its supervisors to complete a formal training course approved by the Personnel Division on how to implement, maintain and administer that system. This requirement may not be met through other training courses, formal education or work experience in using other performance appraisal systems; and

2. A state department shall require supervisory employees to comply with any one (1) of the following minimum alternatives:

A. Successful completion of training courses in basic supervision, effective discipline and motivation which have been offered by the Personnel Division to meet the general needs of state agencies;

B. Successful completion within the past ten (10) years of training courses which the department and the Personnel Division find to be of substantially equivalent quality and content as the courses that the division offers in the areas of basic supervision, effective discipline and motivation;

C. Successful completion within the past ten (10) years of a three (3)-semester credit personnel management course from an accredited college or university; or

D. Successful performance for at least three (3) consecutive years during the past five (5) years in a merit position classified as supervisory or managerial by the Personnel Division or in a nonmerit position which a department finds to be comparable to a merit system supervisory or managerial classification.

(B) Each department shall require its supervisors to successfully demonstrate ongoing ability to plan, organize, supervise and evaluate the work of their employees and to motivate employees to achieve work unit objectives. Each department shall appraise the competency and skill of

supervisory employees. When a department finds action to be practicable, it shall take reasonable steps to provide in-service, or other training, or both, as it deems necessary to maintain, remediate or enhance supervisory skills.

(7) For managers, the minimum mandatory training guidelines and standards consist of certain basic requirements which must be completed before a person becomes a manager or must be scheduled for completion within a period not to exceed one (1) year after becoming one, unless the department extends this period because appropriate training was not available to the department on a timely basis and notifies the Personnel Division of the extensions on an annual basis.

(A) Departments of state government shall require their management employees to meet both of the following basic requirements:

1. State departments which in whole or in part have adopted a standard performance planning and appraisal system meeting the basic requirements of the Personnel Division as established in accordance with section 36.510.1(5), RSMo shall require their managers to complete a formal training course approved by the Personnel Division on how to implement, maintain and administer that system unless this course has been completed previously while the employee was a supervisor. This requirement may not be met through other training courses, formal education or work experience in using other performance appraisal systems; and

2. A state department shall require management employees to comply with any one (1) of the following minimum alternatives:

A. Successful completion of training included in the middle management institute offered by the Personnel Division to meet the needs of state agencies;

B. Successful completion within the past ten (10) years of training courses which the department and the Personnel Division finds to be of substantially equivalent quality and content as the training offered by the division in its middle management institute;

C. Successful completion within the past ten (10) years of a three (3)-semester credit personnel management course and a three (3)-hour organizational development or closely related management course taken from an accredited college or university; or

D. Successful performance for at least three (3) consecutive years during the past five (5) years in a merit position classified as managerial, which the Personnel Division identifies as involving substantial supervisory or administrative responsibilities or in a nonmerit position which a department finds to be comparable to a merit system management classification.

(B) Each department shall require management employees to successfully demonstrate ongoing ability to plan, organize, control, direct, coordinate and evaluate the work activities for which they are responsible and to motivate assigned staff to accomplish organizational objectives. Each department shall appraise the competency and skill of management employees. When a department finds this action to be practicable, it shall take reasonable steps to provide in-service, other training, or both, as it deems necessary to maintain, remediate or enhance management skills.]

(4) Employees entering into the positions covered by this rule are required to complete a minimum of 40 hours of training within their first year in the position. Thereafter, employees are required to maintain at least 16 hours of continuing Competency Based Training annually.

(5) Training in any of the 24 competencies will count toward fulfillment of the training rule requirements.

(6) In cases of promotion, whether it be from Supervisor to Manager, or Manager to Executive, it shall be at the discretion of the department to determine which of the two thresholds of hours applies: either the 16-hour threshold or the 40-hour threshold.

(7) In cases of lateral transfers between agencies or within an agency, it shall be at the discretion of the employing department to determine which of the two thresholds applies: either the 16-hour threshold or the 40-hour threshold.

(8) Incumbents in all positions covered in this rule are also required to take a Core Curriculum consisting of Performance Management, Diversity, and Preventing Sexual Harassment. The format and time frames of these programs shall be determined by the departments. The Core Curriculum can count toward fulfillment of the 40-hour threshold of the Initial Training. The Core Curriculum will not count toward the 16-hour threshold of continuing Competency Based Training.

(9) To support its effectiveness, each department shall ensure through its programs, systems and procedures that equal employment opportunity and upward mobility objectives are implemented as part of its supervisory and management career development process. Each individual employee shall have responsibility to effectively use, for personal self-growth and career development, the training opportunities provided.

(10) The 24 competencies identified by STAC are as follows:

(A) Accountability: The ability to accept all responsibilities of the job and assigned tasks. Components of this competency can include holding self and others accountable for delivering quality products, assuring effective controls are developed and/or maintained so organizational integrity is maintained, acting decisively to modify activities to better promote customer service and/or quality of programs and pursuing all assignments with the philosophy that the responsible individual must follow through to completion if the project is to be successful;

(B) Computer Literacy: The ability to use provided computer technology to enhance the quality of work and programs. Components of this competency can include possessing sufficient knowledge and comfort concerning computer applications and telecommunications. It also includes the ability to interact effectively with internal and external contacts and to stay informed about technological advances and their potential impact or value to work activities;

(C) Creative Thinking: The ability to develop new insights into situations and apply innovative solutions that make improvements. Components of this competency can include the ability to encourage innovation and creativity among others;

(D) Customer Service: The ability to remain focused on understanding, anticipating and responding to the internal and external needs of customers. Components of this competency can include the ability to see customer satisfaction as the number one priority and to maintain sensitivity to the requirements of customers through personal involvement and a continuous drive for feedback;

(E) Decisiveness: The ability to make timely and effective decisions with available information or knowledge and within your own authority. Components of this competency can include the ability to take calculated risks even in uncertain situations, perceive the impact/implications of decisions, and assume responsibility for the results of decisions even if unpopular;

(F) Financial Management: The ability to administer financial resources in a manner that instills public trust and accom-

plishes the department's mission. Components of this competency can include overseeing allocation of financial resources, preparing and/or justifying budgets or expenditure requests, and overseeing procurement and contracting procedures;

(G) **Flexibility:** The ability to accept change and to cope with job pressure and stress. Components of this competency can include the ability to adapt behavior and work methods in response to new information, changing conditions or unexpected obstacles. It includes the ability to actively solicit information and views from others and use the input to make change occur, and adjust to multiple demands and shifting priorities with minimal disruption and stress;

(H) **Influencing:** The ability to persuade others to buy into a course of action. Components of this competency can include the ability to network with key individuals or groups to accomplish goals and promote the organization to others, and to inspire others so as to create enthusiasm and a desire to succeed within others;

(I) **Integrity:** The ability to behave in a professional, fair and ethical manner toward others and instill mutual trust and confidence. Components of this competency can include the ability to follow through on commitments, act in a manner consistent with values, demonstrate a sense of responsibility and commitment to sound ethics, and encourage high standards of behavior in others;

(J) **Mediating:** The ability to address and resolve conflicts that arise in an effective, impartial manner. Components of this competency can include the ability to take steps to prevent potential situations which could result in unpleasant confrontations, and handle confrontations which arise before they have a negative affect on others and the organization;

(K) **Mentoring:** The ability to coach and challenge others to achieve their potential. Components of this competency can include the ability to serve as a role model for continuous improvement throughout the organization, develop leadership in others by sharing knowledge, experiences and opportunities for growth, and provide timely and specific feedback that reinforces or elicits desired behavior;

(L) **Negotiating:** The ability to build a consensus and accomplish goals through give and take actions. Components of this competency can include the ability to gain cooperation from others to obtain information and identify and understand the interests of others;

(M) **Political Awareness:** The ability to identify internal and external politics that impact the work of the organization. Components of this competency can include the ability to approach each problem situation with a clear perception of organizational and political reality. It includes the ability to build and strengthen internal support bases, and get understanding and support from management;

(N) **Perceptiveness:** The ability to recognize the impact of one's own behavior on others. Components of this competency can include the ability to consider and respond appropriately to the needs, feelings and capabilities of different people in different situations, show a genuine interest in others and their successes, and treat others with respect and dignity;

(O) **Planning:** The ability to establish comprehensive and realistic plans of action to accomplish activities and evaluate progress. Components of this competency can include the ability to maintain a focus on the planned outcome, exercise good judgment in structuring and organizing work, and monitor progress of activities so discrepancies are identified and corrected;

(P) **Problem-solving:** The ability to define a problem, analyze relevant information, and develop solutions. Components of this competency can include the ability to anticipate potential problems, reduce a situation to its essential elements, simplistic elements and distinguish between relevant and irrelevant information;

(Q) **Self-direction:** The ability to maintain focus and intensity, and remain optimistic and persistent even under adversity. Components of this competency can include the ability to deal effectively with pressure and recover quickly from setbacks, demonstrate a deep-seated need for achievement, manage your own time effectively and efficiently, seek and use feedback from others, initiate appropriate action without being directed, and maintain confidence in your own ability and ideas;

(R) **Strategic Thinking:** The ability to develop and implement effective strategies that are consistent with the organization's vision and mission. Components of this competency can include the ability to consider a broad range of internal and external factors that may impact the organization, anticipate potential threats or opportunities and promote change based on the long-range strategic view of the future;

(S) **Teamwork:** The ability to develop and sustain cooperative working relationships. Components of this competency can include the ability to inspire, motivate and guide others toward accomplishment of goals and activities. It includes the ability to encourage collaboration and to promote open communication and collective problem-solving within the group;

(T) **Technical Knowledge:** The ability to demonstrate proficiency in areas of primary responsibility. Components of this competency can include the ability to apply procedures, regulations, and policies to remain current and informed of new and existing issues which may affect work;

(U) **Verbal Communication:** The ability to create and sustain an atmosphere in which timely, quality information flows between self and others, and express facts and ideas in a convincing manner. Components of this competency can include the ability to encourage expression of ideas, keep others informed of relevant facts and issues or decisions, be receptive to new or different viewpoints, accept feedback, tailor a message to the listeners' needs, listen effectively, clarify information, and use available technology to enhance material;

(V) **Vision:** The ability to take a long-term view of the organization's direction and articulate a vision which integrates key program goals, priorities, values, and other factors. Components of this competency can include the ability to balance change of continuity, identify and integrate key issues affecting the organization, and promote ownership of the vision in others;

(W) **Written Communications:** The ability to express facts and ideas in writing in a clear, convincing and organized manner. Components of this competency can include the ability to effectively reflect the position of the organization, review and critique written communication in a constructive and substantive manner, and use available technology to enhance material; and

(X) **Workforce Management:** The ability to administer human resource management principles in a manner which instills public and employee trust, maximizes employee potential and fosters high ethical standards in meeting the organization's mission. Components of this competency may include the ability to assess current and future staffing needs, take an active role in recruiting, and retaining staff. It also includes the need to clarify roles and responsibilities, provide clear direction, delegate and empower staff to accomplish assignments, support programs and activities that deal with employee well-being such as safety, health, and family life. It allows for employee growth and it requires that you assess employee performance, give timely feedback, take appropriate corrective/disciplinary actions when other means have not been successful, and value cultural diversity, and other differences. Lastly, it requires that you commit resources necessary to develop and train employees for long-term employment based on needs.

(11) Following are the top ten competencies at each management level as discovered through the STAC survey process. Division of Personnel training programs will address the top ten competencies at each level.

(A) The top ten competencies for Supervisory positions are Integrity, Written Communication, Accountability, Flexibility, Financial Management, Strategic Thinking, Workforce Management, Verbal Communication, Decisiveness, Computer Literacy and Mentoring (tied);

(B) The top ten competencies for Managerial positions are Integrity, Teamwork, Accountability, Self-direction, Mentoring, Problem-solving, Workforce Management, Decisiveness, Flexibility, Verbal Communication;

(C) The top ten competencies for Executive positions are Technical Knowledge, Creative Thinking, Verbal Communication, Decisiveness, Mediating, Mentoring, Problem-solving, Perceptiveness, Self-direction, Flexibility and Influencing and Teamwork (tied).

(12) The Division of Personnel, within available resources and upon request from a department, shall provide technical assistance concerning the administration of the guidelines for mandatory management training as set out in this rule. The Division of Personnel shall design, develop and present or otherwise make available formal training courses and other management development programs which meet the needs of the top ten competencies for each level as identified in section (10) of this rule.

(13) At least every five years STAC will make recommendations to the Personnel Advisory Board regarding the status of the rule, specifically: additions, deletions and substitutions to the provisions of the rule. The results of this review may affect a new listing and prioritization of competencies. The results could modify the Core Curriculum and competencies listed in this rule. The departments will change their training projections according to the results.

(14) Each department shall require employees in positions covered by this rule to successfully demonstrate an ongoing ability to plan, organize, control, direct, coordinate and evaluate the work activities for which they are responsible and to motivate assigned staff to accomplish organizational objectives. Should the department determine that an individual incumbent in a covered position require training in one of the competencies not listed in the top ten for that level, it is the responsibility of the department to provide that training.

AUTHORITY: section 36.070, RSMo [1986] 2000. Original rule filed Oct. 7, 1985, effective Jan. 12, 1986. Amended: Filed Nov. 15, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

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**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions**

PROPOSED AMENDMENT

4 CSR 100-2.045 Member Business Loans. The director of the Division of Credit Unions proposes to amend section (2) and add a new section (8).

PURPOSE: This amendment changes the definition of "member business loan" so that it is identical to the definition in the federal credit union act.

(2) A member business loan includes any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate, business investment property or venture, or agricultural purpose, except that the following types of loans shall not be considered member business loans for the purposes of this rule:

(A) A loan fully secured by a lien on a one to four (1-4)-family dwelling that is the member's primary residence;

(E) A loan granted by a corporate credit union to another credit union [or corporate credit union service organization or natural person credit union service organization].

(8) A loan granted by a credit union to another credit union or corporate credit union service organization or natural person credit union service organization is exempt from this rule except for the aggregate limits established in section (6) of this rule.

AUTHORITY: sections 370.070, 370.071, 370.100 and 370.310, RSMo [1994] 2000. Original rule filed March 7, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 6, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Credit Unions, John P. Smith, Director, P.O. Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules**

PROPOSED AMENDMENT

8 CSR 30-3.010 Prevailing Wage Rates for Public Works Projects. The division proposes to amend section (4).

PURPOSE: This amendment specifies the exact time frame for submitting wage information used in setting prevailing wage rates.

(4) The annual wage order issued by the department contains the current wage rates prevailing in the locality at the time the annual wage order is issued. Hours worked during the calendar year are used to set the prevailing wage rates in the annual wage order issued in March of the following year. Section 290.262.9, RSMo provides that the annual wage order for a particular occupational title may be altered once each year with an incremental

increase. A public body shall specify in the call for bids for each contract the prevailing hourly rate of wages in the locality for each type of worker as set forth in the annual wage order or any replacement page(s) identifying the annual incremental increase issued by the department. The wage rates attached to and made a part of the call for bids for a contract shall remain in effect for the duration of that particular contract.

