

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 8—Public Notification**

PROPOSED RESCISSION

10 CSR 60-8.010 Public Notification of Conditions Affecting a Public Water Supply. This rule established public notice requirements and methods for notifying the public of violations of drinking water rules and grants of variances and exemptions.

PURPOSE: This rule is being proposed for rescission and re adoption in order to adopt new federal public notice requirements which were published in the May 4, 2000 Federal Register (65 FR 25981) and became effective in Missouri on May 4, 2002. Due to the nature of the changes, the commission has determined that rescinding and readopting the rule would present the new requirements more clearly than a proposed amendment. If the adoption of the new rule is not completed, this rescission will be withdrawn and the existing rule will remain in effect.

The federal rule, fact sheets, and supporting documents are available at most public libraries and on the Internet at <http://www.epa.gov/safewater/pn.html>, or from the Public Drinking Water Program at (573) 751-5331.

AUTHORITY: section 640.100, RSMo Supp. 1999. Original rule filed May 4, 1979, effective Sept. 14, 1979. Amended: Filed April 14, 1981, effective Oct. 11, 1981. Amended: Filed Aug. 4, 1987, effective Jan. 1, 1988. Rescinded and readopted: Filed June 2, 1988, effective Aug. 31, 1988. Amended: Filed Dec. 4, 1990, effective July 8, 1991. Amended: Filed March 31, 1991, effective Dec. 3, 1992. Amended: Filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed May 4, 1993, effective Jan. 13, 1994. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Dec. 15, 1999, effective Sept. 1, 2000. Rescinded: Filed March 17, 2003.

PUBLIC COST: This proposed rescission is anticipated to cost state agencies and political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission is anticipated to cost private entities less than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed rescission. An information meeting and public hearing will be held May 22, 2003, 10:00 a.m., at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by June 16, 2003. Comments may be mailed or faxed to: Ms. Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 8—Public Notification**

PROPOSED RULE

10 CSR 60-8.010 Public Notification of Conditions Affecting a Public Water Supply

PURPOSE: This rule establishes the timing, content, method and other requirements for notifying the public of violations of the public drinking water rules, situations with potential to have adverse effects on human health, and grants of variances and exemptions. Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The public notice requirements for each violation or situation are determined by the tier to which it is assigned.

(1) General Information and Requirements.

(A) Types of Violations and Other Situations Requiring Public Notice.

1. Failure to comply with an applicable maximum contaminant level (MCL) or maximum residual disinfectant levels (MRDL).
2. Failure to comply with a prescribed treatment technique.
3. Failure to perform required water quality monitoring as required by drinking water regulations.
4. Failure to comply with testing procedures as prescribed by a drinking water regulation.
5. Operation under a variance or an exemption.
6. Failure to comply with the requirements of any schedule that has been set under a variance or exemption.
7. Special public notice.
8. Occurrence of a waterborne disease outbreak or other waterborne emergency.
9. Exceedance of the nitrate MCL by noncommunity water systems where granted permission by the department;
10. Exceedance of the secondary maximum contaminant level (SMCL) for fluoride.
11. Availability of unregulated contaminant monitoring data.
12. Other violations and situations determined by the department to require a public notice.

(B) Type of Notice Required for Each Violation or Situation. Public notice requirements are divided into three (3) tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The three (3) tiers are described and specific requirements are set forth in sections (2)–(4) of this rule. The public notice requirements for each violation or situation are determined by the tier to which it is assigned.

(C) Persons Notified and Responsibility for Public Notice.

1. The owner or operator of the public water system shall provide public notice to persons served by the water system in accordance with this rule. Public water systems that sell or otherwise provide drinking water to other public water systems (that is, to consecutive systems) are required to give public notice to the owner or operator of the consecutive system. The consecutive system is responsible for providing public notice to the persons it serves.
2. If the public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the department may allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. The department's approval will be in writing.
3. A copy of the public notice shall be sent to the department within ten (10) days of completion of notifying the affected public.

(2) Tier 1 Public Notice.

