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MEMORANDUM OF AGREEMENT

Missouri Department of Natural Resources

and

U.S. Environmental Protection Agency

National Pollutant Discharge Elimination System

and

Pretreatment Programs

December 14, 2016

FINAL

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I. PURPOSE

The purpose of this Memorandum of Agreement, hereafter "MOA", is to establish policies, responsibilities and procedures pursuant to Title 40 of the Code of Federal Regulations (40 CFR) Parts 123 and 403-471 for program commitments between the Missouri Department of Natural Resources (MDNR) and the U.S. Environmental Protection Agency (EPA) Region 7 for the administration of the National Pollutant Discharge Elimination System (NPDES) and Pretreatment Programs by MDNR. This MOA shall constitute the agreement between MDNR and EPA. This MOA is intended to address the administration of the NPDES program and is not intended to address criminal investigatory proceedings.

On October 30, 1974, the Administrator of EPA approved the State of Missouri's NPDES program. As part of the approval, the Administrator approved a MOA between the Regional Administrator of EPA, Region 7, and the Executive Secretary of the Missouri Clean Water Commission that was signed on March 29, 1974. This MOA established policies, responsibilities, and procedures for the Missouri's participation in the NPDES program. The parties agree that a new MOA should replace the original MOA; therefore, the parties enter into this MOA, which upon approval by the Regional Administrator and the MDNR Director shall supersede the original MOA.

Each of the parties has a responsibility to assure that the NPDES and Pretreatment Program requirements are met. The Director and the Regional Administrator agree to maintain a high level of cooperation and coordination between the State and EPA staff in a partnership to assure successful, effective, and efficient administration of the NPDES and Pretreatment Programs. Meetings will be scheduled periodically between MDNR and EPA to review specific operating procedures, resolve problems, or discuss mutual concerns involving the NPDES and Pretreatment Programs.

The strategies for issuance, compliance monitoring, and enforcement of permits, as established by this MOA, may be set forth in more detail in the MDNR Clean Water Act (CWA) Section 106 program grant and other MDNR/EPA agreements that support the E-Enterprise for the Environment principles. These documents typically include the Performance Partnership Agreement and the Performance Partnership Grant, which includes the Section 106 grant. The CWA Section 106 program grant document contains terms and conditions consistent with the CWA and its implementing regulations regarding appropriate use of grant funds. This MOA and the MDNR CWA Section 106 program grant should be consistent with each other; however, responsibilities of MDNR in administering the NPDES and Pretreatment Programs may extend beyond activities covered under the Section 106 program grant. This MOA, the MDNR CWA Section 106 program grant and other MDNR/EPA agreements should be consistent with this MOA. The MOA controls in case of conflict.

II. SCOPE OF AUTHORIZATION

MDNR and EPA agree that MDNR has authority to administer NPDES permitting, compliance monitoring and enforcement activities (including federal facilities), and pretreatment activities in Missouri in accordance with the CWA and its implementing regulations. MDNR has authority to regulate discharges from point sources including, but not limited to, publicly

owned treatment works (POTWs) and privately owned treatment works, industrial sources, concentrated animal feeding operations, storm water associated with industrial activity, and discharges of storm water from municipal separate storm sewer systems. MDNR also has primary responsibility for implementing a Pretreatment Program authorized on June 3, 1981, a Federal Facilities Program authorized on June 26, 1979, and a General Permits Program authorized on December 12, 1985.

This MOA sets forth procedures under which EPA and MDNR will coordinate their actions and share information regarding civil matters, consistent with their respective legal obligations and authorities, in the administration of the CWA. Nothing herein shall be construed as expanding the respective authority of either agency or as requiring or authorizing MDNR to implement or administer any federal law, including the Endangered Species Act, other than those portions of the CWA that EPA has authorized MDNR to implement and administer.

III. STATE AND FEDERAL RESPONSIBILITIES

The NPDES and Pretreatment Programs administered by MDNR, equivalent to Section 402 of the CWA, are implemented through the Missouri Clean Water Law (Sections 644.006-644.141 RSMo, and 640.700-640.758 RSMo).

A. MDNR Responsibilities

MDNR shall exercise the legal authority through MDNR regulations and the state statutes required by the CWA and, to the maximum extent possible, maintain the resources required to carry out all aspects of the authorized NPDES and Pretreatment Programs. For a complete list of MDNR and EPA responsibilities see Appendix A. The legal authority to carry out the requirements of permitting (40 CFR § 123.25), for compliance evaluation programs (40 CFR § 123.26), for enforcement authority (40 CFR § 123.27), and for the Pretreatment Program (40 CFR § 403.10) is described in more detail in the Attorney General's Statements dated July 13, 1972 and September 11, 1978, (permitting and Pretreatment Program, respectively).

B. EPA Responsibilities

EPA shall to the maximum extent possible, provide funding to MDNR to support the authorized NPDES and Pretreatment Programs and oversee MDNR's administration of the NPDES and Pretreatment Programs for consistency with the CWA, this MOA, any applicable MDNR/EPA agreements, the CWA Section 106 program grant and all applicable federal regulations. EPA shall have principal authority over the permitting and enforcement of the federal sludge regulations under 40 CFR 503. A complete list of EPA's responsibilities is included in Appendix A of this document.

IV. PERMIT PROCESSING, REVIEW AND ISSUANCE

MDNR is responsible for drafting permits, providing public notice, providing the opportunity for public comment and hearings, issuing permits, amending (modifying), renewing (reissuing), denying and revoking (terminating) permits in accordance with applicable state and federal statutes, and regulations.