AUTHORITY: section 290.240(2), RSMo [Supp. 1999] 2000. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 9, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards; Attn: Colleen Baker, Director; P.O. Box 449; Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

10 CSR 20-6.011 Fees. The commission proposes to amend sections (1)–(4).

PURPOSE: This rulemaking adopts the fee structure established by Senate Bill 741. Changes are proposed to the fee structure in current rules at 10 CSR 20-6.011 to reflect the new rates. This amendment is necessary to reflect the new rates in the Clean Water Law that became effective on August 28, 2000.

(1) Fees—General.

(B) Definitions.

1. Adjusted design flow. The actual average wastewater flow from a human sewage treatment system. If the average flow is sixty percent (60%) or less than the system's design flow, the average flow may be substituted for the design flow when calculating the permit fee on human sewage treatment facilities in Appendix A of this rule.

[1.] **2. Definitions** as set forth in the Missouri Clean Water Law and 10 CSR 20-2.010 shall apply to those terms when used in this regulation.

3. Human sewage. Human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances.

[2.] **4. Industrial process wastewater.** This term as used in section 644.052, RSMo means any water, including storm water, that is regulated under 10 CSR 20-6.200, during manufacturing or processing, which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

[3.] **5. Privately-owned treatment works.** A treatment works serving a residential area, restaurant, commercial concern or other operation that only produces domestic sewage as defined in section 701.025, RSMo.

(2) Operating Fees.

(B) *[All persons who discharge subject to fees under section 644.052.3, RSMo shall pay the pretreatment fee at the time they pay the annual permit fee for the permit designated by the department to include the pretreatment program fees.] Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly-owned treatment works, shall pay an annual fee per water service connection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than seven hundred dollars (\$700) per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually.*

(C) Customers served by any district formed pursuant to the provisions of Section 30(a) of Article VI of the Missouri Constitution shall pay fifty percent (50%) of the fees set forth in Appendix A from August 28, 2000 through September 30, 2001. Beginning October 1, 2001, customers of such districts shall pay one hundred percent (100%) of such fees.

(D) Five percent (5%) of the fees collected pursuant to subsections (2)(B) and (C) of this rule shall be retained by the city, public sewer district, public water district or other publicly-owned treatment works as reimbursement of billing and collection expenses.

[(C)] (E) All persons who require permits, other than a general permit, for facilities that do not normally discharge such as land application facilities, sludge disposal facilities, agri-chemical facilities and no-discharge facilities are subject to fees as follows:

1. Fees are based on the design flow of the wastewater being handled; and

2. Fees for sludge or solids disposal facilities are based on the combined total design flow of the wastewater treatment facilities from which the sludge or solids are removed.

(3) General Permits and Fees.

(A) *[General permit fees shall be tendered together with the general permit application.]* Persons with more than one (1) point source shall obtain a general permit for each point source or specific area. Where there are multiple releases from a single operating location, however, one (1) application may cover all facilities and releases.

(D) For general permits issued pursuant to this section and in effect on August 27, 2000, the permittee will be credited thirty dollars (\$30) on each anniversary date of permit issuance that falls between August 27, 2000 and the date the permit expires.

(4) Construction Fees.

[Appendix A

Operating permit—section 644.052, RSMo

Domestic discharges—annual fees

*\$15 for a design flow under 5000 gallons per day (gpd)
\$50 for a design flow between 5000 and 249,999 gpd
\$500 for a design flow between 250,000 and 499,999 gpd
\$1000 for a design flow between 500,000 and 749,999 gpd
\$1500 for a design flow between 750,000 and 999,999 gpd
\$2500 for a design flow of one million gallons per day (1 mgd) but less than 5 mgd
\$3000 for a design flow of 5 mgd or more*

**However, no municipal or publicly-owned sewer district shall pay less than one and one-half cents (1 1/2¢) nor more than ten cents (10¢) per design population equivalent.*

*\$1500 for a design flow under 1 mgd
\$2500 for a design flow of 1 mgd or more*

General permits—permit fee

\$150 per permit

Pretreatment—annual fees
\$3000 for a city with a pretreatment program where the combined design flow of all the city facilities is less than 5 mgd
\$6000 for a city with a pretreatment program where the combined design flow of all the city facilities is 5 mgd or more

Construction permits—section 644.053, RSMo

\$500 for a sewage treatment plant under 500,000 gpd design flow
\$1500 for a sewage treatment plant of 500,000 gpd or more
\$50 for sewer extension under 1000 feet long
\$200 for a sewer extension over 1000 feet long or the construction of a lift station
Permittees proposing to build under more than one (1) construction unit are only required to pay the highest fee.]

Industrial discharges—annual fees

Discharges covered by section 644.052.4, RSMo
\$3500 for a design flow under 1 mgd
\$5000 for a design flow of 1 mgd or more
Discharges covered by section 644.052.5, RSMo

APPENDIX A
Operating permit—section 644.052, RSMo
Human sewage discharges—annual fees
\$100 for a design flow, or an adjusted design flow, under 5,000 gallons per day (gpd)
\$175 for a design flow between 5,000 and 5,999 gpd
\$200 for a design flow between 6,000 and 6,999 gpd
\$200 for a design flow between 7,000 and 7,999 gpd
\$225 for a design flow between 8,000 and 8,999 gpd
\$250 for a design flow between 9,000 and 9,999 gpd
\$375 for a design flow between 10,000 and 10,999 gpd
\$400 for a design flow between 11,000 and 11,999 gpd
\$450 for a design flow between 12,000 and 12,999 gpd
\$500 for a design flow between 13,000 and 13,999 gpd
\$550 for a design flow between 14,000 and 14,999 gpd
\$600 for a design flow between 15,000 and 15,999 gpd
\$650 for a design flow between 16,000 and 16,999 gpd
\$800 for a design flow between 17,000 and 19,999 gpd
\$1,000 for a design flow between 20,000 and 22,999 gpd
\$2,000 for a design flow between 23,000 and 24,999 gpd
\$2,500 for a design flow between 25,000 and 29,999 gpd
\$3,000 for a design flow between 30,000 gpd and 1 million gallons per day (1 mgd)
\$3,500 for a design flow 1 mgd and above

Sewer connection fees
Residential connections
\$0.40 per connection for service areas having > 35,000 customers
\$0.50 per connection for service areas having 35,000—20,001 customers
\$0.60 per connection for service areas having 20,000—7,001 customers
\$0.70 per connection for service areas having 7,000—1,001 customers
\$0.80 per connection for service areas having < 1,000 customers
Industrial/commercial connections
\$3 per connection to public water service lines \leq 1 inch in diameter or per connection to a private public water supply system
\$10 per connection to public water service lines > 1 inch and \leq 4 inches in diameter
\$25 per connection to public water service lines > 4 inches in diameter
Maximum fee to each industrial/commercial facility is \$700
Size of the connections shall be measured at the service meter

Industrial discharges—annual fees for site-specific permits
Discharges covered by section 644.052.4, RSMo
\$3,500 for a design flow under 1 mgd
\$5,000 for a design flow of 1 mgd or more
Discharges covered by section 644.052.5, RSMo
\$1,350 for a design flow under 1 mgd
\$2,350 for a design flow of 1 mgd or more
\$5,000 for discharges from concentrated animal feeding operations

General permits—permit and annual fees
\$300 for the discharge of storm water from a land disturbance site
\$50 dollars annually for the operation of a chemical fertilizer or pesticide facility
\$150 for the operation of an animal feeding operation or a concentrated animal feeding operation
\$150 annually for new permits for the discharge of process wastewater or storm water potentially contaminated by activities not included in the categories above. The fee shall be reduced to \$60 annually after the permit's first renewal

Construction permits—section 644.053, RSMo
\$750 for a wastewater treatment plant under 500,000 gpd design flow
\$2,200 for a wastewater treatment plant of 500,000 gpd or more
\$75 for sewer extension under 1,000 feet long
\$300 for a sewer extension over 1000 feet long or the construction of a lift station
Permittees proposing to build under more than one (1) construction unit are only required to pay the highest fee

Permit Modifications—section 644.052.7 and 644.052.8
\$200 for modifications to permits on public entities collecting service connection fees under subsections (2)(B) and (2)(C)
All other permits—25% of annual permit fee

Variations—section 644.061.4
\$250 for each petition

AUTHORITY: section 644.054, RSMo [Supp. 1990] 2000. Emergency rule filed July 27, 1990, effective Sept 12, 1990, expired Jan. 10, 1991. Original rule filed July 17, 1990, effective Dec. 31, 1990. Amended: Filed July 15, 1991, effective Jan. 13, 1992. Amended: Filed Nov. 22, 1991, effective May 14, 1992. Amended: Filed Nov. 9, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will hold concurrent public hearings on this proposed amendment and other rulemakings beginning at 9:00 a.m. January 24, 2001. The public hearings will be held at the Holiday Inn Sunspree Resort, Lake Ozark, Missouri. Those wishing to speak at the public hearings should send a written request to speak to the secretary, Missouri

Clean Water Commission, P.O. Box 176, Jefferson City, MO 65102, by 5:00 p.m., January 17, 2001. Written comments will also be accepted until 5:00 p.m., February 7, 2001.

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

PROPOSED AMENDMENT

10 CSR 20-6.060 Water Quality Certification. The commission proposes to amend the Purpose, sections (2) and (3), add new sections (5) and (6) and renumber existing sections (5) and (6) to sections (7) and (8) and delete the forms that follow this rule in the Code of State Regulations.

PURPOSE: This amendment will incorporate procedures into the water quality certification rule to implement a portion of Senate Bill 741, which was passed in 2000. That law provides time limitations

on processing certifications and fees for individually processed certifications. This amendment is necessary to reflect the new rates and schedules in the Clean Water Law that became effective on August 28, 2000.

PURPOSE: Section 401 of Public Law 92-500 requires that any applicant for a federal license or permit to conduct any activity which may result in any discharge into the navigable waters shall provide the federal licensing or permitting agency a water quality certification from the state. This rule establishes the procedure and time limitations the Department of Natural Resources will follow in issuing certifications.

(2) Requests for water quality certifications should be sent by the applicant directly to the Department of Natural Resources (DNR), Water Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102. The request to the DNR should include a letter requesting the state's water quality certification for the proposed project and one (1) copy of the federal application (ENG Form 4345, AUG 89) with/out drawings. (The federal agency requires one (1) copy of the federal application (ENG Form 4345, AUG 89) with appropriate drawings and one (1) copy of the letter to the DNR requesting certification.) **If the applicant believes a project will be authorized by a general or nationwide 404 permit for which the Corps of Engineers (COE) has accepted DNR's certification, the applicant need not send an application to DNR.**

(3) In order to minimize delay in construction for **individually permitted projects**, the federal agency issues a DNR/federal public notice on the permit application. This notice provides the public an opportunity to provide their written comments regarding the proposed permit. A reasonable comment period, normally thirty (30) days, but not fewer than fifteen (15) days, is provided. The public notice will express DNR's intent to certify the proposed project after completion of the public notice period and resolution of any adverse water quality comments received. In the event the DNR receives a request for certification that should not be issued, the DNR will advise the federal agency within ten (10) working days that the joint public notice should not be issued. **Individual public notices are not used for projects authorized by general or nationwide permits.**

(5) **Applications for water quality certifications have a sixty (60)-day period in which they must be issued or denied. This period starts when an application is received. Submission of an incomplete application may result in the denial of water quality certification without prejudice. A complete application consists of the sufficient application submitted to the COE, topographical maps, location maps, engineering plans, project diagrams, and where applicable, mitigation plans.**

(6) **Water quality certifications that are issued for general permits and are accepted by the COE become effective upon issuance. Water quality certifications that are issued for individual certifications and for certifications for general permits that have not been accepted by the COE shall become effective upon signature and returned with applicable fees.**

[[5]] (7) The issuance, conditional issuance or denial of certification under subparagraph (4)(B)2.A. or B. of this rule may be appealed to the Missouri Clean Water Commission through procedures outlined in the *Revised Statutes of Missouri*, Chapter 644. The appeal shall be a contested case and notice of the appeal shall be filed with the commission within thirty (30) days of service of notice to the applicant of denial or grant of the requested certification as specified in 10 CSR 20-6.020(5).

[[6]] (8) **Effective Date.** This rule becomes effective immediately upon adoption *[[July 13, 1978]]* and compliance with the

requirements of subsection 644.036.3 of the Missouri Clean Water Law.

AUTHORITY: section 644.026, RSMo [Supp. 1987] 2000. Original rule filed Feb. 10, 1978, effective July 13, 1978. Amended: Filed May 11, 1984, effective Oct. 15, 1984. Amended: Filed Nov. 9, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will hold concurrent public hearings on this proposed amendment and other rulemakings beginning at 9:00 a.m. January 24, 2001. The public hearings will be held at the Holiday Inn Sunspree Resort, Lake Ozark, Missouri. Those wishing to speak at the public hearings should send a written request to speak to the secretary, Missouri Clean Water Commission, P.O. Box 176, Jefferson City, MO 65102, by 5:00 p.m., January 17, 2001. Written comments will also be accepted until 5:00 p.m., February 7, 2001.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 14—Concentrated Animal Feeding Operation
Waste Management System Operations**

PROPOSED AMENDMENT

10 CSR 20-14.010 Classification of Concentrated Animal Feeding Operation Waste Management Systems. The commission is amending sections (1), (2) and (5).

PURPOSE: The purpose of this amendment is to clarify and modify the rules involving the classification of concentrated animal feeding operation waste management systems in Missouri so they better reflect the current and future operation of these waste management systems. The definitions for CAFO supervisors, and operators have been modified. The definition and classification of CAFO assistant supervisor have been removed. The classification of dry handling systems has been clarified. Time frames for examination and meeting the certification requirements have been modified. The existing CAFO waste management system classification point system has been eliminated.

(1) Definitions. Definitions as set forth in the Missouri Clean Water Law, 10 CSR 20-2.010 and 10 CSR 20-6.300 shall apply to those terms when used in this rule, unless the context clearly requires otherwise or as noted in the subsections of this rule.

(B) CAFO supervisor. A certified CAFO waste management system operator *[on the site of and directly]* possessing a CAFO "A" level certification, in charge *[for]* of the operating location of a CAFO waste management system, who directs or who has the authority to direct other individuals and includes a manager, superintendent, foreman, crew chief and shift supervisor. **During land application activities and other waste management system operations, a CAFO supervisor must be available to waste system management personnel by phone or radio etc. and able to arrive at the site during emergencies or abnormal operating situations within a reasonable amount of time not to exceed thirty (30) minutes.**

[[C]] CAFO assistant supervisor. A certified CAFO waste management system operator holding at least a "C" certificate, but who is not certified to the level required by subsection (2)(D) of this rule. A CAFO assistant supervisor

directs or has the authority to direct only one (1) CAFO operator trainee at any time.