(A) Violation Categories and Other Situations Requiring a Tier 1 Public Notice.

1. Tier 1 public notice is required for violations or other situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.
2. Specific violations and other situations requiring Tier 1 notice include:
 - A. Violation of the MCL for total coliforms when fecal coliform or *E. coli* are present in the water distribution system, or when

the water system fails to test for fecal coliforms or *E. coli* when any repeat sample tests positive for coliform;

B. Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system fails to take a confirmation sample within twenty-four (24) hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL;

C. Exceedance of the nitrate MCL by noncommunity water systems where permitted by the department to exceed the MCL;

D. Violation of the MRDL for chlorine dioxide, when one (1) or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system, exceed the MRDL, or when the water system does not take the required samples in the distribution system;

E. Violation of the maximum turbidity level where the sample results exceed five (5) nephelometric turbidity units (NTU);

F. Violation of a treatment technique requirement pursuant to 10 CSR 60-4.050 resulting from a single exceedance of the maximum allowable turbidity limit, where the department determines after consultation that the violation has significant potential to have serious adverse effects on human health or where the system fails to consult with the department within twenty-four (24) hours after the system learns of the violation;

G. Occurrence of a waterborne disease outbreak or other waterborne emergency (such as failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);

H. Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the department either in regulation or on a case-by-case basis.

(B) Timing of Tier 1 Public Notice. The public water system owner or operator shall:

1. Provide public notice as soon as practical but no later than twenty-four (24) hours after the system learns of the violation or situation;

2. Initiate consultation with the department to determine any additional public notice requirements as soon as practical, but no later than twenty-four (24) hours after the public water system learns of the violation or situation, except that the department may allow additional time in the event of extenuating circumstances beyond the control of the public water system, such as a natural disaster; and

3. Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the department. Such requirements may include the time, form, manner, frequency, and content of repeat notice (if any) and other actions designed to reach all persons served.

(C) Form and Manner of Tier 1 Public Notice.

1. The owner or operator of the public water system shall use the health effects language in section (11) of this rule for MCL violations requiring Tier 1 public notice.

2. Tier 1 public notice shall be provided within twenty-four (24) hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system are to fit the specific situation, but shall be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, water system shall use, at a minimum, one (1) or more of the following forms of delivery:

A. Appropriate broadcast media, such as radio and television;

B. Posting the notice in conspicuous locations throughout the area served by the water system;

C. Hand delivery of the notice to persons served by the water system; or

D. Another delivery method approved in writing by the department.

(3) Tier 2 Public Notice.

(A) Violation Categories and Other Situations Requiring a Tier 2 Public Notice.

1. Tier 2 public notice is required for violations and other situations with potential to have serious adverse effects on human health.

2. Specific violations and other situations requiring Tier 2 notice.

A. Tier 2 notice is required for violations of MCL, MRDL, or treatment technique requirements, except where a Tier 1 notice is required or where the department determines that a Tier 1 notice is required, for the following: microbiological contaminants; inorganic contaminants (IOCs); synthetic organic contaminants (SOCs); volatile organic contaminants (VOCs); radiological contaminants; disinfection byproducts, byproduct precursors, and disinfectant residuals; treatment techniques for acrylamide, epichlorohydrin, lead, and copper; and other situations determined by the department to require Tier 2 notice. Systems with treatment technique violations involving a single exceedance of a maximum turbidity limit under 10 CSR 60-4.050 must initiate consultation with the department within twenty-four (24) hours of learning of the violation. Based on this consultation the department may subsequently decide to elevate the violation to Tier 1. If a system is unable to make contact with the department in the twenty-four (24)-hour period, the violation is automatically elevated to Tier 1.

B. Failure to comply with the terms and conditions of a variance or exemption; and

C. Violations of the monitoring and testing procedure requirements where the department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation. This includes but is not limited to collecting no total coliform samples during the applicable monitoring period at the discretion of the department.

(B) Timing of Tier 2 Public Notice.