A. Administrative Review of Applications

MDNR shall be responsible for the administrative review of all NPDES permit applications within MDNR's jurisdiction. MDNR will make completeness determinations and inform applicants if additional information is required. MDNR shall notify EPA when appropriate application information will be made available for the administration of EPA's oversight role.

B. Permit Development

MDNR will begin a technical review promptly after an application is determined administratively complete, and a draft permit will be developed by MDNR in accordance with state and federal statutes and regulations.

Technology based effluent limits in NPDES permits for non-municipal dischargers will be at least as stringent as applicable effluent limitations and standards specified in 40 CFR Chapter I, Subchapter N. Permit requirements will be based on best professional judgment, in accordance with 40 CFR § 125.3, when specific effluent guidelines and standards regulations do not apply to a particular discharge. Technology limits for POTWs will at a minimum reflect the secondary treatment definition found in 40 CFR Part 133.

Water quality based effluent limitations will be included in NPDES permits when needed to ensure compliance with state water quality standards approved by EPA, in accordance with 40 CFR § 131.22. All final limitations in an NPDES permit will be consistent with any approved Total Maximum Daily Load (TMDL) in accordance with 40 CFR Part 131. No water quality standard or variance from a water quality standard will be used to establish an effluent limitation for an NPDES permit until the water quality standard or variance has been reviewed and approved by EPA. Endangered species concerns will be addressed through interagency coordination.

MDNR will include standard conditions and special conditions in NPDES permits, as required by 40 CFR § 123.25.

C. EPA Review of Draft and Proposed Permits, Permit Revocations and Activities Authorized by Rule

1. Except as noted in Paragraph 3 below, EPA waives the review of draft and proposed permits except for the following categories:
 - a. Discharges that may affect the waters of a state(s) or Indian country;
 - b. Discharges from POTWs with daily average flows of 1.0 million gallons per day (MGD) or greater;
 - c. Discharges from POTWs with approved Pretreatment Programs;
 - d. Discharges of cooling water that exceed a daily average of 500 MGD;
 - e. Discharges from all designated "Major" facilities (as defined in 40 CFR §122.2);

- f. Discharges from all primary industry categories, as listed in 40 CFR Part 122, Appendix A but only to the extent that the discharge is subject to federal effluent guidelines and standards in 40 CFR Chapter I, Subchapter N;
 - g. Discharges from other sources with permitted daily average flows of 0.5 MGD or greater, except for those facilities that discharge only non-process wastewater;
 - h. Permits for municipal separate storm sewer systems (MS4s);
 - i. Permits for Combined Sewer Overflow (CSO) communities;
 - j. Permits for POTWs that in any manner authorize or require monitoring of discharges from any point in the collection system prior to the headworks of the wastewater treatment plant. This would include, but not be limited to, permits for systems with sanitary sewers, or satellite treatment facilities;
 - k. All general permits, or authorizations by rule;
 - l. All permits EPA has requested to review consistent with paragraph 3 below; and,
 - m. Permits for CAFOs that use alternative technology.
2. EPA waives review of permit modifications which are considered minor modifications, as defined by 40 CFR § 122.63.
 3. Upon written notice and request, EPA retains the right, per 40 CFR § 123.43, to review any NPDES draft permit proposed to be issued by the state. EPA retains the right to terminate the waiver as to future permit actions, in whole or in part, at any time per 40 CFR § 123.24.
 4. Any waiver of EPA review shall not be construed to authorize the issuance of a permit by MDNR that does not comply with applicable provisions of federal or state statutes, rules, regulations or effluent guidelines.
 5. Where EPA review is not waived, EPA agrees to review draft permits rather than proposed permits. For purposes of this MOA, a draft permit is a document indicating the Director's tentative recommendation to issue or deny, amend, revoke, or renew a permit. Such draft permits are subject to public notice. For purposes of this MOA, a proposed permit means an NPDES permit prepared after the close of public notice, a public meeting, or a contested case hearing, which will be forwarded for action to the MDNR Director.
 6. If MDNR proposes to issue a permit which is substantively different from the draft permit submitted for EPA review, the Director shall transmit the new proposed permit to EPA. EPA shall have the right to comment further upon, object to, or make recommendations with respect to the new proposed permit.
 7. MDNR will notify EPA of the availability of the draft permit package, limited to permits for which EPA has not waived review, by placing the permit review package on their website at <http://dnr.mo.gov/env/wpp/permits/permit-pn.htm>, concurrent with the beginning of the public notice period.
 8. The permit package MDNR makes available to EPA for review of either draft or proposed permits for which EPA has not waived review, shall include:
 - a. Draft or proposed permit;
 - b. Public notice, as applicable;
 - c. Permit application and all information submitted by the applicant relating to the draft or proposed permit, as applicable;

