

**U**nder 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."

**E**ntirely 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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.115 Special Regulations for Department Areas.**  
The department proposes to amend paragraphs (1)(P)2. and 10.

*PURPOSE: This amendment opens Jerry P. Combs Lake to public fishing and establishes a fifteen-inch (15") minimum length limit on the lake's largemouth bass.*

(1) The special regulations in this rule apply on all lands and waters (referred to as areas) owned, leased or managed under formal cooperative agreement by the Department of Conservation.

The director may issue temporary written exceptions to provisions of this rule for emergency or special events and for other compatible uses.

(P) Fishing. Fishing, under statewide seasons, methods and limits, is permitted, except as further restricted in this rule.

1. Fishing may be further restricted on designated portions of conservation areas.

2. Fishing is prohibited on the following conservation areas or individually named lakes:

A. Allred Lake Natural Area

B. Rudolf Bennitt Lake

C. Robert L. Blattner

D. Burr Oak Woods

*[E.] Jerry P. Combs Lake*

*[F.] E. Gama Grass Prairie*

*[G.] F. Gay Feather Prairie*

*[H.] G. Charles W. Green*

*[I.] H. Happy Holler Lake*

*[J.] I. Hunkah Prairie*

*[K.] J. Little Osage Prairie*

*[L.] K. Chloe Lowry Marsh Natural Area*

*[M.] L. Mo-Ko Prairie*

*[N.] M. Mon-Shon Prairie*

*[O.] N. Mount Vernon Prairie*

*[P.] O. Niawathe Prairie*

*[Q.] P. Pawhuska Prairie*

*[R.] Q. Powder Valley Conservation Nature Center*

*[S.] R. Springfield Conservation Nature Center*

*[T.] S. Turtle Rock Lake*

*[U.] T. Tzi-Sho Prairie*

*[V.] U. Wah-Kon-Tah Prairie* (only on portion owned by the Nature Conservancy)

*[W.] V. Wah-Sha-She Prairie*

*[X.] W. Henry J. Waters II and C.B. Moss Memorial Wildlife Area*

*PUBLISHER'S NOTE: Paragraphs (1)(P)3.-9. remain as published in the Code of State Regulations.*

10. Length limits. Statewide length limits shall apply for all species, except as further restricted in this rule.

A. On all impoundments, except as authorized in parts (1)(P)10.A.(I)-(V), all black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught.

(I) All black bass less than twelve inches (12") total length must be returned to the water unharmed immediately after being caught on the following conservation areas:

(a) Bois D'Arc

(b) Knob Noster State Park Lakes

(c) Malta Bend Community Lake

(d) Painted Rock

(e) Peabody

(f) Haysler A. Poague

(g) Robert E. Talbot

(h) Van Meter State Park Lake

(II) All black bass less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on the following conservation areas:

(a) Amarugia Highlands

(b) Arrow Rock State Historic Site

(c) Atkinson Lake

(d) Baltimore Bend

(e) Big Oak Tree State Park

(f) Bilby Ranch Lake

(g) Binder Community Lake

- (h) Bismarck
- (i) Buffalo Bill Lake
- (j) August A. Busch Memorial (except Lakes 33 and 35)
- (k) Che-Ru Lake
- (l) Jerry P. Combs Lake**
- [[l]]* **(m)** Confederate Memorial State Park Lakes
- [[m]]* **(n)** Deer Ridge Lake
- [[n]]* **(o)** Fourche Lake
- [[o]]* **(p)** General Watkins
- [[p]]* **(q)** Jamesport Community Lake
- [[q]]* **(r)** Limpp Community Lake
- [[r]]* **(s)** Little Compton Lake
- [[s]]* **(t)** Loggers Lake
- [[t]]* **(u)** Lone Jack Lake
- [[u]]* **(v)** Maple Leaf Lake
- [[v]]* **(w)** McCormack Lake
- [[w]]* **(x)** Noblett Lake
- [[x]]* **(y)** Nodaway County Community Lake
- [[y]]* **(z)** Perry County Community Lake
- [[z]]* **(aa)** Pershing State Park Ponds
- [[aa]]* **(bb)** Pony Express
- [[bb]]* **(cc)** Ray County Community Lake
- [[cc]]* **(dd)** James A. Reed Memorial Wildlife Area
- [[dd]]* **(ee)** Rinquelin Trail Community Lake
- [[ee]]* **(ff)** Roby Lake
- [[ff]]* **(gg)** Schell Lake
- [[gg]]* **(hh)** Ted Shanks
- [[hh]]* **(ii)** Tobacco Hills Lake
- [[ii]]* **(jj)** Union Ridge Lake
- [[jj]]* **(kk)** Vandalia Community Lake
- [[kk]]* **(ll)** Watkins Mill State Park Lake
- [[ll]]* **(mm)** Weldon Spring
- [[mm]]* **(nn)** Worth County Community Lake

(III) On Bellefontaine Conservation Area, August A. Busch Memorial Lakes 33 and 35, Belcher Branch Lake, Robert G. DeLaney Lake, Lake Paho, Manito Lake and Port Hudson Lake, all black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught.

(IV) On Blind Pony Lake Conservation Area, all black bass less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught.

(V) On Hazel Hill Lake, all black bass more than fourteen inches (14") but less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught.

B. On August A. Busch Memorial Conservation Area and James A. Reed Memorial Wildlife Area, all white bass, striped bass and their hybrids less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught.

C. On Blind Pony Lake Conservation Area, Hazel Hill Lake and Manito Lake Conservation Area, all channel catfish and all blue catfish less than fifteen (15") total length must be returned to the water unharmed immediately after being caught.

D. On August A. Busch Memorial Conservation Area, Che-Ru Lake, James A. Reed Memorial Wildlife Area and Schell-Osage Conservation Area, all flathead catfish less than twenty-four inches (24") total length must be returned to the water unharmed immediately after being caught.

E. On Tobacco Hills Lake, all bluegill less than eight inches (8") total length must be returned to the water unharmed immediately after being caught.

F. On Lake Girardeau Conservation Area and Henry Sever Conservation Area, all muskellunge less than forty-two inches (42") total length must be returned to the water unharmed immediately after being caught.

11. Salvage seining of nongame fish may be permitted seasonally for personal use with written permission of the department.

12. Seining or trapping live bait, including tadpoles, is prohibited on streams in Mule Shoe Conservation Area and on all impounded waters and their discharge channels, except as further defined in this rule.