1. Public water systems must provide the public notice as soon as possible, but not later than thirty (30) days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven (7) days, even if the violation or situation is resolved. The department may, in appropriate circumstances, allow additional time for the initial notice of up to three (3) months from the date the system learns of the violation. The department will not grant an extension to the thirty (30)-day deadline for any unresolved violation or provide across-the-board extensions for other violations or situations requiring a Tier 2 public notice. Extensions granted by the department will be in writing.

2. The public water system must repeat the notice every three (3) months as long as the violation or situation persists, unless the department determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. The department will not allow less frequent repeat notice for an MCL violation pursuant to 10 CSR 60-4.020 or a treatment technique violation pursuant to 10 CSR 60-4.050. The department will not allow across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. The department's determinations allowing repeat notices to be given less frequently than once every three (3) months will be in writing.

3. For violations of the maximum turbidity level and for violations of the treatment technique requirements pursuant to 10 CSR 60-4.050 resulting from a single exceedance of the maximum allowable turbidity limit, public water systems must consult with the department as soon as practical but no later than twenty-four (24) hours after the public water system learns of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation does not take place within the twenty-four (24)-hour period, the water system must distribute a Tier 1 notice of the violation within the next twenty-four (24) hours (that is, no later than forty-eight (48) hours after the system learns of the violation).

(C) Form and Manner of Tier 2 Public Notice. Public water systems must provide the initial public notice and any repeat notices in a form and manner reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system but must at a minimum meet the following requirements:

1. Unless directed otherwise by the department in writing, community water systems must provide notice by:

A. Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

B. Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by mail or direct delivery. Such persons may include those who do not pay water bills or do not have service connection addresses (for example, house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). These other methods may include: Publication in a local newspaper or newsletter; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places served by the system or on the Internet; or delivery to community organizations.

2. Unless directed otherwise by the department in writing, non-community water systems must provide notice by:

A. Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

B. Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by posting in a conspicuous location, mail, or direct delivery. Such persons include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. These other methods may include: Publication in a local newspaper or newsletter distributed to customers; use of e-mail to notify employees or students; or delivery of multiple copies in central locations (for example, community centers).

(4) Tier 3 Public Notice.

(A) Violation Categories and Other Situations Requiring a Tier 3 Public Notice.

1. Tier 3 public notice is required for all other violations and situations not included in Tier 1 and Tier 2.

2. Specific violations and other situations requiring Tier 3 public notice include:

A. Monitoring violations or failure to comply with a testing procedure, except where a Tier 1 notice is specifically required or where the department determines that a Tier 2 notice is required, for the following: microbiological contaminants; inorganic contaminants (IOCs); synthetic organic contaminants (SOCs); volatile organic contaminants (VOCs); radiological contaminants; disinfection byproducts, byproduct precursors, and disinfectant residuals; treatment techniques for lead, and copper. Specific exceptions are listed under sections (2) and (3) of this rule;

B. Operation under a variance or exemption;

C. Exceedance of the fluoride SMCL; and

D. Other violations or situations determined by the department either in regulation or on a case-by-case basis.

(B) Timing of Tier 3 Public Notice.

1. Public water systems must provide the public notice not later than one (1) year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the public water system must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, situation, variance or exemption persists, but in no case less than seven (7) days (even if the violation or situation is resolved).

2. Instead of individual Tier 3 public notices, a public water system may use an annual report detailing all violations and situations that occurred during the previous twelve (12) months as long as the timing requirements of paragraph (4)(B)1. of this rule are met.

(C) Form and Manner of Tier 3 Public Notice. Public water systems must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

1. Unless directed otherwise by the department in writing, community water systems must provide notice by:

A. Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

B. Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by mail or other direct delivery. Such persons may include those who do not pay water bills or do not have service connection addresses (for example, house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: Publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (for example, apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.

2. Unless directed otherwise by the department in writing, non-community water system must provide notice by:

A. Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

B. Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by posting, mail, or direct delivery. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include: Publication in a local newspaper or newsletter distributed to customer; use of e-mail to notify employees or students; or, delivery of multiple copies in central location (for example, community center).