[(D)] (C) CAFO operator. Any individual who operates or determines the method of [operating] operation or is directly involved in the daily management of a CAFO waste management system, either personally or by assignment, possessing at minimum a CAFO "B" level certification and has the authority to direct and/or manage up to five (5) CAFO operator trainees. This includes waste spreading and waste brokerage operations for wet or dry handling systems except for materials registered as a fertilizer under Chapter 266, RSMo. During land application activities and other waste management system operations, a CAFO operator must be present at the land application or operation site and in direct communication with the waste system personnel. The CAFO operator must be able to physically respond to emergencies or other abnormal operating situations within a reasonable amount of time not to exceed five (5) minutes.

[(E)] (D) CAFO operator trainee. Any individual who has applied for CAFO waste management system operator certification [as set out in 10 CSR 20-14.020(3)(C),] with the Department, but lacks the entry level training and/or a passing grade on the examination for a Certification of Competency and/or the required experience in CAFO waste management system operation. [A CAFO operator trainee shall complete department-approved entry level training and pass the examination within twelve (12) months of initial employment at a CAFO waste management system that is required to be operated by certified personnel in subsection (2)(A) of this rule. If the trainee fails to successfully complete the required training and pass the examination within twelve (12) months, the owner must notify the department as required in subsection (2)(F) of this rule.] At Class IA wet and dry handling CAFO waste management systems, [this individual] trainees must perform all CAFO waste management duties [in the presence of and] under the direct supervision of a ["C," "B," or "A"] certified CAFO operator or supervisor [or assistant supervisor].

[(F)] (E) Department. The Missouri Department of Natural Resources.

(2) CAFO Waste Management Systems Requirements.

(A) Requirements for operation by certified personnel shall apply to Class IA wet and dry handling CAFO waste management systems. All other CAFO waste management systems are exempt from this rule unless the department determines that certified personnel are necessary to protect the waters of the state from pollution or the placement of a contaminant in a location where it is reasonably certain to cause pollution of any waters of the state. Voluntary certification is available for CAFO operators and supervisors at facilities that are exempt.

(C) All persons performing the duties of a CAFO operator, as defined in subsections (1)(C) and (D) of this rule, at systems included in subsection (2)(A) of this rule shall apply to the department for CAFO waste management system operator certification within [thirty (30)] sixty (60) days of [initial] cumulative employment in a CAFO waste management system. In cases of change of CAFO employers, "employment" is the total of all CAFO waste management system employment. A CAFO operator trainee shall complete department-approved entry level training and pass the examination within eighteen (18) calendar months of initial employment at a CAFO waste management system that is required to be operated by certified personnel as specified in subsection (2)(A) of this rule. If the trainee fails to successfully complete the required training and pass the examination within eighteen (18) months, the owner must notify the department as required in subsection (2)(F) of this rule. At this time, the application will be considered inactive and the trainee

must submit a new application with application fee in order to continue the CAFO operator certification process. Any trainee who is unable to pass the certification examination after three (3) attempts, or within eighteen (18) calendar months of their initial exam, must attend an additional twelve (12) hours of department-approved CAFO training prior to reexamination.

(D) Minimum certification of competency classification requirements for CAFO supervisors [excluding assistant supervisors] of CAFO waste management systems shall be determined by the department using the following point system as a guide:] and operators are outlined in subsections (1)(B) and (1)(C) of these rules.

[CLASSIFICATION OF CAFO WASTE MANAGEMENT SYSTEMS

Certification Level	C	B	A
Range of Points	55 and fewer	56-75	76 and greater

Assign points for every item that applies:

Item	Points
Design animal unit equivalent (A.U.E.)	5 pt. per 1,000 A.U.E. or any fraction thereof
Automatic flush and recycle	15
Pull plug flush and/or recycle	10
Mechanical irrigation	25
Gravity irrigation	15
Subsurface injection	5
Tank wagon irrigation	5
Lagoon storage, first unit	10
Lagoon storage, each additional unit	2
Pit or basin storage	10
Anaerobic digester	20
Solids thickening, and/or storage	10
Land application, solids	10]

(E) The owners of CAFO waste management systems shall furnish the department, upon request, the names, addresses and positions of all employees who are CAFO operators or CAFO supervisors [of] within their CAFO waste management systems. They shall also furnish, upon request, the names, business addresses and positions of all employees who are operator trainees.

(F) In the event a facility's staff does not meet the certification requirements of this rule, the facility owner shall notify the department in writing within ten (10) days of failure to meet the requirements. The notification shall include an explanation of why the requirements were not met. Following consultation with the facility owner, the department [shall] may establish a schedule of activities, including the date by which compliance with this rule shall be obtained.

(5) Effective Date. This rule becomes effective [January 1, 1997] July 30, 2001, or ninety (90) days after adoption and compliance with the requirements of section 644.036.3 of the Missouri Clean Water Law and Chapter 536, RSMo [1994/], whichever is later.

AUTHORITY: section 644.026, RSMo [Supp. 1995] 2000. Original rule filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed Nov. 14, 2000.

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions less than \$500 in the aggregate. This is based on the assumption that reclassification of Concentrated Animal Feeding Operation (CAFO) waste management

systems will occur as part of the department's routine inspection of CAFOs and, therefore, will cause no additional cost beyond costs already incurred in system inspection.

In the four-year history of mandatory operator certification there have been no appeals of the department's decisions on system classification. No appeals are anticipated; however, it is assumed that any appeals would be heard by the Clean Water Commission as part of their regular meeting process at no additional cost to the department. A CAFO waste management system's costs could vary widely depending on the amount of effort the system owner chooses to expend in presenting the appeal. Based on historical data, no appeals are anticipated and the cost expended on appeals is anticipated to be less than \$500 in the aggregate. Since no one is required to file an appeal, any costs associated with an appeal would be discretionary costs, voluntarily incurred by the CAFO waste management system and not required by the rule.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than \$500 in the aggregate. It is based on the assumption that CAFO waste management systems currently regulated under 10 CSR 20-14.010 Classification of Concentrated Animal Feeding Operation Waste Management Systems will incur no additional costs as a result of the amendment of the rule.

In the four-year history of mandatory operator certification there have been no appeals of the department's decisions on system classification. No appeals are anticipated; however, it is assumed that any appeals would be heard by the Clean Water Commission as part of their regular meeting process at no additional cost to the department. A CAFO waste management system's costs could vary widely depending on the amount of effort the system owner chooses to expend in presenting the appeal. Based on historical data, no appeals are anticipated and the cost expended on appeals is anticipated to be less than \$500 in the aggregate. Since no one is required to file an appeal, any costs associated with an appeal would be discretionary costs, voluntarily incurred by the CAFO waste management system and not required by the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or opposition to this proposed amendment. Concurrent public hearings will be held beginning at 9:00 a.m., January 24, 2001, at the Holiday Inn Sun Spree Resort, 120 Holiday Lane, Lake Ozark, Missouri. Requests to comment at the public hearing should be sent in advance to the Technical Assistance Program, P.O. Box 176, Jefferson City, MO 65102-0176.

In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language.

Written comments must be postmarked or received by February 7, 2001. Comments may be mailed, faxed or e-mailed to: Gordon Belcher, Technical Assistance Program, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 526-5808. The E-mail address is nrbelcg@mail.dnr.state.mo.us.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 14—Concentrated Animal Feeding Operation
Waste Management System Operations**

PROPOSED AMENDMENT

10 CSR 20-14.020 Certification of Concentrated Animal Feeding Operation Waste Management System Operators. The

commission is amending the Purpose, sections (1), (3), (5)–(8), adding section (5), deleting section (9) and renumbering remaining sections.

PURPOSE: The purpose of this amendment is to clarify and modify the rules involving the certification of concentrated animal feeding operation waste management system operators. The level "C" certification has been removed and the certification requirements for levels "A" and "B" have been modified. Other related fields of education have been added to the section on equivalency experience. A separate certification examination will be administered to dry handling system operators. Procedures have been proposed for operators to attain reciprocal certification. Certificate suspension has been included as an alternative to certificate revocation and procedures are outlined for regaining certification.

PURPOSE: This rule sets out the requirements that a person must meet to obtain a concentrated animal feeding operations waste management system operator certificate.

(1) Definitions. Definitions as set forth in the Missouri Clean Water Law and 10 CSR [20-2.010] **20-14.010** shall apply to those terms when used in this rule, unless the context clearly requires otherwise or as noted in the subsections of this rule.

(3) Certification of Competency.

(D) Examinations shall contain, but not necessarily be limited to, questions pertaining to the Missouri CAFO regulations, general CAFO waste management systems knowledge, water quality, agronomy, **irrigation management**, general agriculture, soil science, applied mathematics, chemistry, hydraulics, pumps and operation of irrigation and land application equipment, as applied to CAFO waste management systems.

(G) Approval of applicant eligibility for certification of competency shall be the responsibility of the department. Assessment of applicant qualifications shall include the following criteria:

1. Successful completion of a department approved, **pre-certification**, entry level CAFO waste management system **training** course of the following minimum length:

A. Wet handling CAFO waste management systems—thirty (30) hours; and

B. Dry handling CAFO waste management systems—eighteen (18) hours; and

"A"	[6] 4 years (2 years of which may be equivalent) (* Up to 2.5 years equivalency for graduate degree in a related field)
[B]	[4 years (1 year of which may be equivalent)]
[C] "B"	1 year (All of which shall be actual experience) As of the effective date of this amended rule, all CAFO waste handling system operators who currently possess a CAFO level "C" certificate will be reissued a CAFO level "B" certificate.
CAFO Operator Trainee	No experience requirement

2. Actual CAFO waste management system operating experience required for classification level:

(H) Years of equivalent experience shall be computed from the following criteria:

1. General vocational training or work experience in related areas will be considered by the department on a case-by-case basis and shall be limited to a maximum of six (6) months' equivalent experience.

Graduation from approved one (1)-year certificate program in water/waste/-/ water technology or irrigation management	1 year
College level courses in <i>[agricultural]</i> agriculture, animal science, <i>[biological]</i> biology, chemistry, engineering, environmental <i>[or]</i> health/science, irrigation management, soil science/s], etc. (grade of C or better is required)—maximum credit of six (6) months.	1 month per every 3 semester hours
Two (2)-year associate degree in <i>[allied]</i> a related field (for example, agriculture, animal science, biology, chemistry, engineering, environmental health/science, <i>[biology, chemistry and agriculture,]</i> irrigation management, soil science, etc.)	1 1/2 years
Four (4)-year college degree in <i>[allied]</i> a related field/s] (for example, agriculture, animal science, biology, chemistry, engineering, environmental health/science/s], <i>[biology, chemistry and engineering,]</i> irrigation management, soil science, etc.)	2 years
Graduate level degree in a related field (for example, agriculture, animal science, biology, chemistry, engineering, environmental health/science, irrigation management, soil science, etc.)	1/2 year
Department-approved CAFO waste management system correspondence course or department approved advanced course in CAFO waste management (minimum of 30 contact hours in length) and is in addition to the required entry level training course outlined in subsection (3)(G)1. of this rule.	1/2 year per course with a maximum of 1 year credit

(I) Any person having completed a department-approved entry level CAFO waste management course as required in subsection (3)(G)1. of this rule, but not possessing the necessary operational experience, may take the certification examination. **All CAFO operator applicants must complete the department-approved entry level training course outlined in subsection (3)(G)1. of this rule before taking any CAFO certification examination.**

1. Upon passing the examination, the individual will have *[fifteen (15)]* **eighteen (18) cumulative months of employment within a CAFO waste management system** to obtain the necessary operational experience **for the certification level requested.** If the necessary experience is not obtained within the *[fifteen (15)-]* **eighteen (18)-month [limit] time frame,** the individual must retake the examination to *[be certified at that level of competency]* **continue the CAFO operator certification process.**

2. Application for a certificate must be made on the proper forms *[as described in subsection (9)(A)]* **provided by the department.**

(M) A valid dry handling CAFO waste management system certificate shall not be considered equal to a CAFO wet handling system certificate of any level and is not approved for use at a CAFO wet handling system. **A separate test specific to dry handling systems will be administered to these individuals. A CAFO dry handling system operator may attain a CAFO wet handling system certification by taking an additional twelve (12) hours of entry level training that is specific to CAFO wet handling systems and passing a CAFO wet handling system certification examination.**

(N) An operator possessing a valid Missouri dry handling CAFO waste management system certificate desiring to obtain a wet handling certificate will be given fifty percent (50%) equivalent credit for actual *[calendar]* years' experience at a dry handling CAFO waste management system.

(4) Certificate Renewal.

(A) All Class *A[,]* and B *[and C]* CAFO Operator Certificates issued by the department shall be renewed at least every three (3) years. All applicants for renewal shall meet the training require-

ments set forth in subsection (4)(B) prior to the expiration date stated on each individual's certificate.

(F) A nonrefundable application fee of forty-five dollars (\$45) shall accompany each renewal application. Application for renewal must be made on the form provided by the department *[as described in subsection (9)(B)].*

(5) Reciprocity.

(A) Certificates may be issued, without examination, to any person who holds a valid certificate attained by examination in any state, territory or possession of the United States or any country or any other certifying authority, providing the requirements for certification of CAFO operators under which the person's certificate was issued do not conflict with the provisions of this rule and are of an equal or higher standard than that specified by the regulations adopted under this rule.

(B) The applicant requesting certification by reciprocity must have actual working experience with a CAFO waste management system in the state, province, country, territory or other authorized area that issued the certificate for which reciprocity is requested.

(C) The application for reciprocity must be submitted to the department within one hundred eighty (180) days from beginning employment with a CAFO waste management system in Missouri. The applicant must submit an application form provided by the department, with an application fee of forty dollars (\$40).

(D) Reciprocal permits will only be issued to persons who are employed within Missouri CAFO waste management systems. Eligible applicants must submit twenty-five dollars (\$25) for issuance of a reciprocated certificate. If employment with a Missouri CAFO waste management system is dependent upon the Missouri certification, the department will send a letter of intent to issue a certificate to the applicant. The letter of intent is valid for one hundred eighty (180) days provided that the certificate that the application is based upon remains valid. If the applicant does not obtain Missouri employment before the expiration date of the letter, he/she must reapply for reciprocal certification.

[/5] (6) Suspension and Revocation.

(A) The department may suspend or revoke any certification for a period of not more than five (5) years for any of the following reasons: fraud or deceit in obtaining certification/; **cheating on the certification examination,** negligence, incompetence, misconduct, dishonesty, **bribery or extortion,** misrepresentation or malfeasance in the holder's action in operating a CAFO waste management system or appurtenances/; **sabotage, selective sampling,** falsification of facility operating records or reports required by 10 CSR 20/; or any violation of 10 CSR 20 or the Missouri Clean Water Law, Chapter 644, RSMo. **An operator should not be held responsible for a condition in which that person cannot obtain the necessary resources to correct. The permit holder is responsible for providing the necessary resources to the operator.**

(B) Notice of a suspension or revocation action will be issued by the commission's director of staff with service by hand delivery or through certified mail to the certificate holder at that individual's last known address. That notice shall state the reason(s) for suspension or revocation, the effective date of the suspension or revocation and the action(s) the certificate holder may take to contest the suspension or revocation.