A. Seining or trapping live bait, including tadpoles, is permitted on designated impoundments on Bob Brown Conservation Area, Fountain Grove Conservation Area, Grand Pass Conservation Area and Nodaway Valley Conservation Area.

B. On designated waters on Schell-Osage Conservation Area, gizzard shad may be taken by live bait methods.

13. On Wire Road Conservation Area, nongame fish may be taken by snagging, snaring, or grabbing from March 15 to May 15. A daily limit of twenty (20) and a possession limit of forty (40) shall apply to fish taken by these methods.

14. On Prairie Lake on Weldon Spring Conservation Area, fishing is prohibited during the area's prescribed waterfowl hunting season.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This version of rule filed Dec. 15, 1975, effective Dec. 27, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 20, 1999.*

*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 John W. Smith, Deputy Director, Department of Conservation, P.O. Box 180, 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits

#### PROPOSED AMENDMENT

**3 CSR 10-6.405 General Provisions.** The department proposes to amend subsection (1)(C).

*PURPOSE: This amendment modifies reciprocal fishing privileges with Nebraska on the Missouri River.*

(1) Fish, mussels and clams, bullfrogs and green frogs, turtles and live bait may be taken only as provided in this chapter or as further restricted in 3 CSR 10-4.115, 3 CSR 10-4.116 or other rules as noted.

(C) Reciprocal Privileges: Mississippi, Missouri and St. Francis Rivers.

1. All reciprocal privileges outlined in this rule shall be contingent upon a grant of like privileges by the appropriate neighboring state to the licensed or exempted hook and line anglers of Missouri.

2. Regulations of the state where the angler is licensed shall apply in Arkansas[,] and Tennessee [and Nebraska] boundary waters. Missouri regulations shall apply in the Missouri portion of Illinois, Kentucky, Nebraska and Kansas boundary waters. Anglers licensed in Illinois and Nebraska, when fishing in waters in which they are not licensed to fish by Missouri, shall comply

with the most restrictive laws and regulations of the two (2) states.

3. Anglers must be licensed in Missouri to fish in tributaries of the Mississippi, Missouri and St. Francis Rivers.

4. Anglers licensed in Arkansas, Illinois, Kansas, Kentucky or Tennessee may not fish from or attach any device or equipment to land under the jurisdiction of Missouri.

5. Anglers licensed in Nebraska may fish from or attach any device or equipment to land under the jurisdiction of Missouri.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. Amended: Filed May 30, 1995, effective Jan. 1, 1996. Amended: Filed June 11, 1997, effective March 1, 1998. Amended: Filed May 10, 1999, effective March 1, 2000. Amended: Filed Aug. 11, 1999, effective March 1, 2000. Amended: Filed Dec. 20, 1999.*

*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 John W. Smith, Deputy Director, Department of Conservation, P.O. Box 180, 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 100—Division of Credit Unions  
Chapter 2—State-Chartered Credit Unions**

**PROPOSED AMENDMENT**

**4 CSR 100-2.190 Special Shares and Thrift Accounts.** The director of the Division of Credit Unions proposes amendments to section (2) of this rule that governs special shares and thrift accounts.

*PURPOSE: This amendment is designed to ensure that in the event of a liquidation, uninsured thrift accounts will be inferior in rank to general and special shares and will not have the right to prior payment over general or special shares.*

(2) A thrift account shall be available only to nonmembers of the credit union. The terms and conditions under which any type thrift account is to be authorized shall be passed upon by the board of directors. Thrift accounts which are **not** insured by the National Credit Union Share Insurance Fund (NCUSIF) will *[not]* be *[superior]* **inferior** in rank to *[or]* **and will not** have the right to prior payment over *[all]* general *[and]* or special shares. *[Thrift accounts which are not insured by the NCUSIF will have the right to prior payment over all general and special shares unless action is taken by the board of directors to designate and give written notice to the investor that the thrift account is neither insured nor given superior rank.]*

*AUTHORITY: sections 370.100, RSMo 1994 and 370.350, RSMo Supp. 1999. Original rule filed Dec. 15, 1975, effective Dec. 25, 1975. Amended: Filed June 8, 1976, effective Sept. 11, 1976. Amended: Filed Sept. 10, 1981, effective Dec. 11, 1981. Emergency amendment filed Feb. 14, 1984, effective Feb. 24, 1984, expired June 23, 1984. Amended: Filed March 12, 1984, effective June 11, 1984. Amended: Filed Nov. 20, 1997, effective June 30, 1998. Amended: Filed Dec. 17, 1999.*

*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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 120—State Board of Embalmers and Funeral  
Directors  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 120-2.100 Fees.** The board is proposing to amend subsection (1)(N).

*PURPOSE: This amendment establishes a biennial license for funeral establishments.*

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(N) Establishment Application Fee *[\$ 100.00]* **\$200.00**

*AUTHORITY: section 333.III.1, RSMo [Supp. 1998] Supp. 1999. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 30, 1999.*

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

*PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate as the board is merely going to a biennial license for funeral establishments.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Patricia A. Handy, Executive Director, 3605 Missouri Boulevard, P.O. Box 423, 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 150—State Board of Registration for the  
Healing Arts  
Chapter 2—Licensing of Physicians and Surgeons**

**PROPOSED AMENDMENT**

**4 CSR 150-2.080 Fees.** The board is proposing to amend subsections (1)(A), (1)(K), and (1)(O).

*PURPOSE: The board is proposing an amendment to this rule as the State Board of Registration for the Healing Arts will no longer collect the examination service fee. The proposed fees to be*

reduced are the examination fee, reciprocity licensure fee, and fee for receiving Certificate of the National Board of Medical Examiners of the United States, chartered under the laws of the District of Columbia and of the National Board of Examiners for Osteopathic Physicians and Surgeons, chartered under the laws of the state of Indiana.

(1) The following fees are established by the State Board of Registration for the Healing Arts:

- |                                                                                                                                                                                                                                                                                             |                         |                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------|
| (A) Examination Fee                                                                                                                                                                                                                                                                         | [ <del>\$450.00</del> ] | <b>\$300.00</b> |
| (K) Reciprocity Licensure Fee                                                                                                                                                                                                                                                               | [ <del>\$450.00</del> ] | <b>\$300.00</b> |
| (O) Fee for receiving the Certificate of the National Board of Medical Examiners of the United States, chartered under the laws of the District of Columbia and of the National Board of Examiners for Osteopathic Physicians and Surgeons chartered under the laws of the state of Indiana | [ <del>\$450.00</del> ] | <b>\$300.00</b> |

*AUTHORITY:* sections 334.090.2, [and 610.026,] RSMo 1994 and 334.125 and 610.026, RSMo [(Supp. 1995)] Supp. 1999. Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 8, 1981. Original rule filed July 14, 1981, effective Oct. 11, 1981. For intervening history, please consult the *State Code of Regulations*. Amended: Filed Dec. 30, 1999.