(D) Use of Consumer Confidence Report to Meet Tier 3 Requirement. The Consumer Confidence Report (CCR) may be used for the Tier 3 public notice as long as:

1. The CCR is provided to persons served no later than twelve (12) months after the system learns of the violation or situation.

2. The Tier 3 notice contained in the CCR follows the content requirements under section (5) of this rule; and

3. The CCR is distributed following the delivery requirements under subsection (4)(C) of this rule.

(5) Content of the Public Notice.

(A) Public Notice for Violations and Other Situations, Including Violation of a Condition of a Variance or Exemption. The public notice must include:

1. A description of the violation or situation, including the contaminant(s) of concern, and (as applicable) the contaminant level(s);

2. When the violation or situation occurred;

3. Any potential adverse health effects from the violation or situation including the standard language under paragraph (5)(D)1. or (5)(D)2. of this rule, whichever is applicable;

4. The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

5. Whether alternative water supplies should be used;

6. What actions consumers should take, including when they should seek medical help, if known;

7. What the system is doing to correct the violation or situation;

8. When the water system expects to return to compliance or resolve the situation;

9. The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

10. A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (5)(D)3. of this rule, where applicable.

(B) Public Notice for Variances and Exemptions. If a public water system has been granted a variance or an exemption, the public notice must contain:

1. An explanation of the reasons for the variance or exemption;

2. The date on which the variance or exemption was issued.

3. A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

4. A notice of any opportunity for the public input in the review of the variance or exemption.

(C) Presentation of the Public Notice.

1. Each public notice:

A. Must be displayed in a conspicuous way when printed or posted;

B. Must not contain overly technical language or very small print;

C. Must not be formatted in a way that defeats the purpose of the notice;

D. Must not contain language which nullifies the purpose of the notice.

2. Each public notice must comply with multilingual requirements.

A. Where the department has determined the public water system serves a large proportion of non-English speaking consumers, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

B. Where the department has not made a determination regarding the proportion of non-English speaking consumers, the public notice must contain the same information as in subparagraph (5)(C)2.A. of this rule.

C. Where the department has determined there is not a large proportion of non-English speaking customers, no multilingual requirement applies.

(D) Standard Language Included in the Notice. Public water system owners and operators are required to include the following standard language in their public notice:

1. For MCL, MRDL, and treatment technique violations, and violation of the condition of a variance or exemption, the public notice must include the health effects language specified in section (11) of this rule corresponding to the violation.

2. Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations requiring public notice: "We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During {compliance period}, we {"did not monitor or test"} or {"did not complete all monitoring or testing"} for {contaminant(s)} and therefore cannot be sure of the quality of your drinking water during that time."

3. Public water systems must include the following language in their notice (where applicable) to encourage the distribution of the public notice to all persons served: "Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do

this by posting this notice in a public place or distributing copies by hand or mail."

(6) Notice to New Billing Units or Customers.

(A) Community Water Systems. Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(B) Non-Community Water Systems. Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption, or other situation persists.

(7) Special Notice for the Availability of Unregulated Contaminant Monitoring Results.

(A) Timing of the Special Notice. The owner or operator of a community water system or non-transient non-community water system required to monitor for unregulated contaminants under Environmental Protection Agency's (EPA's) Unregulated Contaminant Monitoring Rule must notify persons served by the system of the availability of the results of such sampling no later than twelve (12) months after the monitoring results are known.

(B) Form and Manner of Special Notice. The form and manner of the public notice shall follow the requirements for a Tier 3 public notice. The notice shall also identify a person and provide the telephone number to contact for information on the monitoring results.

(8) Special Notice for the Exceedance of the Secondary Maximum Contaminant Level (SMCL) for Fluoride.