- d. Fact sheet or statement of basis; and,
 - e. Water quality standards variance request and response, if applicable.
9. EPA may provide written comments, objections or recommendations to draft permits, in accordance with 40 CFR § 123.44, within thirty (30) days from its receipt of a draft or proposed permit, or the end of the public notice period, whichever is later, unless an interim objection is filed by EPA (see paragraph 11, below). If, within this thirty (30) day period, a general objection to a draft or proposed permit is made, EPA will then have ninety (90) days from receipt of the draft permit to submit specific objections. For a general permit, EPA will have ninety (90) days from its receipt of the draft or proposed permit for its review.
 10. Where EPA has objected to a draft or proposed permit, EPA will set forth in writing its objection(s) all citations to the CWA and specific federal regulations that support the objection(s). EPA shall also include the specific action that MDNR must take to satisfy the objection.
 11. EPA shall consider all data transmitted in the permit package, and may request all or portions of the information in MDNR's files for review if EPA determines that the information provided by MDNR is inadequate to determine whether the proposed permit meets the guidelines and requirements of the CWA. If a request for additional file information is made within thirty (30) days of receipt of the draft or proposed permit package, such request will be considered an interim objection. After receipt by EPA of the requested material or of notification that MDNR does not have the requested material, the full period of time for EPA's review under 40 CFR § 123.44 and this MOA will recommence.
 12. The procedures for EPA's notice to MDNR and the permit applicant of any EPA comment, objection or recommendation regarding a draft or proposed permit, for MDNR's response to an EPA objection to a draft or proposed permit, for requesting and conducting a public hearing regarding an objection by EPA to a draft or proposed permit, and for EPA's action following such public hearing are set forth within 40 CFR § 123.44.
 13. Exclusive authority to issue the permit for one permit term shall pass to EPA if MDNR does not resolve EPA's specific objection within ninety (90) days from receipt of the objection, unless a public hearing is requested within the 90 days and the Regional Administrator determines that a hearing will be held.
 14. MDNR shall notify EPA and post on MDNR's website or transmit copies of significant comments received during the public comment period and recommendations from states, or federally established Indian Tribes, whose waters may be affected by the issuance of the permit, and responses to these comments and recommendations to EPA, limited to permits for which EPA has not waived review.
 15. Each permit proposed to be modified shall be considered a new draft permit and subject to public notice, unless it is a minor modification, as defined in 40 CFR §122.63.
 16. EPA shall be notified whenever MDNR proposes to deny or revoke any permit for which EPA has not waived review.
 17. If the terms of any permit are affected in any manner by court action or an administrative appeal, MDNR shall transmit to EPA a copy of the amended permit.

18. MDNR shall notify EPA and post on the MDNR's website or transmit copies of every permit for which EPA has not waived its review, following issuance, along with any and all conditions, requirements or documents which are related to or affect the authorization of the permit to EPA.

D. Public Participation

MDNR shall provide public notice of new permits, renewals, modifications (except minor modifications as described at 40 CFR § 122.63) and public hearings regarding a draft permit. The public notice shall be posted on MDNR's website or sent concurrently to EPA, the U.S. Fish and Wildlife Service (USFWS), the Advisory Council on Historical Preservation, Missouri Historical Commission, any affected state or federally established Indian tribe, the U.S. Army Corps of Engineers, any industrial user identified in the permit application of a publicly or privately owned treatment works, the designated 208 planning agencies, and other persons who request notice, or who are otherwise on MDNR's mailing list, or who MDNR considers may be affected. MDNR shall provide an opportunity for judicial review of the final approval or denial of permits that is sufficient to provide for, encourage, and assist public participation in the permitting process. MDNR shall not restrict the class of persons who might challenge the approval or denial of a permit. MDNR will also post on MDNR's website or provide a copy of the draft permit, fact sheet or statement of basis, and the permit application to EPA, and agencies and individuals listed above, for all permits for which such notice or copies have not been waived.

The public notice for draft permits shall set a deadline in which to file public comments or requests for public meetings or hearings. The public comment period for draft permits shall not be less than thirty (30) days.

V. COMPLIANCE EVALUATION AND PERMIT ENFORCEMENT

A. Background

As stated earlier, MDNR has been authorized by EPA to administer the NPDES program and retain lead responsibility under the CWA in the state with respect to sources, activities, and facilities within MDNR's jurisdiction. EPA retains responsibility under Section 402 of the CWA for oversight of the NPDES program in Missouri in order to ensure adherence to federal statutory and regulatory requirements implementing the CWA and to maintain national consistency. This section of the MOA addresses the portion of the NPDES program that includes compliance evaluation and enforcement at NPDES regulated facilities.

B. Compliance Review

MDNR shall conduct timely and substantive reviews and keep complete records of all material relating to the compliance status of entities subject to regulation under the NPDES program, including but not limited to, Compliance Schedule Reports, Discharge Monitoring Reports, Compliance Inspection Reports, and any other reports that entities may be required to submit under the terms and conditions of an NPDES permit, approved Pretreatment Program,

administrative order or judicial enforcement action. MDNR shall maintain records of information submitted by the public concerning potential violations by entities subject to regulation and MDNR's follow-up.

MDNR shall operate a system to determine if:

1. The self-monitoring reports required by permit are submitted;
2. The submitted reports are timely, complete and accurate; and
3. The permit conditions or requirements of an applicable administrative or judicial or enforcement actions are met.

At a minimum, MDNR will make data available for EPA's oversight role for major permittees, PL 92-500 minor POTWs and other significant minor permittees within thirty (30) days from receipt of the Discharge Monitoring Reports. MDNR will maintain the required data within their MoCWIS database. The required data will be batch uploaded at least monthly to the national database. MDNR and EPA will use procedures that improve data accuracy and that are consistent with EPA's data management program.

MDNR shall initiate appropriate actions, including enforcement, whenever an entity's required performance is not achieved or when reports are not received.