*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 State Board of Registration for the Healing Arts, P.O. Box 4, 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 255—Missouri Board for Respiratory Care  
Chapter 1—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 255-1.040 Fees.** The board is proposing to amend subsections (1)(L) and (1)(N) and the authority section.

*PURPOSE:* The purpose of this amendment is to change the annual license renewal fee to a biennial license renewal fee and to change the annual inactive license renewal fee to a biennial inactive license renewal fee and adjust these fees accordingly to comply with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.

(1) The following fees are established by the Division of Professional Registration and are payable in the form of a cashier's check, personal check, or money order:

- |                                                    |                        |                 |
|----------------------------------------------------|------------------------|-----------------|
| (L) [Annual] Biennial License Renewal Fee          | [ <del>\$50.00</del> ] | <b>\$100.00</b> |
| (N) [Annual] Biennial Inactive License Renewal Fee | [ <del>\$15.00</del> ] | <b>\$30.00</b>  |

*AUTHORITY:* sections 334.800, 334.840.2, [and] 334.850, [RSMo Supp. 1997] 334.880 and 610.026, RSMo [1994] Supp. 1999. Emergency rule filed June 25, 1998, effective July 6, 1998, expired Feb. 25, 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.

*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 as the board is merely going to a biennial renewal license.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 255—Missouri Board for Respiratory Care  
Chapter 2—Licensure Requirements**

**PROPOSED AMENDMENT**

**4 CSR 255-2.040 License Renewal.** The board is proposing to amend section (1) and the authority section.

*PURPOSE:* The purpose of this amendment is to change the license renewal requirements from annual to biennial to comply with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.

(1) All licenses shall be renewed [annually] **biennially**. Failure of a licensee to renew the license shall cause the license to lapse. Failure to receive notice shall not relieve the licensee of the obligation to renew the license to practice as a respiratory care practitioner and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the division or board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled. Renewals shall be post-marked no later than the expiration date of the license or if the expiration date is a Sunday or federal holiday the next day to avoid the late penalty fee as defined in rules promulgated by the board.

*AUTHORITY:* sections 334.800, 334.840.2, 334.850, 334.880.1, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.

*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 Missouri Board of Respiratory Care, P.O. Box 1335, 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 255—Missouri Board for Respiratory Care  
Chapter 2—Licensure Requirements**

**PROPOSED AMENDMENT**

**4 CSR 255-2.050 Inactive Status.** The board is proposing to amend section (1) and the authority section.

*PURPOSE: The purpose of this amendment is to change the inactive license renewal requirements from annual to biennial to comply with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.*

(1) An inactive license shall be renewed *[annually]* **biennially**. Failure to receive renewal notice shall not relieve the licensee of the obligation to renew the inactive license and pay the required fee prior to the expiration date of the inactive license. Renewals shall be postmarked no later than the expiration date of the license to avoid the late renewal penalty fee as defined in rules promulgated by the board.

*AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.880.1, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.*

*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 as the board is merely going to a biennial renewal license.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 255—Missouri Board for Respiratory Care**  
**Chapter 2—Licensure Requirements**

**PROPOSED AMENDMENT**

**4 CSR 255-2.060 Reinstatement.** The board is amending subsection (2)(E) and the authority section.

*PURPOSE: The purpose of this amendment is to change the continuing education requirements for reinstatement of a lapsed license of a respiratory care practitioner to conform with biennial renewal requirements as in accordance with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.*

(2) Failure of a licensee to renew a license for a period of more than sixty (60) days after the expiration of the license, will result in the license lapsing, unless the licensee submits payment of the late renewal penalty.

(E) Proof of completion, within the preceding *[twelve (12) months]* **continuing education reporting period** of the application for reinstatement, of *[twelve (12)]* **twenty-four (24)** hours of continuing education approved by the board.

*AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.870, 334.880.[2]I, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.*

*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 Missouri Board of Respiratory Care, P.O. Box 1335, 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 255—Missouri Board for Respiratory Care**  
**Chapter 3—Supervision**

**PROPOSED AMENDMENT**

**4 CSR 255-3.010 Supervision of Permit Holders.** The board is amending sections (1)–(3), proposing a new section (8) and deleting the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: The purpose of this amendment is to clarify the supervision requirements for permit holders.*

(1) Permit holders shall be allowed to perform the services of a respiratory care practitioner under direct clinical supervision pursuant to section 334.890.4, RSMo. The permit holder shall perform services according to the supervisor's direction, control and *[full professional responsibility]* **oversight**. For the purposes of this rule, direct clinical supervision requires that the supervisor or the supervisor's designee must be immediately available for communication with the supervisee and the supervisor must be able to provide a licensed respiratory care practitioner on-site within thirty (30) minutes of notification.

(2) The supervisor of a permit holder shall maintain control, oversight, guidance and *[full professional]* responsibility concerning a patient receiving respiratory care services from a permit holder.

(3) A supervisor of a temporary permit holder or temporary educational permit holder shall be currently licensed by the board. **In the supervisor's absence, s/he may specify a designee to serve as a supervisor for the temporary permit holder or temporary educational permit holder. The supervisor's designee shall be a licensed respiratory care practitioner.**

**(8) If a temporary permit holder or temporary educational permit holder works at multiple facilities or organizations, the temporary permit holder or temporary educational permit holder shall have a supervisor at each facility or organization at which the permit holder works.**

*AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.890.4, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Emergency rule filed June 25, 1998, effective July 6, 1998, expired Feb. 25, 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.*

*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 Missouri Board of Respiratory Care, P.O. Box 1335, 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 255—Missouri Board of Respiratory Care  
Chapter 4—Continuing Education Requirements**

**PROPOSED AMENDMENT**

**4 CSR 255-4.010 Continuing Education Requirements.** The board is amending sections (1) and (8).

*PURPOSE:* The purpose of this amendment is to change the continuing education requirements for renewal of a license of a respiratory care practitioner to conform with biennial renewal requirements as in accordance with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly and to establish a continuing education reporting period.