(A) Timing of the Special Notice. Community water systems that exceed the fluoride SMCL of 2 mg/L determined by the last single sample taken in accordance with 10 CSR 60-4.030, but do not exceed the MCL of 4 mg/L for fluoride must provide the public notice in subsection (8)(C) of this rule to persons served. Public notice must be provided as soon as practical but no later than twelve (12) months from the day the water system learns of the exceedance. A copy of the notice must also be provided to all new billing units and customers at the time service begins and to the state public health officer. The public water system must repeat the notice at least annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven (7) days (even if the exceedance is eliminated). On a case-by-case basis, the department may require an initial notice sooner than twelve (12) months and repeat notices more frequently than annually.

(B) Form and Manner of the Special Notice. The form and manner of the public notice (including repeat notices) must follow the requirements for a Tier 3 public notice in subsection (4)(C) and paragraphs (4)(D)1. and (4)(D)3.

(C) Mandatory Language. The notice must contain the following language, including language necessary to fill in the blanks:

"This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 milligrams per liter (mg/L) of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system {name} has a fluoride concentration of {insert value} mg/L.

"Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by

young children of fluoride-containing products. Older children and adults may safely drink the water.

“Drinking water containing more than 4 mg/L of fluoride (the maximum contaminant level for fluoride) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/L of fluoride, but we’re required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/L because of this cosmetic dental problem.

“For more information, please call {name of community water system} at {phone number}. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.”

(9) Special Notice for Nitrate Exceedances Above the MCL by Non-Community Water Systems.

(A) The owner or operator of a non-community water system granted permission by the department to exceed the nitrate MCL shall provide notice to persons served according to the requirements for a Tier 1 notice.

(B) The owner or operator shall provide continuous posting of the fact that nitrate levels exceed 10 mg/L and the potential health effects of exposure, according to the requirements for Tier 1 notice delivery under section (2) and the content requirements under section (5) of this rule.

(10) Notice Given by the Department on Behalf of the Public Water System.

(A) The department may give the notice required by this rule on behalf of the owner and operator of the public water system.

(B) The owner or operator of the public water system remains responsible for ensuring that the requirements of this rule are met.

(11) Standard Health Effects Language for Public Notification.

(A) Microbiological Contaminants.

1. Total coliform. “Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.”

2. Fecal coliform/*E. coli*. “Fecal coliforms and *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.”

3. Turbidity. “Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.”

(B) Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long-Term 1 Enhanced Surface Water Treatment Rule, and Filter Backwash Recycling Rule (FBRR) Violations.

1. *Giardia lamblia*. “Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.”

2. Viruses. “Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.”

3. Heterotrophic plate count (HPC) bacteria. “Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symp-

tomts such as nausea, cramps, diarrhea, and associated headaches.”

4. Legionella. “Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.”

5. Cryptosporidium. “Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.”

(C) Inorganic Chemicals (IOCs).

1. Antimony. “Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.”

2. Arsenic. “Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.”

3. Asbestos (>10 μm). “Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.”

4. Barium. “Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.”

5. Beryllium. “Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.”

6. Cadmium. “Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.”

7. Chromium (total). “Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.”

8. Cyanide. “Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.”

9. Fluoride. “Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children’s teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth, before they erupt from the gums.”

10. Mercury (inorganic). “Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.”

11. Nitrate. “Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.”

12. Nitrite. “Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.”

13. Total Nitrate and Nitrite. “Infants below the age of six months who drink water containing nitrate and nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.”

14. Selenium. “Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.”

15. Thallium. “Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.”

(D) Lead and Copper Rule.

1. Lead. "Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure."

2. Copper. "Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor."

(E) Synthetic Organic Chemicals (SOCs).

1. 25. 2,4-D. "Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands."

2. 26. 2,4,5-TP (Silvex). "Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems."

3. Alachlor. "Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer."

4. Atrazine. "Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties."

5. Benzo(a)pyrene (PAHs). "Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer."

6. Carbofuran. "Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems."

7. Chlordane. "Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver, or nervous system, and may have an increased risk of getting cancer."