[/A] (C) **The certificate holder may make a written request for a hearing [may be made by the certificate holder] to the department** no more than thirty (30) days following receipt of notification from the commission's director of staff that suspension or revocation proceedings have been initiated. A hearing will be conducted as outlined in subsection (2)(B) of this rule.

(D) **Individuals with revoked certificates must reapply and retake the certification examination to regain operator certification.** Application for certification examination by an individual

whose certificate is **suspended or** revoked may not be made sooner than one (1) year from the effective date of **suspension or** revocation. Acceptance of any such application shall be at the discretion of the department. **When the deficiency is related to a particular weakness, the department may require the operator to complete training in that deficient area. Suspended certificates may be reinstated upon written request from the operator after the suspension term has expired and all suspension requirements have been met.**

(E) Any **suspended or** revoked certificate shall be returned to the department.

[(6)] (7) The certificate holder shall notify the department of any change in status including, but not limited to, change of name, change of address and change of employer.

[(7)] (8) All application fees are nonrefundable and nontransferable.

[(8)] (9) Penalties. Penalties for violation of this rule shall be as provided in the Missouri Clean Water Law.

[(9) Forms.

(A) Examination Application.

(B) Renewal Application.

(C) Reserved.]

AUTHORITY: section 644.026, RSMo [Supp. 1995] 2000. Original rule filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed Nov. 14, 2000.

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions less than \$500 in the aggregate.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or opposition to this proposed amendment. Concurrent public hearings will be held beginning at 9:00 a.m., January 24, 2001, at the Holiday Inn, Sun Spree Resort, 120 Holiday Lane, Lake Ozark, Missouri. Requests to comment at the public hearing should be sent in advance to the Technical Assistance Program, P.O. Box 176, Jefferson City, MO 65102-0176.

In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language.

Written comments must be postmarked or received by February 7, 2001. Comments may be mailed, faxed or E-mailed to: Gordon Belcher, Technical Assistance Program, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 526-5808. The E-mail address is nrbelcg@mail.dnr.state.mo.us.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 14—Concentrated Animal Feeding Operation
Waste Management System Operations**

PROPOSED AMENDMENT

10 CSR 20-14.030 [Renewal] Operator Training. The commission is amending the Purpose and sections (1), (2), (5), (10) and (12).

PURPOSE: The purpose of this amendment is to clarify and modify the rules involving the criteria used for approval of operator training courses. The term "operator training" has been substituted for "renewal training." Minimum training course length eligi-

ble for approval has been reduced from three hours to one hour. The total hours required for certification and recertification has not changed. With regard to who may sponsor operator training, the term "training provider" has been substituted for "organization."

PURPOSE: This rule establishes criteria for approval of [renewal] operator training courses.

(1) Only training approved by the department will be credited toward meeting the [renewal] operator training requirements. [Renewal] Operator training content shall be related to Missouri Concentrated Animal Feeding Operation (CAFO) regulations, general CAFO waste management systems knowledge, water quality, agronomy, general agriculture, soil science, applied mathematics, chemistry, hydraulics, pumps, **irrigation management** and operation of irrigation and land application equipment, as applied to CAFO waste management systems.

(2) [All organizations] Training providers sponsoring [renewal] operator training for CAFO waste management system operators shall submit the following to the department for approval. This information should be submitted to the department at least thirty (30) days prior to the training:

(5) Renewal credit will be issued in increments of one-half (0.5) hour. The minimum course length will be [three (3.0)] one (1) hour/s] in length. Any training or portion of training approved by the Department of Natural Resources and issued continuing education units (CEUs) [by an organization meeting the criteria of the Council on the Continuing Education Unit] will be given credit at the rate of ten (10.0) hours per one (1.0) CEU.

(10) [Each organization providing training must provide] Training providers should issue certificates [of] verifying the completion of training courses to the attendees. The certificates [must] include the following:

(12) The department shall make information available upon request as to which courses, seminars, etc. will be approved for CAFO waste management system operator renewal purposes.

AUTHORITY: section 644.026, RSMo [Supp. 1995] 2000. Original rule filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed Nov. 14, 2000.

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions less than \$500 in the aggregate.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or opposition to this proposed amendment. Concurrent public hearings will be held beginning at 9:00 a.m., January 24, 2001, at the Holiday Inn, Sun Spree Resort, 120 Holiday Lane, Lake Ozark, Missouri. Requests to comment at the public hearing should be sent in advance to the Technical Assistance Program, P.O. Box 176, Jefferson City, MO 65102-0176.

In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language.

Written comments must be postmarked or received by February 7, 2001. Comments may be mailed, faxed or E-mailed to: Gordon Belcher, Technical Assistance Program, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 526-5808. The E-mail address is nrbelcg@mail.dnr.state.mo.us.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 14—Operator Certification**

PROPOSED AMENDMENT

10 CSR 60-14.010 Classification of Public Water Systems and System Requirements. The commission is amending the Purpose statement and sections (1)–(4).

PURPOSE: The purpose of this amendment is to strengthen the rule in regard to new federal requirements and make other improvements. The existing point system is replaced with a descriptive system for classifying public water systems. Separate classification systems are established for treatment and distribution. The exemption for very small systems is deleted and nontransient noncommunity systems are included in the rule. System requirements for operator certification staff are established. The department may establish minimum operator oversight requirements for facilities with extensive instrumentation and automation. Public water systems employing a contract operator (or “circuit rider”) shall have a written agreement indicating the responsibilities of the operator.

PURPOSE: This rule determines the classification level of [certification needed by a] public water system[s] treatment and distribution systems for the purpose of determining the certification level required for the chief operator [to ensure proper operation of the public water system]. It also establishes system requirements for certified operating personnel.

(1) **Applicability.** This rule applies to all community and non-transient noncommunity public water systems and those transient noncommunity public water systems that use surface water or groundwater under the direct influence of surface water. Therefore, where the term “public water system” is used in this rule, it is understood to refer only to these types of systems.

(2) **Definitions.**

(A) **Available.** Based on system size, complexity, and source water quality, a certified operator must be on-site or able to be contacted promptly (i.e., reasonably accessible) as needed to initiate appropriate action in a timely manner.

(B) **Certified operator.** Any individual holding a valid water treatment or water distribution certificate issued by the department.

(C) **Chief operator.** A certified operator designated by the owner of the public water system to have overall responsibility for the day-to-day process control/system integrity decisions regarding supervisory and operational activities that will directly impact the quality and quantity of drinking water. This individual must possess a certificate at the level of or higher than the classification of the treatment facility or distribution system for which he or she is responsible.

(D) **Operator in responsible charge.** An individual who performs the duties of a chief operator.

(E) **Operate.** To make or act upon process control/system integrity decisions regarding a water treatment facility or distribution system.

(F) **Process control/system integrity decisions.** Day-to-day decisions that maintain or cause changes in the chemical, biological, physical or radiological quality of the drinking water. These decisions primarily reflect individual judgement which when made incorrectly have the potential to place the public health at risk or place the soundness of the water system or its ability to provide a safe, adequate and continuous supply of water at risk. These decisions are not referring to system design or modifications for which the department requires design or approval by a professional engineer.

[[2]] (3) **Classification of Public Water Systems.**

(A) The department [shall] will classify [all public water systems] each treatment facility by considering the [system capacity, source, character of water being produced, the complexity of the treatment and other physical conditions affecting public water systems] treatment facility complexity, source of water, type of treatment performed and, for surface water systems only, size. This classification is based on, but may not be limited to, the criteria in Table 1 of this rule. Other treatment technologies not listed in Table 1 will be considered on a case-by-case basis. From this classification process, the department [shall] will determine the certification [classification] level that a chief operator must have to supervise the operation of the treatment facility. Treatment facilities (except as provided in paragraph (3)(B)1. of this rule) will remain classified at the level determined prior to the effective date of this rule or will be classified as indicated by Table 1 of this rule, whichever is the higher classification.

(B) Untreated public water systems serving fewer than fifty (50) service connections and fewer than two hundred (200) individuals shall be exempted from the operator certification provisions of this rule provided the system has demonstrated a history of safe water and has no major construction deficiencies.

(C) All treated public water systems will have a minimum classification of Class D. Classifications, determined from the rating values in subsection (2)(E), are as follows:

1. Class E 0–20 points;
2. Class D 21–50 points;
3. Class C 51–75 points;
4. Class B 76–100 points; and
5. Class A 101 or more points.

(D) A public water system can request, in writing, a hearing before the department to appeal its certification classification or denial of exemption as outlined previously. The hearing shall be conducted by the director or a hearing officer designated by the director.

(E) **Rating Values for Classification of Water Systems.**

Unit	Points		
Source	Groundwater	3	
	Surface supply (stream or river)	8	
	Surface supply with reservoir(s)	6	
	Purchasing finished water	—	
Bacterial Quality	Shallow well	4	
	Deep well with coliform count	4	
	Impoundment	8	
Treatment	Stream or river	10	
	Aeration	2	
	Coagulation	—surface	10
		—ground	5
	Sedimentation	—conventional	5
		—high rate upflow	10
	Filtration	10	
	Disinfection—chlorine added	5	
	Ion exchange	5	
	Adsorption	2	
Chemical oxidation	2		
Chemical precipitation (softening)	10		
Distribution	Sequestration or stabilization	2	
	Fluoridation	2	
	Well water pumping	5	
Capacity or Usage	Finished water pumping	5	
	Storage on system	2	
	Untreated water systems or purchased water: Average consumption (gallons per day (GPD))	—	
Usage	Treated water systems: Plant design capacity (GPD)	—	
	Points for capacity or usage from following:	—	

2,000,000 gallons per day or less—
1 point for each 50,000 gallons or
part
2,000,001 to 6,000,000 gallons per
day—40 points plus 1 point for
each 100,000 gallons or part for
amount over 2,000,000 gallons
6,000,001 to 10,000,000 gallons per
day—80 points plus 1 point for each
200,000 gallons or part for amount
over 6,000,000 gallons 10,000,001
gallons or more per day—100 points

TOTAL POINTS —/

(B) The department will classify each distribution system by size and complexity. This classification is based on, but may not be limited to, the criteria in Table 2 of this rule. Other distribution technologies will be considered on a case-by-case basis. From this classification process, the department will determine the certification level that the chief operator must have to supervise the operation of the distribution system.

1. Systems that only chlorinate, reduce the hardness of the water by ion exchange, or provide no treatment will be classified as distribution systems.

2. DS III distribution system operator certificates shall be issued to all operators who possess a valid Missouri drinking water system operator certificate on the effective date of this rule.

(C) The classification of public water systems, the operational control of which relies on extensive instrumentation, automation and SCADA systems, will be determined on a case-by-case basis.

(D) If changes in the method of classifying water systems result in a reclassification of a water treatment system, then the chief operator shall receive the appropriate certification to continue as chief operator.

(E) A public water system owner can request in writing a hearing before the department to appeal the system's classification. The hearing shall be conducted by the director of the department or a hearing officer designated by the director.

Table 1. Water Treatment System Classification.

The highest level applicable to the system is the classification of the system.		Classification
Source Water	Surface Water source, with treatment facility capacity greater than 1.5 Million Gallons per Day	A
	Surface Water source, with treatment facility capacity less than or equal to 1.5 Million Gallons per Day	B
	Ground Water Under Direct Influence of Surface Water (GWUDI)	B
	Purchased water, with further treatment by the purchasing system (other than chlorination or ion exchange softening)	D
	Ground Water (Not GWUDI), with treatment other than chlorination or ion exchange softening	D
	Ground Water (Not GWUDI) or Purchased Water with chlorination or ion exchange softening only	See Classification Table 2
	Ground Water (Not GWUDI) or Purchased Water with no treatment	
Disinfection	Chlorine Dioxide	B
	Ozone	B
	Ultra Violet Light	D
	Gas Chlorination, Calcium or Sodium Hypochlorination in combination with other treatment other than ion exchange softening	D
	Chloramines	D
Chemical Treatment	Chemical Oxidation (example—potassium permanganate)	C
	Coagulation—Groundwater	C
	Coagulation—Surface Water	B
	Fluoridation	D
	Ion Exchange (for purposes other than softening including processes such as nitrate removal)	C
	Lime/Soda Softening—Groundwater	C
	Lime/Soda Softening—Lime Slaker	B
	Lime/Soda Softening—Hydrated Lime	C
	Sequestration	D
	pH, alkalinity adjustment	C
Physical Treatment	Adsorption (example—Activated Carbon)	C
	Aeration (examples—cascade, diffused, packed tower, slat tray, spray)	D
	Filtration (example—greensand, pressure, rapid gravity, slow sand)	C
	Reverse Osmosis, Membrane Filtration, Ultrafiltration	B
Ion Exchange (for softening) is included in all treatment and distribution certifications. The level of certification required will be determined by the other treatment or distribution characteristics as appropriate		Each type and level

Table 2. Water Distribution System Classification.

The highest level applicable to the system is the classification of the system.		Minimum Classification
Population served (by distribution system)	Greater than 10,001	DS III
	Between 3,301 to 10,000	DS II
	Up to 3,300	DS I
Pressure Zones	Multiple, interconnected pressure zones	DS II
	Single pressure zone in system	DS I
Distribution Source Water	Multiple sources (distributed water is blended from more than one treatment facility, well, or purchased source and finished waters from various sources are substantially different in chemical characteristics)	DS III
	Multiple sources (distributed water is blended from more than one treatment facility, well, or purchased source and finished waters from various sources are substantially the same in chemical characteristics)	DS II
	Single source (distributed water comes from a single treatment facility, well, or purchased from a single source at any one time)	DS I
System Storage	Multiple gravity storage facilities or water must be pumped from storage facility	DS II
	Pneumatic tanks or single gravity storage "floating on system"	DS I
Valves	Altitude valves in system	DS II
	Pressure reducing valves necessary on customer lines	DS II
Disinfection	Gas Chlorination is the only distribution system treatment	DS II
	Calcium or Sodium Hypochlorite is the only distribution system treatment	DS I
	Water in distribution systems from surface water source is re-chlorinated	DS III
Fire Protection	Fire protection is provided by distribution system	DS II
	No fire protection provided by distribution system	DS I
Ion Exchange (for softening) is included in all treatment and distribution certifications. The level of certification required will be determined by the other treatment or distribution characteristics as appropriate		Each type and level

[(3)](4) System Requirements.

(A) The water system owner shall place the direct supervision of each treatment facility and each distribution system under the responsible charge of a chief operator.

1. The chief operator shall possess a valid certificate equal to or greater than the classification of the treatment facility or distribution system.

2. The chief operator can be responsible for both the water treatment facility and distribution system at the owner's discretion.

3. No individual shall be the chief operator with overall responsibility for more than one (1) surface water treatment facility, unless otherwise approved by the department.

[(A)] 4. The name of the chief operator *[must]* shall be supplied to the department by the owner of the public water system and will be on file at all times. *[A chief operator may be replaced with another properly certified operator at any time. The owner shall notify the department in writing within thirty (30) days after the replacement.]*

5. In the event the chief operator is no longer available to serve, the owner of the public water system shall notify the department of the vacancy within ten (10) working days and shall appoint an interim operator. The interim operator shall be considered the system's certified chief operator for the purposes of complying with 10 CSR 60-14.010 and 10 CSR 60-14.020 on a temporary basis until a properly certified chief operator is hired. Following consultation with the public water system owner, the department will establish a schedule of activities and a timeline for the system to have a certified chief operator who has met all applicable certification requirements.