(1) As a condition for renewal of a license, all respiratory care practitioners are required to complete *[twelve (12)]* **twenty-four (24)** hours of approved continuing education in the practice of respiratory care as defined by section 334.800(11), RSMo in the *[year]* **continuing education reporting period** preceding renewal of the license. **The continuing education reporting period is the twenty-four (24)-month period beginning on January 1 of even numbered years and ending on December 31 of odd numbered years.** No more than *[six (6)]* **twelve (12)** hours credit will be awarded for home study *[per renewal period]* **during each continuing education reporting period.** The licensee is exempt from continuing education requirements for the first renewal period after initial licensing.

(8) A licensee shall be responsible for maintaining his/her records of continuing education activities. Each licensee shall maintain for a period of *[four (4) years]* **not less than the preceding two (2) continuing education reporting periods prior to renewal,** documentation verifying completion of the appropriate number of continuing education hours for each renewal period.

*AUTHORITY:* sections 334.800, 334.840.2, 334.850, 334.910 and 334.920, RSMo [Supp. 1997] **Supp. 1999.** Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.

*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 Missouri Board of Respiratory Care, P.O. Box 1335, 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 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air Pollution  
Control Rules Specific to the St. Louis Metropolitan  
Area**

**PROPOSED AMENDMENT**

**10 CSR 10-5.390 Control of Emissions From Manufacture of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.** The commission proposes to amend paragraph (4)(F)1. If the commission adopts this rule action, it

will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

*PURPOSE:* The purpose of the proposed amendment is to clarify the intent of the rule and clearly define the requirements of compliance.

(4) Operating Equipment and Operating Procedure Requirements.

(F) The polymerization of synthetic varnish or resin shall be done in a completely enclosed operation with the VOC emissions controlled by the use of surface condensers or equivalent controls.

1. If surface condensers are used, the temperature of the exit stream shall not exceed the temperature at which the vapor pressure is 3.5 kPa (0.5 psi) for *[any]* **the overall** organic compound *[in]* **composition** of the exit stream.

2. If equivalent controls are used, the VOC emissions must be reduced by an amount equivalent to the reduction which would be achieved under paragraph (4)(F)1. Any owner or operator desiring to use equivalent controls to comply with this subsection shall submit proof of equivalency as part of the control plan required under subsection (5)(A) of this rule. Equivalent controls may not be used unless approved by the director.

*AUTHORITY:* section 643.050, RSMo [1994] **Supp. 1999.** Original rule filed Oct. 13, 1983, effective March 11, 1984. Amended: Filed Oct. 4, 1988, effective March 11, 1989. Amended: Filed Jan. 3, 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 will begin at 9:00 a.m., March 30, 2000. The public hearing will be held at the Days Inn, Hwy. 63 South, Kirksville, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., April 6, 2000. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 20—Clean Water Commission  
Chapter 7—Water Quality**

**PROPOSED AMENDMENT**

**10 CSR 20-7.015 Effluent Regulations.** The commission is amending sections (2), (3), (6), (8) and (9).

*PURPOSE:* This amendment clarifies prohibition of wastewater discharges to L1 lake watersheds, provides relief from pH limits in a few specific situations, relaxes effluent limits for combined sewer overflows and deletes an exemption that allows the discharge of mine dewatering water in some watersheds otherwise established as no-discharge areas.

(2) Effluent Limitations for the Missouri and Mississippi Rivers.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or from publicly-owned treatment works (POTWs) shall undergo treatment sufficient to conform to the following limitations:

1. Biochemical Oxygen Demand<sub>5</sub> (BOD<sub>5</sub>) and nonfilterable residues (NFRs) equal to or less than a monthly average of thirty milligrams per liter (30 mg/l) and a weekly average of forty-five milligrams per liter (45 mg/l);

2. pH shall be maintained in the range from six to nine (6-9) standard units;

3. Exceptions to paragraphs (2)(B)1. and 2. are as follows:

A. If the facility is a wastewater lagoon, the NFRs shall be equal to or less than a monthly average of eighty (80) mg/l and a weekly average of one hundred twenty (120) mg/l and the pH shall be maintained above 6.0, and the BOD<sub>5</sub> shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

B. If the facility is a trickling filter plant, the BOD<sub>5</sub> and NFRs shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

C. Where the use of effluent limitations set forward in this section is known or expected to produce an effluent that will endanger or violate water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation or a total maximum daily load study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the study;

D. The department may require more stringent limitations than authorized in subsections (3)(A) and (B) under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD<sub>5</sub> and NFR limits based upon an analysis of the past performance, rounded up to the next five (5) mg/l range; and

(II) If the facility is a new facility, the department may set the BOD<sub>5</sub> and NFR limits based upon the design capabilities of the plant considering geographical and climatic conditions.

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD<sub>5</sub> equal to or less than a monthly average of forty-five (45) mg/l, a weekly average of sixty-five (65) mg/l, NFRs equal to or less than a monthly average of seventy (70) mg/l and a weekly average of one hundred ten (110) mg/l.

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD<sub>5</sub> and NFRs equal to or less than a monthly average of forty (40) mg/l and a weekly average of sixty (60) mg/l; and

E. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed *[subject to the following:] provided that*

*[(I)] BOD<sub>5</sub> and NFRs are equal to or less than a weekly average of forty-five (45) mg/l;/. The NFR (total suspended solids) limit may be higher than forty-five (45) mg/l for combined sewer overflow treatment devices when organic solids are demonstrated to be an insignificant fraction of total inorganic storm water generated solids, and the permittee can demonstrate that achieving a limit of forty-five (45) mg/l is not cost effective relative to water quality benefits. In these cases, an alternative total suspended solids limit would be developed;*

*[(II)] pH shall be maintained in the range from six to nine (6-9) standard units; and/*

*[(III)] Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged;/*

4. Fecal coliform. Discharges to the Mississippi from the Missouri-Iowa line down to Lock and Dam 26 shall not contain more than a monthly average of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1,000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the owner or operator of the

wastewater treatment facility can demonstrate that neither health nor water quality will be endangered by failure to disinfect./;

5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed or used in accordance with a sludge management practice approved by the department; and

6. When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD<sub>5</sub> testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five (5) mg/l less than the regular BOD<sub>5</sub> in the operating permit.

(3) Effluent Limitations for the Lakes and Reservoirs.

(D) For lakes designated in 10 CSR 20-7.031 as L1, which are primarily used for public drinking water supplies, there will be no discharge **into the watersheds above these lakes** from domestic or industrial wastewater sources regulated by these rules. Discharges from potable water treatment plants, such as filter wash, may be permitted. Separate storm sewers will be permitted, but only for the transmission of storm water. Discharges permitted prior to the effective date of this requirement may continue to discharge so long as the discharge remains in compliance with its operating permit.

