

By the authority vested in the Public Service Commission under sections 386.250, 386.310, and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-40.030 Safety Standards—Transportation of Gas by Pipeline is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2013 (38 MoReg 86–98). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 386.310, and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-40.080 Drug and Alcohol Testing is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2013 (38 MoReg 99). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES

**Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2012, the commission adopts a rule as follows:

10 CSR 10-6.191 Sewage Sludge Incinerators is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2012 (37 MoReg 1460). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received ten (10) comments from four (4) sources: the City of Independence Water Pollution Control Department; the Association of Missouri Cleanwater Agencies; the City of Kansas City, Missouri, Water Services Department; and the Metropolitan St. Louis Sewer District.

COMMENT #1: The City of Independence Water Pollution Control Department commented that they appreciate the program's efforts to maintain state primacy in implementing the provisions of 40 CFR 60, subpart MMMM Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units, which is the federal regulation incorporated in 10 CSR 10-6.191.

RESPONSE: The department's Air Pollution Control Program thanks the City of Independence for their support of the proposed rule. No changes have been made to the rule text as a result of this comment.

COMMENT #2: The City of Independence Water Pollution Control Department commented that the National Association of Clean Water Agencies (NACWA) initiated a lawsuit in 2011 seeking judicial review of the federal sewage sludge incinerator (SSI) rule. NACWA expects final document submittal in January 2013 with oral arguments likely to occur in March or April of 2013. With the prospect of future legal proceeding on the federal SSI rule, the City of Independence requested assurance that regulated sources will not be expected to comply with provisions of federal regulations incorporated in 10 CSR 10-6.191 that may be stayed as a result of legal action.

RESPONSE: The department's Air Pollution Control Program does not intend to enforce any provisions of this rule, 10 CSR 10-6.191, that are incorporated by reference from any provisions of 40 CFR 60, subpart MMMM if they are subsequently stayed by legal action. This assurance is also provided by 643.055, RSMo, which prevents the state from being sooner or stricter than federal regulations and effectively prevents Missouri from enforcing provisions of incorporated federal regulations that are not enforceable on a federal level. No changes have been made to the rule text as a result of this comment.

COMMENT #3: The City of Independence commented that the incorporated federal SSI rule includes requirements for SSI operator training and qualification that must be obtained through a state-approved program or by completing an incinerator operator training course that includes an examination designed and administered by the state-approved program. They requested the department keep regulated sources informed regarding plans for a state-approved SSI training program or available alternatives.

RESPONSE: The department's Air Pollution Control Program is developing a plan to meet the state's requirements for operator training and certification and will inform owners and operators of SSI units when the plan is available. No changes have been made to the rule text as a result of this comment.

Due to the similarity in the following two (2) comments, one (1) response that addresses these comments is presented after the two (2) comments.

COMMENT #4: The Association of Missouri Cleanwater Agencies and the City of Kansas City, Missouri, Water Services Department commented that there is no requirement for the department to adopt the proposed rule at this time and requests deferral of the adoption until the lawsuit by NACWA is resolved.

COMMENT #5: The Metropolitan St. Louis Sewer District commented that the proposed rule is not necessary and is not consistent with Missouri Air Conservation Law (MACL), the Missouri Administrative Procedures Act, and Titles V and VI of the federal Clean Air Act. The only requirement the state has at this time to comply with the new federal SSI rule is to submit a state plan to the U.S. Environmental Protection Agency (EPA) for EPA approval. The department should refrain from promulgating this proposed rule as it is unnecessary.

RESPONSE: The proposed state rule is part of the state plan pursuant to federal rule 40 CFR 60, subpart MMMM. This federal rule establishes the requirement for regulation of existing SSI units under a state plan and mandates submission of a state plan to EPA no later