MDNR shall prepare and submit a Quarterly Noncompliance Report (QNCR) consistent with the requirements described at 40 CFR § 123.45(a) and (d) and time frames contained in Appendix B. MDNR shall prepare the QNCR using Discharge Monitoring Report data and other compliance data. EPA will verify the accuracy and completeness of the QNCR quarterly.

MDNR shall coordinate with EPA to generate semi-annually a statistical summary report ("SSSR") in accordance with 40 CFR § 123.45(b). This report will include information concerning the number of major discharges with two or more violations of the same monthly average limitation within a six-month period.

MDNR shall prepare and submit an Annual Noncompliance Report (ANCR) for non-major NPDES permittees in accordance with 40 CFR § 123.45(c)(1). MDNR shall also submit a listing of non-majors that are one or more years behind construction phases of their compliance schedules in accordance with 40 CFR § 123.45(c)(2). In accordance with 40 CFR § 123.45(d)(2), the annual reports shall cover each calendar year ending December 31 and be completed and available to the public 60 days after the end of that calendar year.

If any of the reports named in this section, such as the QNCR, ANCR, or SSSR are eliminated due to EPA's electronic reporting rule, MDNR will electronically submit to EPA the data necessary to produce comparable reports nationally and will continue to maintain and update their records and data system.

C. Compliance Evaluations

MDNR shall conduct activities to determine the compliance status of regulated entities with respect to state and federal CWA requirements, including sampling and non-sampling inspections at NPDES regulated facilities in accordance with 40 CFR §123.26 and the MO CWA

Section 106 program grant.

Inspection procedures will be in accordance with appropriate MDNR standard operating procedures and EPA's NPDES Compliance Inspection Manual, which may be found on EPA's website. For purposes of this MOA, the term "compliance inspection" may include, but is not limited to, compliance evaluation inspections, performance audits, compliance sampling inspections, biomonitoring inspections, complaint investigations and investigation of reported discharges that potentially endanger public health as defined in EPA's NPDES Compliance and Inspection Manual.

EPA retains the right to perform compliance inspections of any NPDES facility to determine compliance with the CWA; however, EPA will generally notify MDNR in advance of the inspection to give MDNR an opportunity to participate and will otherwise keep MDNR informed of its plans and results. EPA and MDNR may participate in joint compliance inspections as they are needed. EPA will conduct oversight inspections in order to assess the effectiveness of MDNR's activities.

Reports on compliance inspections for major permittees shall be available for review by MDNR and EPA, as appropriate. MDNR's inspection reports will be submitted to EPA upon request in accordance with Section VII of this MOA. MDNR shall thoroughly review each report to determine what, if any, enforcement action should be initiated, as outlined in Section D. below.

D. Enforcement Response

The CWA 309 authorizes EPA, or NPDES Program authorized states, to respond to unpermitted discharges, violations of the CWA, and NPDES violations by initiating appropriate enforcement action(s). EPA and MDNR hold concurrent authority to initiate enforcement actions for violations of the CWA consistent with Sections 309 and 401(i) of the CWA. MDNR shall have primary responsibility for enforcing the CWA in Missouri, except for enforcement actions associated with violations from inspections where EPA was the lead agency or as otherwise agreed to by MDNR and EPA. Nothing in this MOA shall be construed to limit the authority of EPA to take enforcement action pursuant to Section 309 of the CWA.

1. MDNR shall be responsible for taking timely and appropriate action in accordance with 40 CFR § 123.27 against persons in violation of NPDES program requirements (illegal discharges, effluent limitations, pretreatment requirements, compliance schedules, reporting requirements, and other permit conditions) and previous administrative or judicial enforcement actions. If EPA determines that MDNR has not initiated timely and appropriate enforcement action against a violator, EPA may proceed with any or all of the enforcement options available under Section 309 of the CWA upon notice to and consultation with MDNR.
2. MDNR will develop and maintain written enforcement procedures that establish at a minimum:
 - a. A process for determining the appropriate level of action for specific categories of violation;
 - b. Procedures for preparing and maintaining accurate and complete documentation

- that can be used in future formal enforcement actions; and,
- c. The timeframes for escalating enforcement responses where the noncompliance has not been resolved.
- 3. MDNR shall be able to demonstrate that its enforcement response procedures result in:
 - a. Appropriate initial and follow-up enforcement actions that are applied in a timely manner;
 - b. Formal enforcement actions, when appropriate, that require actions to achieve compliance, specify a timetable, contain consequences for noncompliance that are independently enforceable and that subject the violator to adverse legal consequences for noncompliance;
 - c. The assessment and collection of an administrative or judicial penalty, when appropriate, shall account for economic benefit and gravity of the violation. Penalties will be developed based upon the authority of the Missouri Clean Water Law Chapter 644, RSMo, and the amount appropriate to the violation; and,
 - d. Compilation of complete and accurate records that can be used in future enforcement actions.

VI. PRETREATMENT PROGRAM

A. Program Requirements

MDNR shall administer and implement all applicable Pretreatment Regulations as required in 40 CFR Part 403, and any National Pretreatment Standard established by EPA in accordance with Section 307(b) and (c) of the CWA. EPA, Region 7 will provide oversight of MDNR's Pretreatment Program consistent with pretreatment regulations and this MOA.