(6) Effluent Limitations for Special Streams.

(A) Limits for Wild and Scenic Rivers and Ozark National Scenic Riverways and Drainages Thereto.

1. The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities which receive primarily domestic waste or from POTWs are limited as follows:

A. New releases from any source other than POTW facilities are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed;

C. Discharges from POTWs; and

D. Releases from the permitted facilities under subparagraphs (6)(A)2.A.-C. shall meet the following effluent limitation:

(I) BOD<sub>5</sub> equal to or less than a monthly average of ten (10) mg/l and a weekly average of fifteen (15) mg/l;

(II) NFRs equal to or less than a monthly average of fifteen (15) mg/l and a weekly average of twenty (20) mg/l;

(III) pH shall be maintained in the range from six to nine (6-9) standard units;

(IV) Discharges shall not contain more than a monthly average of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1000) fecal coliform colonies per one hundred milliliters (100 ml);

(V) Where chlorine is used as a disinfectant, the effluent shall be dechlorinated except when the discharge is—

(a) Into an unclassified stream at least one (1) mile from a water quality standard classified stream; or

(b) Into a flowing stream where the seven (7)-day Q<sub>10</sub> flow is equal to or greater than fifty (50) times the effluent flow;

(VI) If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed subject to the following:

(a) BOD<sub>5</sub> and NFRs equal to or less than a weekly average of forty-five (45) mg/l;

(b) pH shall be maintained in the range from six to nine (6-9) standard units; and

(c) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged; and

(VII) When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five (5) mg/l less than the regular BOD<sub>5</sub> in the operating permit.

3. Industrial, agricultural and other nondomestic contaminant sources, point sources or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. shall not be allowed to discharge *[, except the permittee may be permitted to discharge mine dewatering water while mining local mineral deposits. These permits shall be limited as follows:]*.

*[A. There will be no discharge from any waste source except for mine dewatering;]*

*[B. Discharge of metals or other parameters must conform to the antidegradation section (2) of 10 CSR 20-7.031. Acceptable discharge concentration shall be determined by the Department of Natural Resources after review of background stream concentrations, location of the discharge, dilution ratios at various flows and other factors deemed appropriate by the department. Prior to issuance of the operating permit, the public participation requirement of 10 CSR 20-6.020 shall be fulfilled;]*

*[C. The permittee shall be responsible for analyzing and reporting existing water quality in affected drainage areas to the satisfaction of the department before an application for a permit will be considered complete. This analysis and report shall include chemical, benthos, sediment and groundwater sampling. This submittal shall also include an analysis of the effect of the increased stream flow, due to mine dewatering, on the stream system and aquatic community. Prior approval shall be obtained from the department on the proposed study plan before beginning the analysis;]*

*[D. In addition to effluent monitoring, the permittee shall be required to conduct ongoing monitoring to evaluate the effects of the mining operation on the water quality in the receiving stream during the duration of the mining operation; and]*

*[E.]* Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, all transferring, loading, unloading, mixing and repackaging of bulk agrichemicals shall be conducted in an operational area. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

#### 4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

(I) Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

(II) Point sources that discharge more than one point three (1.3) mgd will be required at a minimum to collect fifty-two (52) wastewater samples per year; and

(III) Sludge sampling will be established in the permit.

B. Sampling frequency shall be spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall take samples on a regular schedule, while point sources with seasonal discharges shall collect samples during the season of discharge.

C. Sample types shall be as follows:

(I) Samples collected from lagoons may be grab samples;

(II) Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

(III) Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

D. The monitoring frequency and sample types stated in paragraph (6)(D)3. are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(A)1.-6.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or POTWs shall undergo treatment sufficient to conform to the following limitations:

1. BOD<sub>5</sub> and NFRs equal to or less than a monthly average of thirty (30) mg/l and a weekly average of forty-five (45) mg/l;

2. pH shall be maintained in the range from six to nine (6-9) standard units;

3. The limitations of paragraphs (8)(B)1. and 2. will be effective unless a water quality impact study has been conducted by the department, or conducted by the permittee and approved by the department, showing that alternate limitation will not cause violations of the water quality standards or impairment of the uses in the standards. When a water quality impact study has been completed to the satisfaction of the department, the following alternate limitation may be allowed:

A. If the facility is a wastewater lagoon, the NFRs shall be equal to or less than a monthly average of eighty (80) mg/l and a weekly average of one hundred twenty (120) mg/l and the pH shall be maintained above 6.0 and the BOD<sub>5</sub> shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

B. If the facility is a trickling filter plant, the BOD<sub>5</sub> and NFRs shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

C. Where the use of effluent limitations set forth in section (8) is known or expected to produce an effluent that will endanger water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study;

D. The department may require more stringent limitations than authorized in subsections (3)(A) and (B) under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD<sub>5</sub> and NFR limits based upon an analysis of the past performance, rounded up to the next five (5) mg/l range; and

(II) If the facility is a new facility, the department may set the BOD<sub>5</sub> and NFR limits based upon the design capabilities of the plant considering geographical and climatic conditions.

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD<sub>5</sub> equal to or less than a monthly average of forty-five (45) mg/l, a weekly average of sixty-five (65) mg/l, NFRs equal to or less than a monthly average of seventy (70) mg/l and a weekly average of one hundred ten (110) mg/l.

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent



limitations should be BOD<sub>5</sub> and NFR equal to or less than a monthly average of forty (40) mg/l and a weekly average of sixty (60) mg/l; and

E. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed *[subject to the following:]* **provided that**

*[(I) BOD<sub>5</sub> and NFRs equal to or less than a weekly average of forty-five (45) mg/l;]*

*[(III) pH shall be maintained in the range from six to nine (6-9) units; and]*

*[(III) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged] the NFR (total suspended solids) limit may be higher than forty-five (45) mg/l for combined sewer overflow treatment devices when organic solids are demonstrated to be an insignificant fraction of total inorganic storm water generated solids, and the permittee can demonstrate that achieving a limit of forty-five (45) mg/l is not cost effective relative to water quality benefits. In these cases, an alternative total suspended solids limit would be developed;*

4. Fecal coliform.

A. Discharges to streams identified as whole body contact areas, discharges within two (2) miles upstream of these areas and discharges to streams with a seven (7)-day Q<sub>10</sub> flow of zero (0) in metropolitan areas where the stream is readily accessible to the public shall not contain more than a monthly average of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the owner or operator of the wastewater treatment facility can demonstrate that neither health nor water quality will be endangered by failure to disinfect.