6. Public water systems should have a contingency plan for a standby replacement chief operator to be available at all times. This may be, for example, a second employee certified at the chief operator level, a mutual assistance agreement with a

neighboring system, or a pre-arrangement with a contract operator.

7. The owner shall notify the department in writing within ten (10) working days after the chief operator is replaced.

(B) If *[the facility is modified so that a higher certification classification is required for the facility as determined by the rating values for classification contained in this rule]* modifications to the public water system change the system's classification to a higher level, the chief operator shall be required to obtain the higher level certificate by examination.

(C) *[In the event the chief operator is no longer available to serve, the owner of the public water system shall notify the department of the vacancy within thirty (30) days. Following consultation with the public water system owner, the department shall establish a schedule of activities, including dates, by which compliance with this rule shall be obtained.]* All operating personnel making process control/system integrity decisions about water quality or quantity that affect public health must be certified.

(D) *[A certification]* Possession of a letter of examination results does not qualify an individual to serve as a certified operator or certified chief operator for a public water system. An individual is not certified until the department issues the appropriate operator certificate.

(E) All process control/system integrity decisions about water quality or quantity that affect public health must be made by a certified operator based on procedures approved by the chief operator. The chief operator is responsible for the process control/system integrity decisions made by others in the system. A certified operator shall be available for consultation whenever process control/system integrity decisions are made.

(F) Contract Operating Agreement.

1. Public water systems employing a certified chief operator through a contract operator (often referred to as a "circuit

rider”) arrangement shall have a written agreement indicating the responsibilities of the operator, including but not necessarily limited to:

- A. The minimum frequency of routine visits to the water treatment facility or distribution system;
- B. The operator’s duties and responsibilities;
- C. The minimum hours the operator will be present for each routine visit;
- D. The certification level required by the department for the treatment facility and/or distribution system that the operator is responsible for;
- E. The level of certification held by the contract operator;
- F. The minimum response time for the operator to be at the water system in the event of an emergency; and
- G. The number of employees, if any, hired to assist.

2. Circuit rider operators and other contract operators who are performing the duties of chief operator shall be held accountable for operational decisions made in their stead.

3. A copy of the current agreement shall be on file at the system at all times and shall be provided to the department upon request.

(G) The department may establish minimum operator oversight requirements for facilities with extensive instrumentation, automation and SCADA systems. Minimum operator oversight determinations will be made on a case-by-case basis.

[(4)](5) Violations.

(A) [As of January 1, 1987, n]No person, firm, corporation, municipal corporation or other governmental subdivision or agency shall operate a public water system unless the competency of the chief operator to operate the facility is duly certified by the department as provided in [this rule] **10 CSR 60-14.020 or 10 CSR 60-14.010(4)(A)5.** except during periods of emergency[,] or disaster. [or work stoppage. No person shall perform the duties of a chief operator without being duly certified under the provisions of 10 CSR 60-14.020.]

(B) No person shall perform the duties of a chief operator [, except as noted in subsection (4)(A) of this rule,] without being duly certified under the provisions of 10 CSR 60-14.020 or **10 CSR 60-14.010(4)(A)5.**

(C) Any person, including any firm, corporation, municipal corporation or other governmental subdivision or agency who violates any provisions of this rule will be subject to the penalty provisions of section 640.130 and **640.131,** RSMo. Systems using surface water or groundwater under the direct influence of surface water not having a certified chief operator as required by section [(2)](3) of this rule must notify the public as required by 10 CSR 60-8.010(6)(B)2. Proof that any public notification required by this section has been made must be provided as required by 10 CSR 60-7.010(7).

AUTHORITY: section 640.100, RSMo [Supp. 1992] 2000. Original rule filed July 11, 1986, effective Jan. 1, 1987. Amended: Filed March 31, 1992, effective Dec. 3, 1992. Amended: Filed Nov. 15, 2000.

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions less than \$500 in the aggregate. This is based on the assumption that reclassification of water systems will occur as part of the department’s routine inspection of water systems and, therefore, will cause no additional cost beyond costs already incurred in system inspection.

It is further assumed that publicly-owned public water systems currently regulated under 10 CSR 60-14.010 Classification of Public Water Systems will incur no additional costs as a result of this amendment. It is assumed that systems previously excluded from this rule (very small community water systems, nontransient

noncommunity water systems and distribution systems) have staff who are performing the duties of a certified operator who will be grandfathered under 10 CSR 60-14.020.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than \$500 in the aggregate. This is based on the assumption that privately-owned public water systems currently regulated under 10 CSR 60-14.010 Classification of Public Water Systems will incur no additional costs as a result of this amendment. It is assumed that systems previously excluded from this rule (very small community water systems, non-transient noncommunity water systems and distribution systems) have staff who are performing the duties of a certified operator who will be grandfathered under 10 CSR 60-14.020.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed amendment. An information meeting and public hearing will be held at 10:00 a.m., January 16, 2001, at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Requests to comment at the public hearing should be sent in advance to the Public Drinking Water Program, 101 Adams Street, P.O. Box 176, Jefferson City, MO 65102-0176.

In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language.

Written comments must be postmarked or received by January 31, 2001. Comments may be mailed, hand-delivered, faxed or E-mailed to: Linda McCarty, Public Drinking Water Program, 101 Adams Street, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110. The E-mail address is nrmccal@mail.dnr.state.mo.us.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 14—Operator Certification**

PROPOSED AMENDMENT

10 CSR 60-14.020 Certification of Public Water [Supply] System Operators. The commission is amending the Purpose statement and sections (1)–(12), and deleting the forms that follow this rule in the Code of State Regulations.

PURPOSE: This amendment revises the operator certification levels, establishes separate certification types for treatment and distribution, provides examples of actual and equivalent experience and sets renewal and grandparenting requirements.

PURPOSE: This rule sets [out the] forth requirements [that a person must meet to] for obtaining and renewing a water [supply] system treatment or distribution operator certificate, including experience, education, application and examination requirements. Procedures for denial, suspension and revocation of an operator’s certificate are also established.

[(1) Classification of Certificates. There are five (5) classifications (A, B, C, D and E) of certified operators with E being the lowest and A being the highest.]

[(2)] (1) Training and Experience Required for Certification.

(A) Actual drinking water treatment or distribution operating experience means the skills and knowledge acquired from making or acting upon day-to-day process control/system integrity decisions rather than from textbook study or supervisory observation. It means the applicant has actually operated a water treatment facility or distribution system, depending on

the certificate sought. In addition, the applicant should have experience in some combination of water system operational tasks such as: sample collection, routine operational tests, interpretation of test results, calculation of chemical dosages and subsequent adjustment of chemical feeders, flow rate and pressure adjustments, filter backwash, water main repair, disinfection and flushing and completion of operational reports.

(B) Equivalent drinking water treatment facility or distribution system operating experience means skills and knowledge acquired from education as described in this rule or work experience that has a substantial relation to drinking water treatment or distribution, depending on the certificate sought.

[(A)] (C) In order to be eligible for a certificate, the applicant must have accumulated actual or equivalent operational experience [and training, or both,] in accordance with [the following:] Tables 3 and 4.

[Certification

<i>Classification</i>	<i>Minimum Requirements</i>
<i>A</i>	<i>Six (6) years' water system experience (of which two (2) years may be equivalent)</i>
<i>B</i>	<i>Four (4) years' water system experience (of which one (1) year may be equivalent)</i>
<i>C</i>	<i>Two (2) years' water system experience (of which one (1) year may be equivalent)</i>
<i>D</i>	<i>One (1) year water system experience (which may be equivalent)</i>
<i>E</i>	<i>No education or experience requirement]</i>

Table 1. Experience Requirements for a Water Treatment Certificate.

Certificate Level	Minimum Actual and Equivalent Experience
A	Six (6) years of water treatment facility operating experience (of which two (2) years may be equivalent)
B	Four (4) years of water treatment facility operating experience (of which one (1) year may be equivalent)
C	One-half (1/2) year of water treatment facility operating experience (which may be equivalent)
D	Six (6) months of water treatment facility operating experience (which may be equivalent)

Table 2. Experience Requirements for a Distribution Certificate.

Certificate Level	Minimum Actual and Equivalent Experience Requirements
DS III	Three (3) years of water distribution system operating experience (of which one (1) year may be equivalent)
DS II	One (1) year of water distribution system operating experience (of which six (6) months may be equivalent)
DS I	Six (6) months of distribution system operating experience (which may be equivalent)

[(B) Years of equivalent experience may be computed from the following criteria. Experience equivalence for high school and college degrees is nonadditive:

1. High school diploma or GED certificate one-half (1/2) year;
2. Graduation from an approved one(1)-year certificate program in water/wastewater technology one (1) year;
3. College level course in biological/environmental sciences (grade C or better required; maximum of six (6) months' credit) one (1) month per three (3) semester hours;
4. Two (2)-year associate degree in related field (environmental health/science) one and one-half (1 1/2) years;

5. Four (4)-year or more degree in sanitary, public health, civil, mechanical or electrical engineering or allied sciences two (2) years;
6. An approved multiweek entry-level training course or correspondence course (maximum credit of one (1) year) one-half (1/2) year.]

[(C) Upon submission of documentation to the department, the number of years of equivalent experience for formal or vocational training will be calculated. General vocational training will be given a maximum of six (6) months' credit.

[(D) Wastewater operators applying for water supply operator certification will be given equivalent experience credit for the actual number of calendar years of operation in the wastewater field.]

(D) Years of equivalent experience shall be computed from the criteria in Table 3.

Table 3. Equivalent Experience.

1.	Graduation from an approved one (1) year certificate program in water/wastewater technology	1 year equivalent experience
2.	College level course in related field of chemical/biological/environmental or allied science or public health (grade C or better)	1 month equivalent experience per three (3) semester hours (maximum of 6 months of credit)
3.	Two (2)-year associate degree in related field (chemical/biological/environmental or allied science or public health)	1 1/2 years equivalent experience
4.	Four (4)-year degree or higher in related field (chemical/biological/environmental allied science or allied sciences or public health, or civil, mechanical, electrical or related engineering degree)	2 years equivalent experience
5.	Department-approved water treatment training course of at least forty-five (45) contact hours (4.5 CEUs)	1/2 year equivalent treatment facility experience per course (maximum credit of 1 1/2 years) (For multi-day courses, attendance of at least eighty percent (80%) of the course hours is required to receive credit.)
6.	Department-approved water distribution system-training course of at least thirty-five (35) contact hours (3.5 CEUs)	1/2 year equivalent distribution system experience per course (maximum credit of 1 year) (For multi-day courses, attendance of at least eighty percent (80%) of the course hours is required to receive credit.)
7.	Successful completion of a department-approved correspondence course of at least forty-five (45) contact hours (4.5 CEUs)	1/2 year equivalent experience per course towards the appropriate type of certificate (maximum credit of 1 1/2 years)

(E) Any person possessing a certificate of examination March 1, 1992 will have to obtain the necessary actual water system experience to convert it to a certificate according to the following schedule. If the certificate of examination is not converted within this time frame, it will lapse and the person will have to reexamine:

Level	Deadline for Converting
A	February 28, 1998
B	February 28, 1996
C	February 28, 1994
D	February 28, 1993]

(E) Equivalent experience credit will be given for department-approved courses developed in a modular format upon completion of all the modules.

(F) Vocational training related to water utilities will be considered for a maximum of six (6) months' equivalent experience credit.

(G) Upon submission of documentation to the department, the number of years of equivalent experience for formal or vocational training will be calculated.

(H) Documentation submitted for actual and equivalent experience credit consideration which does not fit previously mentioned criteria will be evaluated by the department based on time worked and the relationship to water treatment or distribution. While water system engineering, construction, and safety are water system activities, they are insufficient experience in themselves to be considered actual operating experience. Equivalent experience credit for the purpose of meeting the experience requirement is limited to the maximum years allowed in Tables 1 and 2 of this rule. (Note: The experience allowed for high school equivalency under paragraph (1)(N)4. is in addition to this limit.)

(I) Examples of Actual and Equivalent Operating Experience.

1. Actual experience includes, but is not necessarily limited to, the following examples:

A. Experience in performing water system operational tasks such as: sample collection, routine operational tests, interpretation of test results, calculation of chemical dosages and subsequent adjustment of chemical feeders, flow rate and pressure adjustments, filter backwash, water main repair, disinfection and flushing and completion of operational reports;

B. Experience in making or acting upon day-to-day process control/system integrity decisions;

C. Working as laboratory personnel within a public water system and performing analytical tests, interpreting the results and having the authority to determine needed process control changes qualifies as actual treatment experience;

D. Providing repair and maintenance of pumps, distribution system maintenance, pump station repair, mechanical equipment repair and installation, etc. will be credited with actual distribution and equivalent treatment experience;

E. Consulting engineers will be credited with actual operating experience for experience in making day-to-day process control/system integrity decisions regarding the water treatment facility or distribution system. In order for actual experience to be considered the engineer shall provide documentation of beginning and ending employment dates and the time worked involving these day-to-day process control/system integrity decisions. A letter of verification substantiating the nature of the operating experience from the owner or water manager of each system named shall be included in the application for certification; and

F. Managers and supervisors making process control/system integrity decisions regarding the treatment

facility or distribution system will be credited with actual operating experience.

2. Equivalent experience.

A. Equivalent treatment experience includes but is not necessarily limited to the following examples:

(I) Consulting engineers conducting work in design and construction of water treatment facilities;

(II) Experience by individuals who perform wastewater analytical tests or drinking water analytical tests for others but do not interpret the results and determine the subsequent needed process control changes;

(III) Wastewater treatment plant operators; and

(IV) Swimming pool operation and maintenance involving water treatment will receive one-quarter (1/4) credit for actual employment time for a maximum allowable six (6) months of equivalent experience credit for water treatment certification.

B. Equivalent distribution experience includes but is not necessarily limited to the following examples:

(I) Consulting engineers conducting work in design and construction of water distribution systems;

(II) Public health officials who inspect public water systems;

(III) Water systems administrative personnel, such as secretaries, meter readers and clerks, etc. who perform such tasks as meter reading, billing and handling of complaints over the telephone, etc.;

(IV) A developer, contractor or employee who has assisted in the installation of water mains or the pump house, but who has not yet accrued actual experience operating the new distribution system;

(V) Experience by individuals within a public water system whose sole water system operational duty is sampling;

(VI) Plumbers will be credited with equivalent distribution experience only;

(VII) Wastewater collection system operators will be credited equivalent water distribution experience only.

C. Experience in the following areas will be credited with equivalent experience for both treatment and distribution certification:

(I) State department water system inspectors and engineers working with public water systems; and

(II) Boiler water and other industrial use water treatment.

3. Examples of work experience which may have a relationship to a public water system but are not generally considered for actual or equivalent operating experience credit.