1. MDNR will serve as the approval authority and the control authority, where applicable, as defined by the General Pretreatment Regulations, 40 CFR Part 403.
2. MDNR has primary responsibility for:
 - a. Enforcement against prohibited discharges;
 - b. Application and enforcement of national categorical pretreatment standards, and local POTW limitations including at POTWs that do not have an approved pretreatment program, recognizing MDNR does not have authority to issue permits to industrial users discharging to permitted collection systems pursuant to Section 644.026(13), RSMo;
 - c. Developing and enforcing local limits, as necessary;
 - d. Requiring industrial reports from Significant Industrial Users (SIUs) outside cities having approved pretreatment programs;
 - e. Requiring, obtaining, and reviewing pretreatment implementation annual reports from cities having approved pretreatment programs;
 - f. Reviewing, approving, and overseeing POTW developed and authorized pretreatment programs;
 - g. Incorporating local POTW pretreatment implementation requirements into POTW's NPDES permit for cities without an approved pretreatment program;
 - h. Reviewing and approving modifications with categorical standards reflecting

- POTW pollutant removal (removal credits) in coordination with the EPA Region 7 as required by 40 CFR §403.7 and 40 CFR § 403.11;
- i. Reviewing, approving, and coordinating with EPA Region 7 on any requests pursuant to fundamentally different factors as applied to promulgated categorical standards. MDNR shall conform to procedures specified in 40 CFR § 403.13; and
 - j. Reviewing, approving, and coordinating with EPA Region 7 on all net/gross allowances as detailed at 40 CFR § 403.15. Net/gross allowances shall be made available to EPA Region 7 for review prior to issuance.

B. Pretreatment Program Activities

1. The program will be administered in accordance with the program description contained in MDNR's request for EPA approval to administer the Pretreatment Program as part of the NPDES permit program, or as amended by MDNR and approved by EPA, and in accordance with Missouri's rules and regulations governing Missouri's Pretreatment Program.
2. Reporting requirements covering state implementation activities and POTW implementation activities, including SIU compliance status information for the Pretreatment Program will be delineated in the annual work plan.
3. MDNR will apply and enforce all applicable pretreatment regulations as required by 40 CFR Part 403. EPA will oversee MDNR's pretreatment program operations consistent with 40 CFR Part 403 and this MOA.
4. MDNR shall perform inspections, surveillance and monitoring activities which will determine, independent of information provided by each SIU, compliance or noncompliance by the SIU with pretreatment requirements incorporated into the SIUs control mechanism, for SIUs located outside cities that have approved pretreatment programs.
5. Requests for Categorical Determination. MDNR shall review requests for determinations of whether the industrial user does or does not fall within a particular industrial category or subcategory in accordance with 40 CFR § 403.6(a). MDNR will make a written determination for each request stating the reasons for the determination. MDNR shall then forward its findings, together with a copy of the request and any necessary supporting information, to EPA Region 7's Water Wetlands and Pesticides Division Director for concurrence. EPA Region 7's Water Wetlands and Pesticides Division Director may waive receipt of these determinations as specified in 40 CFR § 403.6(a)(4)(ii). If EPA Region 7's Water Wetlands and Pesticides Division Director does not modify MDNR's decision within sixty (60) days after receipt thereof, MDNR's findings are final. EPA will send a copy of any final determination or concurrence to the requester and MDNR.
6. MDNR and EPA will communicate, through the Section 106 or other appropriate state planning process, commitments and priorities for program implementation including commitments for inspections of industrial users and approved program cities.
7. MDNR shall perform audits and pretreatment compliance inspections of approved POTW Pretreatment Programs in accordance with agreements

established with EPA Region 7 through Section 106 Work Plans or Compliance Monitoring Strategy (CMS) commitments. EPA will provide assistance with audits of approved POTW Pretreatment Programs.

C. Pretreatment Program Review

EPA shall review and comment on any reports submitted by MDNR in accordance with requirements of the annual work plans.

D. Other Provisions

Nothing in this MOA is intended to affect any pretreatment requirement, including any standards or prohibitions established under Missouri or local law, as long as the state or local requirements are not less stringent than any requirements set forth in the national pretreatment program, or other applicable requirements or prohibitions established under the CWA or federal regulations.

VII. TRANSMITTAL OF INFORMATION

Information obtained or used in the administration of MDNR's NPDES and Pretreatment Programs shall be available to EPA upon request without restriction. To the extent such information includes materials that are attorney client privileged communications or attorney work products, the agencies shall take appropriate precautions and/or enter into agreements, such as joint prosecution agreements, to protect applicable privileges. MDNR and EPA agree to transmit information in accordance with the schedules listed in Appendix B. EPA shall furnish to MDNR all information in its files to implement its approved program as specified in 40 CFR § 123.41. If information has been submitted to MDNR under a claim of confidentiality, MDNR must submit that claim to EPA when providing information. EPA shall furnish to MDNR, information submitted to EPA under a claim of confidentiality, which MDNR needs to implement its approved program, subject to the conditions in 40 CFR Part 2 and 40 CFR § 122.7(b), or analogous state law. MDNR and EPA will deny all claims of confidentiality for effluent data, permit applications, permits, and the name and address of any permittee in accordance with 40 CFR § 122.7(b).

VIII. NPDES PROGRAM REVIEW

MDNR and EPA are responsible for assuring that Missouri's NPDES Program is consistent with all requirements referenced in this MOA, the annual work plan, and applicable sections of the CWA and the regulations promulgated thereunder. To fulfill this responsibility EPA shall conduct a program review to examine in detail MDNR's files and documentation to ensure implementation of the NPDES and approved Pretreatment Programs.