8. Dalapon. "Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes."

9. Di (2-ethylhexyl) adipate. "Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties."

10. Di (2-ethylhexyl) phthalate. "Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer."

11. Dibromochloropropane (DBCP). "Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer."

12. Dinoseb. "Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties."

13. Dioxin (2,3,7,8-TCDD). "Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer."

14. Diquat. "Some people who drink water containing diquat in excess of the MCL over many years could get cataracts."

15. Endothall. "Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines."

16. Endrin. "Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems."

17. Ethylene dibromide. "Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer."

18. Glyphosate. "Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties."

19. Heptachlor. "Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer."

20. Heptachlor epoxide. "Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer."

21. Hexachlorobenzene. "Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer."

22. Hexachlorocyclopentadiene. "Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach."

23. Lindane. "Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver."

24. Methoxychlor. "Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties."

25. Oxamyl (Vydate). "Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects."

26. Pentachlorophenol. "Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer."

27. Picloram. "Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver."

28. Polychlorinated biphenyls (PCBs). "Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer."

29. Simazine. "Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood."

30. Toxaphene. "Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer."

(F) Volatile Organic Chemicals (VOCs).

1. Benzene. "Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer."

2. Carbon tetrachloride. "Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer."

3. Chlorobenzene (monochlorobenzene). "Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys."

4. o-Dichlorobenzene. "Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems."

5. p-Dichlorobenzene. "Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood."

6. 1,2-Dichloroethane. "Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer."

7. 1,1-Dichloroethylene. "Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver."

8. cis-1,2-Dichloroethylene. "Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver."

9. trans-1,2-Dichloroethylene. "Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver."

10. Dichloromethane. "Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer."

11. 1,2-Dichloropropane. "Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer."

12. Ethylbenzene. "Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys."

13. Styrene. "Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system."

14. Tetrachloroethylene. "Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer."

15. Toluene. "Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver."

16. 1,2,4-Trichlorobenzene. "Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands."

17. 1,1,1-Trichloroethane. "Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system."

18. 1,1,2-Trichloroethane. "Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems."

18. Trichloroethylene. "Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer."

19. Vinyl chloride. "Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer."

20. Xylenes (total). "Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system."

(G) Radioactive Contaminants.

1. Beta/photon emitters. "Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer."

2. Alpha emitters (Gross alpha). "Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer."

3. Combined radium (226 & 228). "Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer."

4. Uranium. "Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity."

(H) Disinfection Byproducts, Byproduct Precursors, and Disinfectant Residuals.

1. Total trihalomethanes (TTHMs). "Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer."

2. Haloacetic Acids (HAA). "Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer."

3. Bromate. "Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer."

4. Chlorite. "Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia."

5. Chlorine. "Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort."

6. Chloramines. "Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia."

7. Chlorine dioxide.

A. Where any two (2) consecutive daily samples taken at the entrance to the distribution system are above the MRDL. "Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia. The chlorine dioxide violations reported today are the result of exceedances at the treatment facility only, not within the distribution system which delivers water to consumers. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to consumers."

B. Where one (1) or more distribution system samples are above the MRDL. "Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia. The chlorine dioxide violations reported today include exceedances of the EPA standard within the distribution system which delivers water to consumers. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including fetuses, infants, and young children, may be especially susceptible to nervous system effects from excessive chlorine dioxide exposure."

8. DBP precursors (TOC). "Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking

water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.”

(I) Other Treatment Techniques.

1. Acrylamide. “Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.”

2. Epichlorohydrin. “Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.”

AUTHORITY: section 640.100, RSMo Supp. 2002. Original rule filed May 4, 1979, effective Sept. 14, 1979. Amended: Filed April 14, 1981, effective Oct. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed March 17, 2003.

PUBLIC COST: This proposed rule is estimated to cost state agencies and political subdivisions less than five hundred dollars (\$500) in the aggregate because the rule replaces an existing rule that will continue to be in effect if this rule is not adopted. Overall, this rule is expected to be a cost-savings to publicly-owned water systems compared to the existing requirements. Also, the rule adopts federal requirements already in effect in Missouri; any expenditure of funds is already required by the federal rule regardless of this rulemaking.