B. Where chlorine is used as a disinfectant, the effluent shall be dechlorinated except when the discharge is—

(I) Into an unclassified stream at least one (1) mile from a Water Quality Standards classified stream; or

(II) Into a flowing stream where the seven (7)-day Q<sub>10</sub> flow is equal to or greater than fifty (50) times the design effluent flow;

5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

6. When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD<sub>5</sub> testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five (5) mg/l less than the regular BOD<sub>5</sub> in the operating permit.

(9) General Conditions.

(A) Monitoring, Analysis and Reporting.

1. All construction and operating permit holders shall submit reports at intervals established by the permit or at any other reasonable intervals required by the department. The monitoring and analytical schedule shall be as established by the Missouri Department of Natural Resources in the operating permit.

2. The analytical and sampling methods used must conform to the following reference methods unless alternates are approved by the department:

A. *Standard Methods for the Examination of Waters and Wastewaters*, (14, 15 [or], 16[th], 17, 18, 19 and 20th Edition), published by the Water [Pollution Control] Environment Federation, [3900 Wisconsin Avenue, Washington, D.C. 20016] 601 Wythe Street, Alexandria, VA 22314;

B. *[A.S.T.M.] Water Testing Standards, [Part 31 Water and Part 26 Atmospheric Analysis] Vol. 11.01 and 11.02*, published by American Society for Testing and Materials, [Philadelphia] West Conshohocken, PA [19103] 19428;

C. *Methods for Chemical Analysis of Water and Wastes*, (EPA-600/4-79-020), published by the Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, OH 54202; and

D. *NPDES Compliance Sampling Inspection Manual*, published by Environmental Protection Agency, Enforcement Division, Office of Water Enforcement, 401 Main Street, S.W., Washington, D.C. 20460.

3. Sampling and analysis by the department to determine violations of this regulation will be conducted in accordance with the methods listed in paragraph (9)(A)2. or any other approved by the department. Violations may be also determined by review of the permittee's self-monitoring reports. Analysis conducted by the permittee or his/her laboratory shall be conducted in such a way that the precision and accuracy of the analyzed results can be determined.

4. If, for any reason, the permittee does not comply with or will be unable to comply with any discharge limitations or standards specified in the permit, the permittee shall provide the department with the following information, with the next discharge monitoring report as required under subsection (9)(A):

A. A description of the discharge and cause of noncompliance;

B. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and

C. Steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

5. In the case of any discharge subject to any applicable toxic pollutant effluent standard under Section 307(a) of the Federal Clean Water Act, the information required by paragraph (9)(A)4. regarding a violation of this standard shall be provided within twenty-four (24) hours from the time the owner or operator of the water contaminant source, point source or wastewater treatment facility becomes aware of the violation or potential violation. If this information is provided orally, a written submission covering these points shall be provided within five (5) working days of the time the owner or operator of the water contaminant source, point source or wastewater treatment facility becomes aware of the violation.

(G) Industrial, agricultural and other nondomestic water contaminant sources, point sources or wastewater treatment facilities which are not included under subsection (2)(B), (3)(B), (4)(B), or (8)(B)—

1. These facilities shall meet the applicable control technology currently effective as published by the EPA in 40 CFR 405-471 [as revised on July 1, 1987]. Where there are no standards available or applicable, the department shall set specific parameter limitations using best professional judgment. **pH shall be maintained in the range from six to nine (6-9) standard units, except that discharges of uncontaminated cooling water and water treatment plant effluent may exceed nine (9) standard units, but may not exceed ten and one-half (10.5) standard units, if it can be demonstrated that the pH will not exceed nine (9) standard units beyond the regulatory mixing zone;** and

2. Agricultural facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agricultural facility, the following procedures shall be conducted in an operational area: all transferring, loading, unloading, mixing, and repackaging of bulk agriculturals. All precipitation collected in

the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner or treated to meet the applicable control technology referenced in paragraph (9)(G)1.

*AUTHORITY:* section 644.026, RSMo [Supp. 1998] Supp. 1999. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 30, 1999.

*PUBLIC COST:* This proposed amendment is estimated to cost state agencies or political subdivisions less 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 a public hearing on this proposed amendment beginning at 9:00 a.m. March 15, 2000. The public hearing will be held at the Capitol Plaza Hotel, 415 W. McCarty, Jefferson City, Missouri. Those wishing to speak at the public hearing 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., March 8, 2000. Written comments will also be accepted until 5:00 p.m., March 29, 2000.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 5—Conduct of Gaming**

**PROPOSED RULE**

**11 CSR 45-5.010 Presumption of the Right of Patrons to Participate in Gambling Games**

*PURPOSE:* This rule establishes the general right of a patron to participate in gambling games unless such patron engages in unlawful or disruptive conduct.

(1) Unless otherwise authorized by sections 313.800, RSMo et seq., as amended from time-to-time, and 11 CSR 45-1 et seq., as amended from time-to-time (collectively, the “Riverboat Gambling Act and Regulations”), no licensee may deny a patron the right to play a table game that involves playing cards and which is offered to the general public. A patron may be denied such right if the patron engages in unlawful or disruptive conduct. The licensee shall notify a commission agent prior to removing such patron.

*AUTHORITY:* sections 313.004 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.

*PUBLIC COST:* This proposed rule is expected to cost state and local governments more than \$500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.

*PRIVATE COST:* This proposed rule is expected to cost private entities more than \$500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encour-

aged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. Public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

FISCAL NOTE  
PUBLIC ENTITY COST

**I. RULE NUMBER**

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 5 - Conduct of Gaming

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 45-5.010 - Presumption of the Right of Patrons to Participate in Gambling Games

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri, Gaming Proceeds for Education Fund.	Based on CY '98 data, \$19,015.50 in AGR tax may be lost from the Gaming Proceeds for Education Fund.
State and Local Governments	Approximately \$2,112.83 in AGR tax collections paid to local governments may be lost.

**III. WORKSHEET**

The formula used is (Amount Wagered<sup>1</sup>) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

The AGR reduction is divided by 18% for the state tax and 2% for the local tax.

**IV. ASSUMPTIONS**

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the state approximately \$19,015.50 in adjusted gross receipts (AGR) tax and would cost local governments \$2,112.83 in

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<sup>1</sup> Approximately \$2,641,040,880 in calendar year 1998.