A. A superintendent or manager of public works, water commissioner, mayor, board members, councilpersons or other management positions will not be credited as having actual experience if they perform only general administrative duties and do not make day-to-day process control/system integrity decisions.

B. Private laboratory personnel who only collect samples from public water systems will not receive actual or equivalent experience credit.

[(F)](J) Any person not possessing the necessary water system experience required for a particular level of certification may take the examination. **Examinee's applications are not evaluated for adequate experience until after they have passed the examination.**

[(1)](K) Upon successful completion of the examination, the individual will have to obtain the necessary **applicable water treatment or distribution** system experience within the following time frames/. *If the necessary experience is not obtained within the appropriate time frame, the individual must reexamine to be certified at that level of competency* to be considered for certification:

Level	[Time for Obtaining Experience]
A	Two (2) years
B	Two (2) years
C	One (1) year
D	One (1) year

2. Application for issuing a certificate must be made on the proper form as described in subsection (12)(A) and must be accompanied by the certification fee of twenty-five dollars (\$25).]

1. For all levels of examinations taken after the effective date of this rule, examinees shall have eighteen (18) months from the date of the examination;

2. For A and B level examinations taken prior to the effective date of this rule, examinees shall have two (2) years from the date of the examination; and

3. For C and D level examinations taken prior to the effective date of this rule, examinees shall have one (1) year from the date of the examination.

(L) If the necessary experience is not obtained within these time frames, the individual must reapply and reexamine.

[(G)](M) The minimum age for certification shall be [sixteen (16)] eighteen (18) years.

(N) Education Requirements. The minimum education requirement for certification is any one (1) of the following:

1. A high school diploma;

2. A general equivalency diploma (GED);

3. Successful completion of a department-approved multi-day water system operating course, appropriate to the type of certification sought. This training shall not be counted for both high school education and equivalent experience credit; or

4. Six (6) months of experience. This experience shall not be counted for both high school education and equivalent experience credit, and is allowed in addition to the cap on equivalent experience under subsections (1)(C) and (1)(D).

[(3)] (2) Application for Certification Examination.

(A) Application for certification examination shall be made to the department on forms provided by the department/, as described in subsection (12)(A)].

1. The completed application must be received by the department at least thirty (30) days prior to the examination date.

2. Failure to provide complete working experience information or academic transcripts with the application will result in no operating experience or education credit given for the incomplete items.

(B) The application fee for certification [examination] as a water treatment facility or a water distribution system operator shall be [twenty dollars (\$20)] forty-five dollars (\$45) and shall accompany the application. This fee includes the initial examination fee.

(C) An individual applying to take the certification examination will be allowed to reschedule [once] three (3) times within one (1) year of the application date. After [that, s/he] one (1) year from the date of the initial application, the individual must reapply as required in subsections [(3)](2)(A) and (B) of this rule.

[(4)] (3) Examination.

(A) The examination application for each applicant must be approved by the department.

[(A)] (B) A passing [mark] score of seventy percent (70%) is required in order to become certified.

[(B) The examination application and qualification data for each applicant must be approved by the department.]

(C) Any examinee who fails to receive a passing grade may not repeat that level examination for a period of not less than sixty (60) days. The applicant must submit a new application

for each examination. A fee of twenty dollars (\$20) shall accompany the application for each subsequent exam at that level.

[(C)](D) Examinations shall be held at *[least quarterly]* a frequency of not less than four (4) times annually for the purpose of examining applicants for certification at a time and place designated by the department.

[(D)](E) Based on the subjects an operator needs to know for a particular type and level of certification, *[E]* examinations shall contain, but shall not necessarily be limited to, questions pertaining to: the Missouri Public Drinking Water rules; general water systems knowledge; water quality; applied mathematics; chemistry; biology; environmental sciences; laboratory testing procedures, *[as applied to water]*; hydraulics; *[pumps]* pumping systems; water storage facilities; system controls; backflow prevention; and water treatment or distribution system operation.

[(E)] Requests to have an examination regraded must be made in writing to the department. The regrading fee is five dollars (\$5).]

(F) Any examinee who fails *[to receive a passing grade may not repeat that level examination for a period of not less than sixty (60) days. The applicant must submit a new application for each examination]* a certification examination three (3) times and has not successfully completed a department-approved multi-day training course within the previous twelve (12) months that is appropriate to the type and level of certification being sought must do so prior to any further reexamination at that level.

(G) An individual holding a valid Missouri operator certificate shall not be allowed to take an examination of a type and level equal to or lower than their existing certificate.

(H) An examinee who has passed the exam for a particular type and level of certification but did not obtain the necessary experience within the time period allowed in subsection (1)(K) of this rule, will be allowed to reexamine for that level and type of certification.

[(5)](4) Certification Without Examination (Grandparenting).

(A) *[Certificates in appropriate classifications shall be issued without examination, upon written application, to a noncertified person or a person certified at a level lower than required when this individual is attested to by a governing body or owner of a public water system to be the chief operator provided that person has been an operator for the public water system for at least one (1) year prior to adoption of this rule. A certificate so issued will be valid for that operator only at that particular facility provided that the source, capacity, treatment, or a combination of these, do not change. Any certificate issued under this provision shall be so marked. Applications for certification under the provisions of this subsection must be made by March 2, 1987.]* Grandparenting is permitted only to operators in responsible charge of systems that have not been required by the department to have a certified operator prior to the effective date of this rule.

(B) *[The fee for certificates issued under the provisions of subsection (5)(A) is fifteen dollars (\$15).]* Certificates in appropriate classification type and level shall be issued without examination to no more than two (2) operators in responsible charge when the following conditions are met:

1. The owner of the public water system attests that the individual has been an operator in responsible charge making process control/system integrity decisions for at least one (1) year prior to the effective date of this rule;

2. The owner submits an application, on forms provided by the department, for each operator in responsible charge being grandparented. Each application shall be signed and

dated by the owner and the individual designated for grandparenting; and

3. A nonrefundable forty-five dollar (\$45) operator certification fee is submitted for each certificate requested.

(C) The water system owner must apply for grandparenting within six (6) months of the effective date of this rule.

(D) A grandparented certificate will be valid only for the operator named on the certificate and only at the water treatment facility or distribution system named on the certificate. Any certificate issued under this provision shall be identified as restricted.

(E) If the classification of the treatment system or distribution system changes to a higher level due to design modifications, the grandparented certification will no longer be valid.

(F) If the grandparented certificate is allowed to expire, the operator must meet the requirements for regular, nongrandparented certification, including passing the appropriate examination.

(G) The operator may replace the restricted, grandparented certificate with a nonrestricted water treatment or distribution certificate at any time by passing the applicable examination and meeting the experience requirements.

(H) Grandparented operators must, within three (3) years of certification, meet all requirements for renewing the grandparented certificate. In order for a grandparented certificate to be renewed the following conditions must be met:

1. The water system must not be in significant noncompliance with the public drinking water rules;

2. The water system owner must certify in writing to the department that the operator named on the certificate continues to perform the duties of a chief operator for the public water system;

3. A completed renewal application and fee of forty-five dollars (\$45) must be submitted for each certificate; and

4. The department-approved renewal training must be completed prior to the expiration of the certificate.

[(6)] (5) Reciprocity.

(A) Certificates may be issued, without examination, to any person who holds a valid certificate attained by examination in any state, territory or possession of the United States or any country or any other certifying authority, if the requirements for certification of operators under which the person's certificate was issued do not conflict with the provisions of this rule and are *[of a standard not lower than that specified by regulations adopted under]* at least as stringent as this rule.

(B) The operator requesting certification by reciprocity must have actual water treatment or distribution working experience with a public water system appropriate to the certification sought in the state, province, country, territory or other authorized area which issued the certificate for which reciprocity is requested.

(C) *[The a]*Application for reciprocity *[must]* shall be made on the form provided by the department and submitted with an application fee of sixty-five dollars (\$65) to the department within *[one hundred twenty (120)]* one hundred eighty (180) days after beginning employment with a public water system in Missouri. *[The form described in subsection (12)(C) must be submitted along with an application fee of forty dollars (\$40).]*

(D) Reciprocal certificates will not be issued to persons who are not employed with a public water system in Missouri. If employment with a Missouri public water system is dependent upon Missouri certification, the department will send a letter of intent to issue a certificate to the applicant. The letter of intent is valid for *[one hundred twenty (120)]* one hundred eighty (180) days provided that the certificate that the application is based upon remains valid. After that time, the applicant must reapply.

(E) The level of certificate issued will be determined by **comparing** the original certifying agency's requirements for certification *[at the time the original certificate was issued]* to **Missouri requirements**.

[(F) The fee for a certificate issued under the provisions of this section is twenty-five dollars (\$25).]

[(7)] (6) Certificates.

(A) Each *[successful]* applicant having met the requirements of a specific certification classification as outlined in this rule and having passed the appropriate examination shall be *[presented with]* issued an appropriate certificate *[upon receipt of the twenty-five dollar (\$25) certification fee. This fee must be submitted within one (1) year of the examination date. If this fee is not submitted within one (1) year of the examination, the applicant will have to reexamine.]*

(B) *[If an individual has held a certificate of a specific classification and has satisfactorily met the requirements for a certificate of a higher classification by examination and experience, s/he is to be presented with a certificate for the high classification. Upon this presentation, any certificate of a lower classification the individual may hold will become invalid.]* **A certified operator meeting the requirements for a higher level of certification by examination and experience, will be issued the higher level certificate. Upon this issuance, the certificate for the lower classification will become invalid.**

(C) The certificate shall be issued for a three (3)-year period. Certificates shall be renewed according to the provisions of section *[(9)](8)*.

[(8)] (7) Denial, Suspension or Revocation of Certificate.

(A) The department may deny a certificate to an applicant if *[s/he]* the individual is unqualified, has practiced fraud or deceit in applying for the certificate or has willfully violated any provision of 10 CSR 60.

(B) **Based on the frequency and severity of violations of 10 CSR 60, [T]the department may suspend or revoke the certificate(s) of an operator if it is found that the operator has practiced fraud or deception in obtaining the certificate, [or that the operator has] exhibited gross negligence, [willful] malpractice or incompetence in operating a public water system [or that the operator has], sabotaged the water system, misled or lied to a government official regarding the water system, participated in sample tampering or selective sampling, falsified facility operating records or reports required by 10 CSR 60 or [that] willfully [violation of] violated 10 CSR 60 [has occurred].**

(C) **Suspension shall be for a period not to exceed one (1) year.**

[(C)](D) Notice of **suspension or revocation [action]** shall be issued by the department with service by hand delivery or through certified mail to the certified operator's last known address. The notice shall state the reason(s) for **suspension or revocation**, the effective date of the **suspension or revocation** and any action(s) that the certified operator may take to contest the **suspension or revocation**.

(E) The operator shall be afforded a hearing before the department provided that a written request for a hearing is received by the department within thirty (30) days of notification that **suspension or revocation** proceedings have been initiated. The hearing shall be conducted by the director or a hearing officer designated by the director and shall be conducted in accordance with the procedures set forth in sections 536.070, 536.073, 536.077, 536.080 and 536.090, RSMo.

[(D)](F) The **suspended or revoked** certificate shall be returned to the department by **hand delivery, certified mail with return receipt, or registered mail**.

[(E)](G) Any person wishing to become *[re]*certified after revocation of a certificate may do so only by *[re]*examination. Applications for examination to become *[re]*certified may not be filed until one (1) year has elapsed following the date of revocation. Acceptance of any application for *[re]*examination shall be at the discretion of the department.

(H) Certification by reciprocity or examination shall not be available *[for any]* to an individual *[with a revoked]* whose certificate has been suspended or revoked until after the period of suspension or revocation.

(I) **Operators with a suspended certificate will receive credit for department-approved training courses attended during the period of suspension.**

(J) **Should a suspended certificate be due for renewal during the period of suspension the operator shall submit the renewal application and fee prior to the expiration date. The renewed certificate will be held by the department until the end of the suspension period.**

(K) **No individual shall make water system process control/system integrity decisions or perform any duties requiring certification while their certificate is suspended or revoked.**

[(9)] (8) Certificate Renewal [Application].

(A) All certificates issued by the department shall be renewed at least every three (3) years, unless prorated by the department to some other time frame. *[All applicants for renewal shall meet the training requirements set forth in subsection (9)(B) prior to the expiration date stated on each individual's certificate.]*

(B) *[Before a certificate will be renewed, the applicant must submit suitable documentation that s/he has obtained not less than thirty (30) hours of training appropriate to his/her certificate classification.]* **All training must be completed prior to the expiration date of the certificate and in accordance with subsection (8)(C).** Only training approved by the department will be accepted. *[Each certified operator is responsible for documenting his/her training.]*

Table 4. Minimum Training Required per Renewal Cycle.

Certification Level	Minimum Training Required
A	30 hours
B	30 hours
C	30 hours
D	20 hours
DS III	30 hours
DS II	20 hours
DS I	10 hours

(C) **Before a certificate will be renewed, the applicant must submit documentation of training sufficient to meeting the minimum hours for the certificate level, as indicated in Table 4.**

[(C)](D) **Notice of renewal due will be sent]** The department will send a renewal notice to the applicant's last known address at least sixty (60) days prior to the expiration of the certificate. *[An application for renewal shall be made on the form provided by the department as described in subsection (12)(B), prior to the lapse of the operator's certificate.]* Failure of the department to notify the certified operator of the certificate's pending expiration does not relieve the certified operator of the responsibility for renewing the certificate.

(E) **An application for renewal shall be made on the form provided by the department prior to the lapse of the operator's certificate. A completed renewal application and fee of forty-five dollars (\$45) must be submitted for each certificate.**

[(D)] (F) Any certificate not renewed within the two (2) months following the expiration date will be considered lapsed. Any operator with a lapsed certificate will have to **submit a new application and reexamine** as provided in sections (3) and (4) of this rule.

[(E) Before a certificate issued under the provisions of subsection (5)(A) of this rule will be renewed, the operator's employer must certify in writing to the department that the operator is the chief operator for the public water system for which the certificate was originally issued.]

[(F)](G) A late fee of ten dollars (\$10) per month or fraction of it, up to a total of twenty dollars (\$20), shall be charged for any certificate [not] renewed [by the end of the month it expires] **after the expiration date.**

[(G) The renewal application fee shall be forty-five dollars (\$45).]

(H) If a certified operator has submitted a timely and complete application for renewal, possesses sufficient renewal training and, through no **personal fault [of his/her own]**, the department is unable to issue a new certificate before the expiration date of the current certificate, the current certificate shall remain valid until the department issues its replacement or denies renewal.

[(10)](I) An operator shall notify the department **in writing** of any change in status including, but not necessarily limited to, a change of address, name, **telephone number** or employer. **Submittal of E-mail address and fax number are encouraged. E-mail and fax communications are acceptable methods of written communications under this provision.**

(J) **Individuals certified prior to the effective date of this rule may count their approved water treatment training hours toward the first renewal of their distribution certificate issued under 10 CSR 60-14.010(2)(H).**

(K) **The first time an operator renews a distribution certificate issued under 10 CSR 60-14.010(2)(H) the operator may elect to receive a distribution certificate of a lower level if the lower certification level is, at a minimum, equal to the classification of the distribution system they operate.**

[(11)] (9) All **certification and examination** fees submitted are nonrefundable and nontransferable.