PRIVATE COST: This proposed rule is estimated to cost private entities less than five hundred dollars (\$500) in the aggregate because the rule replaces an existing rule that will continue to be in effect if this rule is not adopted. Overall, this rule is expected to be a cost-savings to privately-owned water systems compared to the existing requirements. Also, the rule adopts federal requirements already in effect in Missouri; any expenditure of funds is already required by the federal rule regardless of this rulemaking.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed rule. An information meeting and public hearing will be held May 22, 2003, 10:00 a.m., at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the *Missouri Register* page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by June 16, 2003. Comments may be mailed or faxed to: Ms. Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 8—Public Notification**

PROPOSED AMENDMENT

10 CSR 60-8.030 Consumer Confidence Reports. The commission is amending subsections (2)(C), (2)(D), (3)(B), and (5)(I) and Appendices A, B, and C.

PURPOSE: This amendment adds Consumer Confidence Report (CCR) requirements for disinfectants and disinfection by-products, changes the CCR retention time from five years to three to match the federal requirement, expands health effects language for fluoride, and amends CCR requirements for arsenic. These changes will ensure state requirements are consistent with federal primacy rules and are also intended to ensure that water system customers are informed on the quality of drinking water provided by the community water system.

These changes are made to the federal CCR requirements by several rules, including the Disinfectants/Disinfection By-Products, Public Notice, and Arsenic Rules, and Minor Revisions to the CCR and Public Notice Rules. The federal rules provide background information and are published in the December 16, 1998 (63 FR 69390), May 4, 2000 (65 FR 25981), January 22, 2001 (66 FR 6976), and September 7, 2001 (66 FR 46927) Federal Registers. The federal rules, fact sheets, and other background information are available on-line at <http://www.epa.gov/safewater/pn.html>, or by calling the Public Drinking Water Program at (573)751-5331.

(2) Content of the Reports.

(C) Definitions.

1. Each report must include the following definitions:

A. Maximum contaminant level goal or MCLG—The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety; and

B. Maximum contaminant level or MCL—The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

2. A report for a community water system operating under a variance or an exemption issued under 10 CSR 60-6.010 or 10 CSR 60-6.020 must include the following definition[:]*—*Variations and exemptions—State permission not to meet an MCL or a treatment technique under certain conditions.

3. A report [*which*] that contains data on a contaminant [*for which*] that the department [*has set a treatment technique or an action level must include one (1) or both of*] **regulates using the following terms must use the following definitions as applicable:**

A. Treatment technique—A required process intended to reduce the level of a contaminant in drinking water; [*and*]

B. Action level—The concentration of a contaminant which, if exceeded, triggers treatment or other requirements with which a water system must comply[:];

C. Maximum residual disinfectant level goal or MRDLG—The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants; and

D. Maximum residual disinfectant level or MRDL—The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(D) Information on Detected Contaminants.

1. Subsection (2)(D) specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except *Cryptosporidium*). It applies to—

A. Contaminants subject to an MCL, action level, **maximum residual disinfectant level**, or treatment technique (regulated contaminants);

B. Contaminants for which monitoring is required by 10 CSR 60-4.110 (unregulated contaminants); and

C. Disinfection by-products or microbial contaminants for which monitoring is required by 40 CFR 141.142 and 141.143, except as provided under paragraph (2)(E)1. of this rule, and which are detected in the finished water.

2. The data relating to these contaminants must be displayed in one (1) table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

3. The data must be derived from data collected to comply with Environmental Protection Agency and department monitoring and analytical requirements during the previous calendar year except that—

A. Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the

date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. The system may use the following language or similar language for their statement: "The state has reduced monitoring requirements for certain contaminants to less often than once per year because the concentrations of these contaminants are not expected to vary significantly from year to year. Some of our data (for example, for organic contaminants), though representative, is more than one year old." No data older than five (5) years need be included.