AGR tax in calendar year 1998. This further assumes that no casino employed evasive measures against the card counters.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 5 - Conduct of Gaming

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 45-5.010 - Presumption of the Right of Patrons to Participate in Gambling Games

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	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:
10	Riverboat Gaming Licensees	\$105,641.64 in calendar year 1998. The amount will vary depending on the number of counters, the evasive measures used and the number of licensed casinos.

**III. WORKSHEET**

The formula used is (Amount Wagered<sup>1</sup>) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

**IV. ASSUMPTIONS**

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the current licensees approximately \$105,641.64 in calendar year 1998.

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<sup>1</sup> Approximately \$2,641,040,880 in calendar year 1998.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 5—Conduct of Gaming**

**PROPOSED RULE**

**11 CSR 45-5.051 Minimum Standards for Twenty-One (Blackjack)**

*PURPOSE: This rule establishes a set of minimum standards for the game of Twenty-One (Blackjack).*

(1) The following words and terms, when used in this rule, shall have the following meanings unless the context clearly indicates otherwise.

(A) "Bart Carter Shuffle" means the shuffling procedure whereby approximately one deck of cards is shuffled after being dealt, segregated into separate stacks and each stack is inserted into pre-marked locations within the remaining decks contained in the dealing shoe.

(B) "Determinant card" means the first card drawn for each round of play to determine from which side of the two (2)-compartment dealing shoe the cards for that hand shall be dealt.

(C) "Double shoe" means a dealing shoe that has two (2) adjacent compartments in which cards are stacked separately and which permits cards to be dealt from only one (1) compartment at any given time.

(2) A person who, without the assistance of another person or without the use of a physical aid or device of any kind, uses the ability to keep track of the value of cards played in Twenty-One (Blackjack) and uses predictions formed as a result of the tracking information in his/her playing and betting strategy shall not be considered to be cheating.

(3) A Class A licensee may implement any of the following options at a Twenty-One (Blackjack) table provided that the casino licensee complies with the notice requirements contained in 11 CSR 45-5.060:

(A) Persons who have not made a wager on the first round of play may not enter the game on a subsequent round of play until a reshuffle of the cards has occurred;

(B) Persons who have not made a wager on the first round of play may be permitted to enter the game, but may be limited to wagering only the minimum limit posted at the table until a reshuffle of the cards has occurred;

(C) Persons who, after making a wager on a given round of play, decline to wager on any subsequent round of play may be precluded from placing any further wagers until a reshuffle of the cards has occurred;

(D) Persons who, after making a wager on a given round of play, decline to wager on any subsequent round of play may be permitted to place further wagers, but may be limited to wagering only the minimum limit posted at the table until a reshuffle of the cards has occurred; and

(E) Use a double shoe with a determinate card that selects which shoe to deal from during a particular hand.

(4) If a Class A licensee implements any of the options in section (3) of this rule, the option shall be uniformly applied to all persons at the table; provided, however that if a Class A licensee has implemented either of the options in subsection (3)(C) or (D) of this rule, an exception may be made for a patron who temporarily leaves the table if, at the time the patron leaves, the Class A licensee agrees to reserve the patron's spot until his or her return.

(5) Immediately prior to the commencement of play and after any shuffle of the cards, the dealer shall require that the cards be cut in a manner set forth in the Class A licensee's internal controls as

approved by the commission. Such internal controls shall be subject to the following conditions:

(A) If the "Bart Carter Shuffle" is utilized and the cards in the discard rack exceed approximately one (1) deck in number, the dealer shall continue dealing the cards until that round of play is completed after which he shall remove the cards from the discard rack and shuffle those cards so that they are randomly intermixed. After the cards taken from the discard rack are shuffled, they shall be split into three (3) separate stacks and each stack shall be inserted into pre-marked locations within the remaining decks contained in the dealing shoe.

(6) After the cards have been cut and before any cards have been dealt, a floor supervisor may require the cards to be recut if he or she determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut, at the Class A licensee's option, by the player who last cut the cards, or by the next person entitled to cut the cards, as determined by the Class A licensee's internal controls.

*AUTHORITY: sections 313.004 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule is expected to cost state and local governments more than \$500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.*

*PRIVATE COST: This proposed rule is expected to cost private entities more than \$500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**Title: 11 - DEPARTMENT OF PUBLIC SAFETYDivision: 45 - Missouri Gaming CommissionChapter: 5 - Conduct of GamingType of Rulemaking: Proposed RuleRule Number and Name: 11 CSR 45-5.051 - Minimum Standards for Twenty-One (Blackjack)**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri, Gaming Proceeds for Education Fund.	Based on CY '98 data, \$19,015.50 in AGR tax may be lost from the Gaming Proceeds for Education Fund.
State and Local Governments	Approximately \$2,112.83 in AGR tax collections paid to local governments may be lost.

**III. WORKSHEET**

The formula used is (Amount Wagered<sup>1</sup>) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

The AGR reduction is divided by 18% for the state tax and 2% for the local tax.

**IV. ASSUMPTIONS**

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the state approximately \$19,015.50 in adjusted gross receipts (AGR) tax and would cost local governments \$2,112.83 in AGR tax in calendar year 1998. This further assumes that no casino employed evasive measures against the card counters.

<sup>1</sup> Approximately \$2,641,040,880 in calendar year 1998.



If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**Title: 11 - DEPARTMENT OF PUBLIC SAFETYDivision: 45 - Missouri Gaming CommissionChapter: 5 - Conduct of GamingType of Rulemaking: Proposed RuleRule Number and Name: 11 CSR 45-5.051 - Minimum Standards for Twenty-One (Blackjack)**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	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:
10	Riverboat Gaming Licensees	\$105,641.64 in calendar year 1998. The amount will vary depending on the number of counters, the evasive measures used and the number of licensed casinos.

**III. WORKSHEET**

The formula used is (Amount Wagered<sup>1</sup>) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

**IV. ASSUMPTIONS**

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the current licensees approximately \$105,641.64 in calendar year 1998.