[(12) Applications Forms to be Submitted.

- (A) Examination.
- (B) Renewal.
- (C) Reciprocity.
- (D) Certificate.]

AUTHORITY: section 640.100, RSMo [Supp. 1992] 2000. Original rule filed July 11, 1986, effective Jan. 1, 1987. Rescinded and readopted: Filed July 15, 1991, effective March 1, 1992. Amended: Filed Nov. 15, 2000.

PUBLIC COST: This proposed amendment is anticipated to cost the Department of Natural Resources about \$51,353 per year for each year that the rule is in effect. The rule is expected to be in effect in perpetuity. See the public entity fiscal note accompanying this amendment for details and assumptions regarding this estimated cost.

PRIVATE COST: This proposed amendment is anticipated to cost approximately 3,036 individuals about \$701,023 as an annualized cost; however, about \$448,647 of these costs may be covered by a federal grant from the U.S. Environmental Protection Agency. An annualized cost is provided because this rule is expected to be in effect in perpetuity. See the private entity fiscal note accompanying this amendment for details and assumptions regarding this estimated cost.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed amendment. An information meeting and public hearing will be held at 10:00 a.m., January 16, 2001, at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Requests to comment at the public hearing should be sent in advance to the Public Drinking Water Program, 101 Adams Street, P.O. Box 176, Jefferson City, MO 65102-0176.

In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language.

Written comments must be postmarked or received by January 31, 2001. Comments may be mailed, hand-delivered, faxed or E-mailed to: Linda McCarty, Public Drinking Water Program, 101 Adams Street, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110. The E-mail address is nrmccal@mail.dnr.state.mo.us.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10
 Division: 60
 Chapter: 14
 Type of Rulemaking: Proposed Amendment
 Rule Number and Name: 10 CSR 60-14.020 Certification of Water System Operators

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Class of Political Subdivision	Estimated Cost of Compliance in the Aggregate (as an Annualized Cost)*
Department of Natural Resources	\$51,353
TOTAL COST	\$51,353

* The rule is expected to be in effect in perpetuity. Because the duration of the rule cannot be accurately estimated, an annualized estimated cost is provided. This cost does not take into account possible inflationary factors, which are unknown.

III. WORKSHEET

1.0 FTE Water Specialist III
 Personal Service = \$43,308 (market rate)
 Expense & Equipment = \$8,045

IV. ASSUMPTIONS

1. It is assumed that systems currently regulated under 10 CSR 60-14.020 Certification of Water Supply Operators will incur no additional costs as a result of this amendment. Any costs currently incurred for operator certification under this rule will continue whether this amendment is adopted or not.
2. It is assumed that systems previously excluded from operator certification requirements (very small community water systems, non-transient noncommunity water systems and distribution systems) have staff who are performing the duties of a certified operator who will be grandfathered under 10 CSR 60-14.020(4).
3. It is assumed that the cost of grandfathered operator certificates will be paid by the water system operators.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10
 Division: 60
 Chapter: 14
 Type of Rulemaking: Proposed Amendment
 Rule Number and Name: 10 CSR 60- 14.020 Certification of Water System Operators

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed amendment	Classification by types of the business entities which would likely be affected	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities in FY2002	Annualized estimate in the aggregate as to the cost of compliance with the rule by the affected entities, FY2003 and subsequent years ¹
1,236	Water system operators at: community water systems serving less than 250 people or having less than 50 service connections and nontransient noncommunity water systems	\$ 323,420	\$ 286,340
1,790	Certified operators renewing a distribution certificate	\$ 414,683	\$ 414,683

TOTAL ANNUALIZED ESTIMATED COST \$ 701,023²

¹ The rule is expected to be in effect in perpetuity. Because the duration of the rule cannot be accurately estimated, an annualized estimated cost is provided. This cost does not take into account inflationary factors, which are unknown.

² Up to \$448,647 of these costs may be covered by a federal grant from the U.S. Environmental Protection Agency.

III. WORKSHEET

A. 618 systems x 2 operators per system = 1,236 operators

1,236 operators x 1 certificate each @ \$45 per certificate = \$55,620 during the first six months the rule is in effect and every three years thereafter for fees to receive and renew the certificate

Assume an average of 30 hours of training per certificate = 5 days of training
 (5 days x 100 per day for hotel, meals, and other expenses) + \$150 training cost = \$650
 \$650 x 1,236 operators = \$803,400 / 3 years = \$267,800 average annual cost of training during the three year renewal cycle

$\$55,620 + 267,800 = \underline{\$323,420}$ for FY 2002 (certificate costs for the originally-issued grandfathered certification (\$55,620) will occur during the first year; training costs may be dispersed throughout the three-year cycle)

$(\$55,620 / 3) + 267,800 = \underline{\$286,340}$ average annualized cost for FY 2003 and subsequent years

- B. Assume there are 2,685 certified operators. Assume 2/3 of them will renew their distribution certificates. $2,685 * 2/3 = 1,790$ operators renewing distribution certificates.

$1,790$ operators renewing distribution certificates * $\$45 = \$80,550 / 3$ years = $\underline{\$26,850}$ average annual cost for certificate renewal

Assume an average of 30 hours of training per distribution certificate = 5 days.
(5 days * 100 per day for hotel, meals, and other expenses) + $\$150$ training cost = $\$650$
 $\$650 * 1,790$ operators = $\$1,163,500 / 3$ years = $\underline{\$387,833}$ average annual cost to certified operators for distribution training during the three year renewal cycle

$\$26,850 + \$387,833 = \underline{\$414,683}$ distribution certification renewal and renewal training

IV. ASSUMPTIONS

1. It is assumed that systems currently regulated under 10 CSR 60-14.020 Certification of Water Supply Operators will incur no additional costs as a result of this amendment. Any costs currently incurred for operator certification will continue whether this amendment is adopted or not.
2. It is assumed that systems previously excluded from this rule (very small community water systems, non-transient noncommunity water systems and distribution systems) have staff who are performing the duties of a certified operator who will be grandfathered under 10 CSR 60-14.020(4). These operators will incur costs for the certificate fee, renewal training and the certificate renewal fee. A maximum of two operators per system can be grandfathered. Each operator can receive two certificates, one for treatment and one for distribution. It is assumed that there will be an average of two grandfathered operators per previously unaffected system, with one certificate per operator.
3. It is assumed that the initial distribution certificate will be provided to currently certified operators at no charge. Certificate renewal will require distribution training and payment of the distribution certificate renewal fee. It is assumed that 2/3 of these operators will choose to renew their distribution certificates.
4. Renewal training requirements vary with the level and type of certificate. Some certified operators will experience a decrease in training costs.
5. It is assumed that an average of 30 hours of training will be required during the three year renewal cycle. It is assumed that the 30 hours of training could be obtained by attending a five day training course. It is assumed that training will cost an average of $\$150$. EPA's assumption of $\$100$ per day for expenses (motel, meals, mileage, etc.) is used.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 14—Operator Certification**

PROPOSED AMENDMENT

10 CSR 60-14.030 [Renewal] Operator Training. The commission is amending the purpose statement and sections (1)–(13), deleting the form that follows this rule in the *Code of State Regulations* and adding new sections (2), (3) and (5).

PURPOSE: This amendment clarifies what types of training will count toward meeting operator training requirements and adds examples of acceptable and unacceptable training.

PURPOSE: This rule establishes criteria for approval of [renewal] training courses.

(1) Only training related to water system operations and maintenance, treatment facilities or distribution systems approved by the department will be [creditable towards meeting the renewal training requirements] given credit.

(A) Training based on the level of certification held and the knowledge, skills and abilities the person may need in the performance of the duties as an operator or chief operator will be given renewal training credit.

(B) Training should include an update of new regulation requirements.

(C) Not more than one-half (1/2) of the total renewal training hours required in a renewal period shall be credited from safety, supervisory, management, administration and financial training.

(2) The following are examples of acceptable training for renewal credit and are not intended to be all-inclusive. Renewal training may include:

(A) Information on operations, maintenance, construction, testing, record keeping, and repair of equipment including pumps, control valves, altitude valves, fire hydrants, flush hydrants, chlorinators, chemical feeders, elevated tanks, standpipes, reservoirs, pressure tanks, bladder tanks, filters, back-flow devices, meters, control systems, and standby power generators;

(B) Information on operations and process control of water treatment system processes including aeration, rapid mix, flocculation, sedimentation, filtration, disinfection, chemical oxidation, chemical precipitation, pH adjustment, stabilization, fluoridation, absorption, ion exchange, reverse osmosis, sludge handling, sequestration, and corrosion control;

(C) Information applicable to water systems on mathematics, chemistry, geology, hydrology, limnology, meteorology, microbiology, hydraulics, cartography, and epidemiology;

(D) Sampling and laboratory techniques for all samples, and analytical analysis required under Chapters 4, 5 and 15 of 10 CSR 60 and as needed for process control;

(E) Safety practices applicable to water system operations including cardiopulmonary resuscitation, first-aid, confined space entry, shoring and trenching, hazardous materials handling, electrical safety, traffic control at construction sites, self-contained breathing apparatus, chlorine repair kit, and tower climbing;

(F) Common operational/maintenance system procedures including development and implementation of a main flushing program, entire system disinfection and flushing, main repair including disinfection flushing, pressure testing, fire flow measurement, leak detection, tower inspection for sanitary defects, draw-down testing, and loss/leakage calculations; and

(G) Applied computer classes directly intended for use at water utilities. Examples include but are not limited to: Supervisory Control and Data Acquisition (SCADA) and other water system operational programming, applied spreadsheets and databases for tracking and trending laboratory results, scheduling and tracking maintenance. Similar training intended for other types of utilities will be considered on a case-by-case basis.

(3) The following examples provide guidance on unacceptable training for renewal credit and are not intended to be all-inclusive:

(A) Introduction to English;

(B) History;

(C) Welding;

(D) Small motor repair;

(E) Lawnmower safety;

(F) Commercial drivers license training; and

(G) General computer subjects such as introduction to operating systems (such as Windows), introduction to spreadsheets, introduction to databases and introduction to word processing.

[[2]] (4) All organizations or individuals sponsoring [renewal] training for water [supply] system operators shall submit the following to the department for approval. This information should be submitted to the department at least thirty (30) days prior to the training:

(A) Date and location of the training;

(B) Name, address and telephone number of person to contact regarding the training;

(C) Course outline showing the topic(s) to be presented and time allotted for each (including beginning and ending times);

(D) The name(s) of the instructor(s) and his/her qualifications (not just title or company name);

(E) List of any audiovisual materials to be used such as videotapes, slides, slide/tape presentations, films and overheads; and

(F) Handouts.

(5) The department should be notified at least thirty (30) days in advance of any subsequent session(s) of an approved course.

[[3]] (6) [Renewal c]Credit is based upon actual contact time in the training. All breaks and meal times must be noted on the agenda and will not count toward contact time. Excessive time allotted for introductions or welcomes will not count toward contact.

[[4]] (7) For multiday courses, [N]no credit will be given prior to the completion of [any training] the course. The completion date [of a multiday course] is the last day of the course. An eighty percent (80%) attendance, based on the total course length in hours, is required to receive credit.

[[5]] (8) [Renewal credit will be issued in increments of one-half hour (0.5 hour). The minimum credit issued will be one-half hour (0.5 hour.)] The minimum length of a training course eligible for renewal credit shall be one (1) contact hour. Training credit for a course shall be rounded down to the nearest one-half (0.5) hour. [Any a]Approved training issued continuing education units (CEUs) [by an organization meeting the criteria of the Council on the CEUs] will be given credit at the rate of ten (10.0) hours per one (1.0) CEU.

[[6]] Once the information for a course required in section (2) has been approved it need not be resubmitted for subsequent sessions of that course. However, any change in the course content, time allotted, instructor or material used must be submitted to the department for approval. The department should be notified thirty (30) days in

advance of any subsequent session(s) of an approved course.]

[(7)] (9) Training provided by the national offices of organizations involved in water *[supply] treatment or distribution*, wastewater treatment, backflow prevention and other related fields or other out-of-state entities will be reviewed for renewal credit on an individual basis. The operator is **responsible for retaining proof of training attended and** must provide documentation **that meets the requirements of section (4) of this rule.**

[(8)] (10) All approvals will be by written correspondence. The approval will include a course attendance roster form that will show the course name, coordinator, date, location, course identification number and amount of renewal credit.

[(9)] (11) Advertisement of any training shall not state that the program has been approved for *[renewal]* credit until the department has issued its formal approval and assigned a course identification number and amount of *[renewal]* credit. Any advertisement that states that the training is **department-approved** must include the course identification number and amount of *[renewal]* credit.

[(10)] (12) Each organization **or individual** providing training should provide certificates of completion to the attendees. The certificate should include the following:

- (A) Attendee's name;
- (B) Name of the course;
- (C) *[Renewal c]*Credit;
- (D) Course identification number;
- (E) Date that the course was held;
- (F) Location of the course; and
- (G) Name of the course coordinator or instructor.

[(11)] (13) Training providers shall submit the course attendance roster to the department within fifteen (15) working days of the completion of the course. Information on the roster shall include:

- (A) Name of the course;
- (B) *[Renewal c]*Credit;
- (C) Course identification number;
- (D) Date that the course was held;
- (E) Location of the course;
- (F) Name of the course coordinator or instructor;
- (G) Names of all attendees; *[and]*
- (H) Certificate number of all attendees, if applicable; **and**
- (I) For multi-day training courses, which sessions the individual attended.**

[(12)] (14) The department shall make known by a public means which courses~~,~~ **and** seminars~~,~~ *will be approved for renewal purposes* **are approved.**

[(13)] (15) Renewal credit shall be valid only for the renewal period in which it was earned. Renewal credit in excess of the required hours for the renewal period will not be carried over into any subsequent renewal training period.

AUTHORITY: section 640.100, RSMo *[Supp. 1992]* 2000. Original rule filed July 15, 1991, effective March 1, 1992. Amended: Filed Nov. 15, 2000.

PUBLIC COST: This proposed amendment is anticipated to cost the Department of Natural Resources approximately \$55,473 in FY 2002 and \$51,353 in FY 2003 and each subsequent year that the rule is in effect. See the public entity fiscal note accompanying this rule for details and assumptions regarding this estimated cost.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed amendment. An information meeting and public hearing will be held at 10:00 a.m., January 16, 2001, at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Requests to comment at the public hearing should be sent in advance to the Public Drinking Water Program, 101 Adams Street, P.O. Box 176, Jefferson City, MO 65102-0176.

In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language.

Written comments must be postmarked or received by January 31, 2001. Comments may be mailed, hand-delivered, faxed or E-mailed to: Linda McCarty, Public Drinking Water Program, 101 Adams Street, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110. The E-mail address is nrmccal@mail.dnr.state.mo.us.