In the event EPA determines that elements of MDNR's NPDES Program are in any way deficient and/or inconsistent with applicable federal and state regulations and/or statutes, EPA shall notify MDNR of these inconsistencies or other deficiencies. Procedures for review of state programs are set forth in Section 402 (c) of the CWA and 40 CFR Part 123, Subpart D.

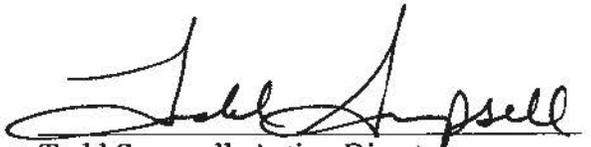
IX. AMENDMENTS TO BE APPROVED BY EPA

- A. MDNR will keep EPA effectively informed of any proposed modifications regarding its basic statutory or regulatory authority, its forms, procedures, or priorities. Likewise, EPA will effectively inform MDNR of proposed changes to its basic statutory or regulatory authority.
- B. If an amendment, revision, or repeal of any statute or regulation shall occur for any reason, including action by the state or federal legislature or a court, the affected agency shall be notified as soon as possible of such event and a copy of the text of such revision will be transmitted to the designated official of the affected agency.
- C. Revision of a state program shall be accomplished in accordance with 40 CFR § 123.62(b).
- D. In addition to those changes constituting a revision to the state program requiring approval by EPA, MDNR and EPA will strive to keep each other informed of nonsubstantive changes to forms, procedures and policies.

Prior to the approval by MDNR of any test method as an alternative to those specified as required for NPDES permitting, MDNR shall obtain approval by EPA. EPA shall review and respond to requests for alternate test methods as soon as possible.

X. APPROVAL and EFFECTIVE DATE OF THE MOA

- A. This MOA shall be modified only by the written consent of both parties; however, either EPA or MDNR may initiate an action to modify this MOA at any time.
- B. This MOA shall be reviewed by EPA and MDNR and revised as appropriate.
- C. Timeframes stated in Appendix B of this MOA may be changed by the written consent of MDNR and EPA.
- D. Any revisions or modifications to this MOA must be in writing and must be signed by MDNR's Director and the Regional Administrator.
- E. Nothing in this MOA shall be construed to limit the authority of EPA pursuant to the applicable sections of the CWA, or the authority of MDNR pursuant to the applicable sections of state law.
- F. Nothing in this MOA shall be construed to constitute or create a valid defense for regulated parties in violation of national or state environmental statutes, regulations, or permits.
- G. This agreement shall become binding when signed by both parties.


Todd Sampsell, Acting Director
Missouri Department of Natural Resources
Dated: 1/18/17


Mark Hague, Regional Administrator
U.S. Environmental Protection Agency, Region 7
Dated: 1/20/17

APPENDIX A

AGENCY RESPONSIBILITIES

MDNR shall:

1. Process all incoming applications for new, modifications to existing, and reissuance and revocation of National Pollutant Discharge Elimination System (NPDES) permits, including:
 - a. Non-domestic wastewater discharges, including industrial, federal facilities, commercial, silviculture, concentrated animal feeding operations (CAFOs), and concentrated aquatic animal production activities;
 - b. Domestic wastewater discharges, including Publicly Owned Treatment Works (POTWs) and privately owned treatment works; and,
 - c. Storm water discharges regulated under the NPDES permit, including municipal separate storm sewer systems and storm water associated with industrial activities.
2. Evaluate and assess compliance, in accordance with 40 CFR § 123.26, with state issued enforceable documents including permits, administrative orders, consent orders, and court orders which deal with NPDES and pretreatment issues including compliance with effluent limitations reporting, compliance schedules, and proper operation and maintenance.
3. Monitor compliance with approved pretreatment programs and with pretreatment program standards, including industrial users outside approved POTW pretreatment programs.
4. Maintain an effective enforcement program by taking timely and appropriate actions for NPDES permit violations, unpermitted discharges, and pretreatment program violations in accordance with Missouri's statutes, the Missouri Administrative Code, 40 CFR § 123.27, federal NPDES requirements, and the Clean Water Act (CWA). MDNR agrees to review EPA's national and regional policies and guidance when adopting corresponding or related state policies and guidance and will adopt state policies or guidance that are consistent with the CWA and applicable federal regulations when MDNR deems such policies and guidance appropriate.
5. Maintain adequate file information relating to each NPDES permit. This information will be readily available to EPA and shall include the following information:
 - a. Permit application;
 - b. Proposed permit and/or current final issued permit, or final order of denial;
 - c. Draft permit submitted for public notice;
 - d. Public notice;
 - e. Written public comments and documentation of oral comments made and their content, and MDNR's response to comments;
 - f. Fact sheet or statement of basis, including effluent data;
 - g. Inspection reports and compliance information;
 - b. The rationale, if not included in the fact sheet, which details the permit limit calculations and development. The rationale shall include both the technology and the water quality basis for the draft or proposed permit;