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<sup>1</sup> Approximately \$2,641,040,880 in calendar year 1998.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 10—Licensee's Responsibilities**

**PROPOSED RULE**

**11 CSR 45-10.035 Licensee's Duty to Contact Commission Agent**

*PURPOSE: This rule ensure that patrons of excursion gambling boats have necessary access to commission agents in order to resolve disputes or report misconduct.*

(1) When a patron informs a licensee that they desire to speak to a commission agent, the licensee shall contact the commission agent(s) on duty without delay. The licensee or his/her designee shall remain with the patron until a commission agent arrives. If the licensee is unable to contact a commission agent, the licensee shall prepare a detailed report describing the facts of the incident and the method(s) used to contact the commission agent. The licensee shall file the report with the commission prior to the end of the gaming day upon which the incident occurred.

*AUTHORITY: sections 313.004, 313.052, 313.800 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.*

*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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED RULE**

**11 CSR 45-13.055 Emergency Order Suspending License Privileges—Expedited Hearing**

*PURPOSE: This rule establishes a procedure for immediately suspending the privileges under a license where the public health, safety or welfare is endangered and preservation of the public interest requires such suspension of privileges.*

(1) Upon a finding that sufficient facts exist to show that a licensee has violated a provision of section 313.004 to 313.090, RSMo, or sections 313.800 to 313.850, RSMo or any rule promulgated by the commission under 11 CSR 30, et seq. or 11 CSR 45, et seq. as may be amended from time-to-time and that such facts constitute an immediate threat to the public health, safety or welfare, the director may issue an emergency order immediately suspending the privileges under the license that allow the licensee to—

- (A) Conduct gambling games on an excursion gambling boat; or
- (B) Serve as an officer, director, trustee, proprietor, managing agent, or general manager of a licensee or key person of a licensee; or

- (C) Work on an excursion gambling boat or have access to restricted areas on an excursion gambling boat; or
- (D) Sell gambling supplies; or
- (E) Operate a bingo game; or
- (F) Sell or manufacture bingo supplies.

The director shall have notice of the emergency order personally served upon the licensee or, if the licensee is not available personally, it may be served by certified mail or overnight express mail, postage prepaid.

(2) Upon receipt of notice of an emergency suspension of license privileges as set forth in section (1) of this rule, the licensee may request an immediate informal hearing before the director. A request for informal hearing must be in writing and delivered to the director at the commission's office in Jefferson City via facsimile, personal delivery or express mail, postage prepaid. The director or his/her designee shall hold the informal hearing within forty-eight (48) hours of receipt of the request for hearing. The procedure for the hearing shall be as follows:

(A) The director or his/her designee shall call the hearing to order and present a statement of facts summarizing the violations of statute and regulation committed by the licensee and the reason(s) why the licensee's conduct constitutes an immediate threat to the public health, safety or welfare such that it demands an emergency order;

(B) The licensee may respond by submitting evidence and/or witnesses supporting its position that the conduct does not constitute a violation of law or that it is not of such severity that it demands emergency action. The director or his/her designee may require that witnesses testify under oath. All relevant evidence is admissible. The director or his/her designee may question witnesses. At the conclusion of the licensee's presentation of evidence, the licensee may make a concluding argument as to why the emergency order should not stand; and

(C) Upon receiving all evidence presented by the licensee and hearing the licensee's final argument, the director or his/her designee shall render a decision as to whether or not the order will stand. If the director reaffirms the order, it shall be scheduled for a hearing before the full commission as provided in section (3) of this rule.

(3) Emergency orders issued pursuant to section (1) of this rule, except those that have been rescinded by the director after an informal hearing provided for in section (2), shall be presented to the commission at its next meeting where a hearing will be conducted to determine the validity of the issuance of the order. The hearing shall be commenced within seven (7) days of the service of notice of the emergency order upon the licensee unless sufficient cause can be shown as to why a hearing cannot be commenced within that time. Under no circumstance shall such hearing be commenced more than fourteen (14) days after service of notice of the emergency order unless a delay is requested by the licensee. The commission shall preside over the hearing which shall be conducted in accordance with the procedures set forth in 11 CSR 45-13.060. The commission may designate a hearing officer to direct the hearing and rule on evidentiary matters. However, the hearing officer's rulings shall be advisory only and may be overruled by the commission. Upon conclusion of oral arguments and evidentiary presentations, the commission shall determine whether sufficient cause exists to uphold the proposed emergency order.

(4) If the commission finds there are facts sufficient to support a finding that the alleged conduct occurred, that it poses an immediate threat to the public health, safety or welfare and that the effective regulation of gaming demands the action, it shall adopt a resolution ratifying the emergency order. The commission may amend the language in the emergency order based upon the evidence presented at the hearing. The commission's resolution shall establish the length

of term for the order by establishing an expiration date. The expiration date may be a specific date, dependent on the completion of specified remedial actions or dependent on the outcome of a proposed disciplinary action issued by the commission pursuant to 11 CSR 45-13.050. If the expiration date is dependent upon specific remedial actions, the commission shall provide a detailed description of the remedies in the resolution and shall establish procedures whereby the licensee can demonstrate that it has complied with the required remedies. Any resolution adopted to ratify the emergency order is a final decision of the commission for purposes of appeal.

(5) If the commission finds that there is insufficient cause to support the order, it shall adopt a resolution rescinding the emergency order and the licensee's privileges shall be reinstated.

(6) Resolutions ratifying or rescinding emergency orders adopted pursuant to the provisions of this rule shall not prohibit the commission from instituting a proposed disciplinary action using the procedures set forth in 11 CSR 45-13.050.

(7) Copies of the final commission order shall be served on the licensee by certified or overnight express mail, postage prepaid; or by personal delivery.

*AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions more than \$500 in the aggregate. See attached fiscal note.*

*PRIVATE COST: This proposed rule will cost private entities more than \$500 in the aggregate. See attached fiscal note.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 13 - Hearings

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 11 CSR 45-13.055 - Immediate Revocation or Suspension of License - Expedited Hearing

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Gaming Commission	Approximately \$200 to \$400 per hearing for transcripts. Hearing officer and attorney fees will be absorbed with existing employees.

**III. WORKSHEET**

**IV. ASSUMPTIONS**

It is estimated that transcripts for hearings will cost between \$200 and \$400 per hearing.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 13 - Hearings

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 11 CSR 45-13.055 - Immediate Revocation or Suspension of License - Expedited Hearing

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	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:
Approximately 13,500 licensees	Riverboat gaming, occupational and bingo licensees	Attorney fees of approximately \$125.00 to \$200.00 per hour

**III. WORKSHEET**

**IV. ASSUMPTIONS**

It is impossible to estimate the number of hearings that will occur as a result of the rule. For each hearing, if a licensee chooses to be represented by an attorney, the cost is estimated to be between \$125.00 and \$200.00 per hour.