**FISCAL NOTE
 PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10
 Division: 60
 Chapter: 14
 Type of Rulemaking: Proposed Amendment
 Rule Number and Name: 10 CSR 60- 14.030 Operator Training

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate for FY2002	Estimated Cost of Compliance in the Aggregate as an Annualized Cost for FY2003 and subsequent years*
Department of Natural Resources	\$55,473	\$51,353
TOTAL COST	\$55,473	\$51,353

* The rule is expected to be in effect in perpetuity. Because the duration of the rule cannot be accurately estimated, an annualized estimated cost is provided. This cost does not take into account inflationary factors, which are unknown.

III. WORKSHEET

1.0 FTE Water Specialist III or Environmental Specialist III
 Personal Service \$43,308 (market rate)
 Expense & Equipment \$12,165 FY 2002; \$8,045 in subsequent years

IV. ASSUMPTIONS

1. Funding is authorized under the federal Safe Drinking Water Act for states to provide operator certification training to operators of small public water systems (water systems serving less than 3,300 people). The department intends to contract for this service. It is assumed that 1.0 FTE will be needed to manage the contracts and provide other training assistance for small system operators.
2. It is assumed that systems and training providers currently regulated under 10 CSR 60-14.030 will incur no additional costs as a result of this amendment. Any costs currently incurred will continue whether this amendment is adopted or not.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.167 Sales of Food and Beverages to and by Public Carriers. This rule set forth the tax responsibilities of persons who sell food and beverages to airlines, the circumstances in which a seller of food and beverages may accept and rely upon an exemption certificate issued by an airline upon its purchases of these items, and included the provision that public carriers exempt from sales tax by federal exemption are not subject to tax. This rule interpreted and applied sections 144.010 and 144.030, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Sept. 14, 1976, effective Jan. 1, 1977. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed May 12, 1987, effective Aug. 27, 1987. Rescinded: Filed Nov. 9, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.524 Bad Debts. This rule interpreted the sales tax law as it applied to bad debts.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 190-6 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 9, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.588 Taxation of Computer Software Programs. This rule defined computer software programs that are subject to sales tax and outlined specifics where the sales tax is applicable, with examples included for clarification.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Feb. 25, 1983, effective June 11, 1983. Amended: Filed Feb. 2, 1990, effective June 28, 1990. Rescinded: Filed Nov. 9, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 4—State Use Tax

PROPOSED RESCISSION

12 CSR 10-4.165 Bad Debts Credit. This rule established when a taxpayer is entitled to request a credit for charged-off items, and interpreted and applied section 144.660, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Nov. 9, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 101—Sales/Use Tax—Nature of Tax

PROPOSED RULE

12 CSR 10-101.600 Successor Liability

PURPOSE: Section 144.150, RSMo makes a person acquiring a business, or the stock of goods or assets of a business, liable for the seller's tax liability. This rule explains how that liability is incurred and what steps must be taken in order for a purchaser to be relieved of this liability.

(1) In general, any purchaser of substantially all of a business or stock of goods of a business is liable for the seller's tax liability. The purchaser is required to withhold sufficient purchase money to pay the seller's tax liability upon the purchase of the business or stock of goods. The purchaser is relieved of liability by receiving from the seller a receipt from the director of revenue showing that the taxes have been paid.

(2) Definition of Terms.

(A) Purchase money—any consideration flowing directly, or indirectly through intermediate parties or otherwise, to a seller and is not limited to actual cash transferring directly to the seller.

(B) Stock of goods—the amount of movable personal property and/or inventory of a business.

(C) Purchaser—any "person" as defined in section 144.010.1(6), RSMo who, directly or indirectly, purchases substantially all of a business or stock of goods.

(3) Basic Application.

(A) Any person acquiring a business should require the seller to provide a receipt from the department stating that all taxes have been paid or a certificate of no tax due issued by the department. The purchaser can rely on the department's certificate of no tax due for one hundred twenty (120) days from issuance.

(B) If the seller does not provide a receipt or certificate of no tax due from the department, the purchaser must pay any tax due. The purchaser should withhold a sufficient amount of the purchase money to cover taxes, interest and penalties due and unpaid by all former owners or predecessors, whether immediate or not. If the purchaser does not withhold and remit a sufficient amount, the purchaser is personally liable for the unpaid taxes, interest, additions to tax and penalties accrued. To determine the amount to be withheld, the purchaser should require the seller to provide a statement from the department showing the amount of taxes, interest, additions to tax or penalties due and owing, including the date of the last payment for such taxes, interest, additions to tax or penalties.

(C) A purchaser who obtains a certificate of no tax due or withholds and pays the department a sufficient amount of the purchase money to cover the amount of tax, interest, additions to tax and penalties is not liable for additional tax owed as the result of a subsequent audit of the tax periods covered by the previous owner. The previous owner remains liable for the tax.

(D) Any creditor acquiring the business or stock of goods as a result of an enforcement action, or any immediate or subsequent purchaser from such creditor, is not liable for the taxes, interest, additions to tax and penalties of the previous owner. The previous owner remains liable.

(E) Reliance on an affidavit pursuant to Missouri's Bulk Transfer Act stating that there were no creditors of the business will not relieve a purchaser from a previous owner's tax liability.

(4) Examples.

(A) A taxpayer purchased an ice cream business. The previous owner had a tax liability with the department. The taxpayer required the previous owner to provide a statement from the department listing the amount owed. The taxpayer withheld the amount of the tax liability from the purchase price. The previous owner then provided a statement from the department showing the tax had been paid. The taxpayer is relieved of any liability and may pay the balance of the purchase price to the previous owner. If the previous owner had not provided the statement, the taxpayer would

have been required to remit the withheld money directly to the department.

(B) A motel owner with an accrued tax liability of \$18,000 defaulted on a loan. The lender acquired the motel in a private settlement with the owner. A taxpayer subsequently purchased the motel from the lender without receiving from the lender a receipt from the director of revenue showing that the amount of taxes, interest to date and penalties have been paid or a certificate stating that no taxes were due. The lender and the taxpayer are personally liable for the unpaid tax, penalty and interest to date on the motel. If the lender had acquired the motel through an enforcement action, the taxpayer would not have been liable for the previous owner's tax.

(C) A taxpayer acquired a car and some records from a business, which were not substantially all of the business or stock of goods of the business. The taxpayer is not liable for any tax liability of the previous owner.

AUTHORITY: section 144.270, RSMo 2000. Original rule filed Nov. 9, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax**

PROPOSED RULE

12 CSR 10-103.250 Purchaser's Responsibility for Paying Use Tax

PURPOSE: This rule explains when a purchaser is required to pay use tax pursuant to sections 144.610 and 144.655, RSMo.

(1) In general, when a taxpayer purchases tangible personal property from outside the state for use, storage or consumption in this state the taxpayer must pay use tax. Any Missouri tax due is reduced by any sales or use tax properly paid to another state.

(2) Basic Application of Tax.

(A) Generally, if a taxpayer does not pay use tax to a seller on out-of-state purchases of tangible personal property for use, storage or consumption in this state, the taxpayer must file a use tax return and remit the tax.

(B) If a taxpayer's out-of-state taxable purchases on which tax has not been paid are less than two thousand dollars (\$2,000) in a calendar year, the taxpayer is not required to file a use tax return. This is an exclusion from filing, but not a two thousand dollar (\$2,000) use tax exemption. Therefore, if the annual taxable purchases on which tax has not been paid equal or exceed two thousand dollars (\$2,000) the taxpayer must report and pay on the total taxable purchases (including the first two thousand dollars (\$2,000) of taxable purchases). Any amount of tax reported by the taxpayer must be remitted with the return.

(C) An out-of-state seller with nexus must collect tax even if the buyer expects to have less than two thousand dollars (\$2,000) in out-of-state purchases for the year.

(D) The buyer is liable for the tax on its purchases unless the buyer has proof of paying Missouri tax to the seller. When an out-of-state seller has nexus, the seller is also liable for the tax.

(3) Examples.

(A) A grocery store purchases a freezer for \$5,000 from an out-of-state seller. The out-of-state seller did not collect any use tax. The grocery store is required to report and pay tax on this purchase on its next use tax return.

(B) Same facts as in (3)(A), except the out-of-state seller invoiced the grocery store and collected Missouri use tax. The grocery store is not required to report this purchase on a use tax return.

(C) During the first quarter of the calendar year, a taxpayer registered to pay use tax purchased \$1,800 of tangible personal property from an out-of-state seller. The seller did not collect tax and there is no exemption covering these purchases. Because the year-to-date total of out-of-state taxable purchases is less than \$2,000, the taxpayer is not required to report the \$1,800 on that quarter's use tax return or pay any tax, even though the department may require a registered taxpayer to file a return. The taxpayer should check the box on the return marked "I do not have cumulative taxable purchases totaling more than \$2,000 this calendar year and do not owe Consumer's Use Tax at this time." The taxpayer should not enter figures on the consumer's use tax line on the return. If figures are entered on the return, the tax is due.

(D) A taxpayer purchases \$1,500 of items during each of the first and second quarters. No purchases were reported for the first quarter. Because the year-to-date total of out-of-state taxable purchases now exceeds \$2,000, the taxpayer must report the entire \$3,000 (\$1,500 from the first quarter plus \$1,500 from the second quarter) on the second quarter use tax return and pay the tax.

(E) A Missouri business purchases goods from a Kansas distributor and picks up the goods in Kansas. The Kansas distributor properly collects Kansas tax on the transaction. The business brings the goods to Missouri for use. Use tax is due on the goods, but a credit is allowed for the amount of Kansas tax paid on the goods. If the Kansas tax was not properly due under Kansas law on the transaction, no credit is allowed against the Missouri use tax.

AUTHORITY: section 144.705, RSMo 2000. Original rule filed Nov. 9, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 5—Determining Child Support Obligations**

PROPOSED RESCISSION

13 CSR 30-5.010 Child Support Obligation Guidelines. This rule specified guidelines for the division's use in determining child support.

PURPOSE: This rule is being proposed for rescission because it no longer accurately reflects current procedures to be followed by the Division of Child Support Enforcement to determine the current amount of support due when establishing or modifying child support obligations.

AUTHORITY: section 454.400, RSMo 1994. Original rule filed Feb. 2, 1988, effective April 11, 1988. Emergency amendment filed Dec. 13, 1989, effective Dec. 23, 1989, expired April 11, 1990. Emergency amendment filed Jan. 17, 1990, effective Jan. 27, 1990, expired Feb. 25, 1990. Amended: Filed Dec. 13, 1989, effective April 26, 1990. Emergency rescission and emergency rule filed March 14, 1994, effective April 1, 1994, expired July 29, 1994. Emergency rescission and emergency rule filed July 27, 1994, effective Aug. 6, 1994. Emergency rescission and emergency rule filed July 27, 1994, effective Aug. 6, 1994, expired Dec. 31, 1994. Rescinded and readopted: Filed March 14, 1994, effective Oct. 30, 1994. Amended: Filed June 15, 1995, effective Dec. 30, 1995. Readopted: Filed May 17, 2000. Rescinded: Filed Nov. 9, 2000.

PUBLIC COST: This proposed rescission will cost state agencies or political subdivisions less than \$500 in the aggregate.

PRIVATE COST: This proposed rescission is not estimated to cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Child Support Enforcement, Lynn F. Fallen, 3418 Knipp Drive, Suite F, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

PROPOSED RULE

13 CSR 70-10.150 Enhancement Pools

PURPOSE: This rule creates enhancement pools to increase reimbursement to government-owned nursing facilities and all nursing facilities, in an amount not to exceed the Medicare upper limit payment for the Medicaid program.

(1) Medicaid Enhancement Pools. Subject to federal approval, the Division of Medical Services shall administer two enhancement payment pools to pay for services covered by the Missouri Medicaid program. The total payment from the pools shall not exceed the difference between the Medicare upper limit and the per-diem reimbursement for all Medicaid nursing facilities for services covered by the Missouri Medicaid program. The Medicaid enhancement pools shall be calculated and distributed in the manner described below.

(A) Government-owned nursing facilities may elect to participate in the funding and distribution of the first enhancement payment pool in accordance with an intergovernmental funds transfer agreement executed with the Department of Social Services.

1. The distribution from the first pool shall be calculated as a percentage, to be determined by the Department of Social Services, of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid nursing facilities as follows:

A. For State Fiscal Year 2001 the aggregate difference shall be calculated for the period August 1, 2000–June 30, 2001.

B. For State Fiscal Year 2002 the aggregate difference shall be calculated for the period July 1, 2001–June 30, 2002.

2. The pool shall be distributed to participating government-owned nursing facilities based on a quarterly amount, based on their pro-rata share of Medicaid patient-days.

(B) All Medicaid enrolled nursing facilities may participate in distributions from the second enhancement payment pool, for State Fiscal Year 2001.

1. The distributions from the second pool shall be calculated as a percentage, to be determined by the Department of Social Services, of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid enrolled nursing facilities, for the period August 1, 2000–June 30, 2001.

2. The second pool shall be distributed based on a quarterly amount, made in addition to per-diem payments, to all Medicaid enrolled nursing facilities, applicable to services provided in State Fiscal Year 2001, based on their pro-rata share of Medicaid days.

(C) The aggregate difference between the Medicare Upper Limit and the per-diem reimbursement for Medicaid nursing facilities will be calculated on an annual basis. The per-diem Medicaid rates used in the calculation will be those being paid at the time of the calculation and the Medicare Upper Limit will be based on the current RUGS system of Medicare nursing facility reimbursement with appropriate adjustments to assure comparability with the Medicaid rate. The difference will be calculated on a facility basis and multiplied by the reported Medicaid days at the particular nursing facility for the most recent cost report year. The product of all calculations will be added together to obtain the aggregate difference. Medicaid days will be determined from the paid day report from Missouri's fiscal agent for pay cycles during the State's Fiscal Year 2000.

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Nov. 3, 2000, effective Nov. 13, 2000, expires May 11, 2001. Original rule filed Nov. 13, 2000.

PUBLIC COST: This proposed rule is estimated to cost public entities or political subdivisions \$247,500,000 in SFY 2001, \$270,000,000 in SFY 2002, and \$90,000,000 in SFY 2003 in the aggregate and is published with this proposed rule.

PRIVATE COST: This proposed rule is not estimated to cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Office of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

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

Title: 13 Department of Social Services

Division: 70 Division of Medical Services

Chapter: 10 Nursing Home Program

Type of Rulemaking: Proposed Rule

Rule Number and Name: 13 CSR 70-10.150 - Enhancement Pool

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services, Division of Medical Services	\$247,500,000 (Fiscal Year 2001)
Department of Social Services, Division of Medical Services	\$270,000,000 (Fiscal Year 2002)
Department of Social Services, Division of Medical Services	\$90,000,000 (Fiscal Year 2003)

III. WORKSHEET**IV. ASSUMPTIONS**

This program of intergovernmental transfers will only be available through September 30, 2003. The State is taking advantage of the annual \$270,000,000 difference between the maximum allowable federal participation in the nursing facility program and current rates paid by the State of Missouri.