- i. Enforcement related documents for both formal and informal enforcement actions;
 - j. Compliance schedule reports;
 - k. Discharge monitoring reports, including whole effluent toxicity (WET), toxicity reduction evaluation (TRE), toxicity identification evaluation (TIE) information, and in-stream sampling results, where applicable;
 - l. Documents related to the pretreatment program including program approvals, program modification approvals, local limits calculations, annual reports from program cities, pretreatment inspection reports, and periodic compliance reports from Significant Industrial Users (SIUs) where MDNR is the control authority;
 - m. Storm water related documents, including Storm Water Management Plans (SWMPs), the Storm Water Pollution Prevention Plans (SWPPPs), and other related documents required to be submitted to MDNR;
 - n. For combined sewer overflow (CSO) communities, the long term control plan (LTCP), and any other documentation related to compliance with the CSO provisions of the permit and documentation related to discharges from the CSOs;
 - o. Information regarding any bypass events or sanitary sewer overflows (SSOs);
 - p. CAFO related documents, including nutrient management plans, if required by federal regulations;
 - q. Requests submitted to MDNR for hearing, motions for reconsideration and rehearing, and any order issued regarding a permit appeal or challenge by the Environmental Quality Council; and,
 - r. Other information, memoranda, and correspondence pertinent to the NPDES permit.
6. Make available to the public all permit applications, permits, effluent data, inspection reports and other documents pertaining to the NPDES program (except information claimed and/or determined to be confidential in accordance with 40 CFR Part 2, or analogous state law).
 7. Issue and administer general permits, in accordance with 40 CFR § 122.28.
 8. Make available all required permit, compliance, and enforcement data in accordance with 40 CFR § 123.26(e)(4).
 9. Submit to EPA the information described in the CWA Section 106 program grant between MDNR and EPA or other related MDNR/EPA agreements and submit information specified in applicable portions of 40 CFR Parts 123. Additionally, upon request by EPA, MDNR shall submit information and allow access to files for evaluating MDNR's administration of the NPDES program.
 10. Provide statistical information (i.e., quarterly, semi-annual and annual reports) in accordance with 40 CFR § 123.45 and in accordance with the schedule in Appendix B.
 11. Maintain an approved Continuing Planning Process (CPP) in accordance with 40 CFR § 123.25(b) and § 130.5. A separate document describing how Missouri's water quality standards are implemented is titled the Water Quality Standards Applicable to Missouri Waters, and must be maintained consistent with 40 CFR § 130.5(b)(6). The Water Quality Standards Applicable to Missouri Waters shall be revised, as necessary, with the triennial review of the Missouri surface water quality standards, and as needed between standards revisions.
 12. Assess or sue to recover civil penalties and criminal remedies, as appropriate and in accordance with 40 CFR § 123.27 and MDNR's standard operating procedures, to

- address noncompliance with the NPDES and/or pretreatment programs and take whatever steps are necessary to ensure a return to compliance within the shortest time possible.
13. Ensure new federal NPDES and pretreatment program regulations are incorporated into state regulations in accordance with 40 CFR § 123.62(e), within one year of federal promulgation or within two (2) years if a state statute must first be enacted.
 14. Ensure, to the extent possible, that EPA is kept fully informed and up-to-date regarding:
 - a. Draft and final policy and program development documents related to NPDES and pretreatment, including revisions to such document;
 - b. Draft, proposed, and final statutes and regulations related to NPDES and pretreatment programs;
 - c. New case law, settlement agreements, and remands of state regulations related to the NPDES and pretreatment programs;
 - d. Draft, proposed and final technical guidance and policies which pertain to NPDES and pretreatment programs; and,
 - e. Draft and finalize NPDES and pretreatment forms and Enforcement Management System.
 15. Ensure that any proposed revision to the state's NPDES program is submitted to EPA for approval pursuant to 40 CFR § 123.62(b).
 16. Administer the NPDES and pretreatment programs in compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, 42 USC § 2000d, *et seq.* Ensure that all public comment regarding such compliance that are received in accordance with Environmental Quality Council rules will be considered, responded to, and acted upon appropriately.

EPA shall:

1. Ensure MDNR is kept fully informed and up-to-date, to the fullest extent allowable, regarding:
 - a. Draft and final policy and program development documents related to NPDES and pretreatment;
 - b. Draft, proposed, and final regulations related to NPDES and pretreatment; and,
 - c. Draft, proposed and final technical guidance and policies which pertain to NPDES and Pretreatment.
2. Provide MDNR with a timely opportunity for meaningful involvement and input in developing and establishing federal or regional NPDES and pretreatment program policies, rules, strategies, and guidance, as appropriate and practical.
3. Review and comment on draft permits, proposed permits, variance requests of water quality standards, pretreatment program actions, and any future NPDES or pretreatment program modifications in a timely manner in accordance with Section IV and VI, as applicable, of this MOA.
4. Oversee MDNR's administration of the NPDES and pretreatment programs for consistency with the CWA, this MOA, any applicable MDNR/EPA agreements, the CWA Section 106 program grant and all applicable federal regulations. As part of its assessment of the NPDES and pretreatment programs, EPA shall consider permits,

reports, and enforcement actions submitted by MDNR and may also consider comments from permittees, the public, and federal and local agencies concerning MDNR's administration of the NPDES and pretreatment programs. EPA shall promptly transmit to MDNR substantial or unresolved comments that EPA receives from permittees, the public, and federal and local agencies.

5. Provide technical assistance regarding the interpretation of regulations and guidance for the development of draft and proposed permits.
6. Develop annually a Compliance Monitoring Strategy (CMS) in collaboration with MDNR that establishes numerical objectives for MDNR and EPA to conduct inspections audits, and investigations across the various categories of entities subject to NPDES regulations. The annual CMS should specify the apportionment of MDNR's and EPA's compliance monitoring resources in accordance with priorities of the two agencies.
7. In accordance with Section V. of this MOA, conduct independent, timely and appropriate enforcement and compliance monitoring activities within the state of Missouri.
8. Provide MDNR with a list of facilities EPA proposes to inspect during each fiscal year and seek MDNR's input on appropriate EPA inspection targets.
9. Provide MDNR with copies of all inspection reports and formal enforcement actions.
10. Have principal authority over the permitting and enforcement of the federal sludge regulations under 40 CFR 503.

APPENDIX B

SUMMARY OF TRANSMITTALS* FROM THE MDNR TO THE EPA

DESCRIPTION OF TRANSMITTAL	FREQUENCY OF TRANSMITTAL
1. For all permits for which the EPA has not waived automatic right of review, a copy of the draft permit, permit application or request for modification, and the Fact Sheet or Statement of Basis (includes permit issuances, reissuances, and modifications).	At time of completion of draft permit, or simultaneous to placing the draft permit on public notice.
2. For all permits, a copy of public notices.	As issued.
3. For all permits for which the EPA has not waived automatic right of review, a copy of any proposal for decision or settlement agreement in principle that resolves an appeal of said permit.	When such agreement is made, but with adequate time for the EPA comments before agreement is effective.
4. For all permits for which the EPA has not waived automatic right of review, a copy of all motions for administrative appeal, and rehearing and/or judicial appeals.	As made.
5. A copy of every major facility NPDES permit and modification, draft and final general permit and every draft and final permit that proposes to approve a Pretreatment Program modification.	As issued.
6. For all permits for which EPA has waived automatic right of review, copies of the application, draft permit, final permit, or other documents related to the permit.	Within 10 days of the request by EPA.
7. For major facility NPDES permittees, a quarterly noncompliance report (QNCR) as specified in 40 CFR § 123.45(a) and further qualified in EPA guidance.	1 st quarter FFY QNCR due April 30 th 2 nd quarter FFY QNCR due July 30 th 3 rd quarter FFY QNCR due October 30 th 4 th quarter FFY QNCR due January 30 th Reports must be made available to the public for inspection and copying on this date.
8. Semiannual enforcement activities report.	Semiannually
9. Annual noncompliance report, per 40 CFR §123.45(c).	Reports shall cover the calendar year ending December 31 of each year and shall be submitted within 60 days of the end of the calendar year.
10. 92-500 municipal facilities report for compliance statistics.	Semiannually.
11. Summary of RECAP report statistics.	Quarterly
12. Draft authorizations by rule or general permit packages.	At time of completion of draft rule or permit, or simultaneous to placing the draft rule or permit on public notice.
13. Proposed authorizations by rule or general permits, where public comment in a less stringent permit or rule.	At least 30 days prior to adoption or issuance.
14. Copies of public notices for Pretreatment removal allowances, Pretreatment Program approvals, substantial modification approvals, and other program submittals.	Concurrent with the public notice.

DESCRIPTION OF TRANSMITTAL	FREQUENCY OF TRANSMITTAL
15. Pretreatment audit reports, Pretreatment Compliance Inspections (PCI), and correspondence associated with processing Pretreatment Program submittals.	When transmitted to the Program City.
16. If the MDNR takes an action on a variance request identified in 40 CFR §124.62, it shall forward the information specified in 40 CFR §124.62 for that particular type of variance to the Regional Administrator.	At time of State action on the variance request. (See 40 CFR§124.62 for the procedures on variances.)
17. The MDNR shall notify the EPA Enforcement Coordinator when copies of final enforcement orders and judicial actions are posted on the MDNR website.	Within 10 days of the effective date.
18. Provide the EPA with all State NPDES and Pretreatment Program policies, rules, strategies, and guidance, including but not limited to policies for waste load allocations, mixing zones, permit derivation methods, and Enforcement Management System. As appropriate and practical, provide EPA with a timely opportunity for meaningful involvement and input in developing and revising all such policies, rules, strategies and guidance.	As developed, revised and established.
19. Copies of Pretreatment Program Cities' Annual Report	30 days following due date of the Annual Report.
20. Summary reports of the compliance status of each Pretreatment SIU located outside of a Pretreatment Program City.	March 1 st September 1 st

* Notification to the appropriate Agency and posting on the MDNR website constitutes transmittal.

SUMMARY OF TRANSMITTALS FROM EPA TO MDNR

DESCRIPTION OF TRANSMITTAL	FREQUENCY OF TRANSMITTAL
1. Written comments, recommendations, interim objections, and general objections to draft or proposed permits.	Within 30 days from receipt of the draft or proposed permit and 90 days for general permits.
2. Specific written objection(s) to draft or proposed permits, along with CWA and federal regulations citations supporting the objection, and specific actions the MDNR must take to satisfy the objection(s).	Within 30 days from receipt of draft or proposed permit, unless a general objection has been made, and 90 days for general permits. If a general objection has been made, then the EPA will have 90 days from the receipt of the draft or proposed permit for the specific objection.
3. Written withdrawal of the EPA's objection to a permit, following receipt from the MDNR of draft permit and letter specifying all the EPA requirements have been met.	After the EPA review is concluded.
4. Written comments or objections to a Proposal for Decision (PFD) by an administrative law judge.	Within 30 days from receipt of the PFD.
5. Notification that the EPA enforcement actions are finalized/terminated.	Upon occurrence.
6. Copies of the EPA compliance inspection reports for the EPA inspections in Missouri.	Within 60 days from the date of inspection.
7. Copies of final enforcement orders and judicial actions.	Within 10 days of the effective date.
8. Decisions on requests for the EPA approval of variances that have been forwarded or submitted to the EPA by the MDNR.	At time of completion of decision.