B. Results of monitoring in compliance with 40 CFR 141.142 and 141.143 need only be included for five (5) years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

4. For detected regulated contaminants (listed in Appendix A to this rule), the table(s) must contain—

A. The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Appendix A to this rule);

B. The MCLG for that contaminant expressed in the same units as the MCL;

C. If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (2)(C)3. of this rule;

D. For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with 10 CSR 60-4.030; 10 CSR 60-4.040; 10 CSR 60-4.060; 10 CSR 60-4.090; 10 CSR 60-4.100 and the range of detected levels, as follows (when rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Appendix A of this rule):

(I) When compliance with the MCL is determined annually or less frequently—The highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(II) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point—the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL; and

(III) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points—the average and range of detection expressed in the same units as the MCL;

E. For turbidity: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in 10 CSR 60-4.050.

(I) The report should include an explanation of the reasons for measuring turbidity, such as: "Turbidity is a measure of the cloudiness of water. We monitor turbidity because it is a good indicator of the effectiveness of our filtration system."

(II) If an explanation of the reasons for measuring turbidity is included, it does not have to be included in the table but may be added as a footnote or narrative associated with the table;

F. For lead and copper, the ninetieth percentile value of the most recent round of sampling, the number of sampling sites exceeding the action level in that round, and the most recent source water results;

G. For total coliform—

(I) The highest monthly number of positive compliance samples for systems collecting fewer than forty (40) samples per month; or

(II) The highest monthly percentage of positive compliance samples for systems collecting at least forty (40) samples per month;

H. For fecal coliform or *E. Coli*: The total number of positive compliance samples; and

I. The likely source(s) of detected regulated contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one (1) or more of the typical sources for that contaminant which are most applicable to the system. The typical sources for a given contaminant are listed in Appendix B to this rule.

5. If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

6. The table(s) must clearly identify any data indicating violations of MCLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of Appendix C to this rule.

7. For detected unregulated contaminants for which monitoring is required (except *Cryptosporidium*), the table(s) must contain the average and range at which the contaminant was detected. When detects of unregulated contaminants are reported, the report may include a brief explanation of the reasons for monitoring for unregulated contaminants using language such as: "Unregulated contaminants are those for which EPA has not established drinking water standards. The purpose of unregulated contaminant monitoring is to assist EPA in determining the occurrence of unregulated contaminants in drinking water and whether future regulation is warranted. Information on all the contaminants that were monitored for, whether regulated or unregulated, can be obtained from this water system or the Department of Natural Resources."

(3) Required Additional Health Information.

(B) Arsenic.

1. A system [which] that detects arsenic at levels above [twenty-five micrograms per liter (25 µg/l) , but below the MCL:] **0.005 mg/L and up to and including 0.01 mg/L**

[1. M]must include in its report a short informational statement about arsenic, using language such as: [*"Arsenic is a naturally-occurring mineral known to cause cancer in humans at high concentrations. The Environmental Protection Agency is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough."*]

"While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems." The system

[2. M]may write its own educational statement, but only in consultation with the department.

2. **Beginning in the report due by July 1, 2002 and ending January 22, 2006, a community water system that detects arsenic above 0.01 mg/L and up to and including 0.05 mg/L must include the arsenic health effects language prescribed by Appendix C of this rule.**

(4) Report Delivery and Record Keeping.

(I) Any system subject to this rule must retain copies of its consumer confidence report for no less than ~~five (5)~~ **three (3)** years.

Appendix A to 10 CSR 60-8.030
Converting MCL Compliance Values for Consumer Confidence Reports

Key

AL = Action Level
MCL = Maximum Contaminant Level
MCLG = Maximum Contaminant Level Goal
MFL = million fibers per liter
mrem/year = millirems per year (a measure of radiation absorbed by the body)
NTU = Nephelometric Turbidity Units
pCi/l = picocuries per liter (a measure of radioactivity)
ppm = parts per million, or milligrams per liter (mg/l)
ppb = parts per billion, or micrograms per liter (mg/l)
ppt = parts per trillion, or nanograms per liter
ppq = parts per quadrillion, or picograms per liter
TT = Treatment Technique

| Contaminant | MCL in compliance units (mg/L) | multiply by . . . | MCL in CCR units | MCLG in CCR units |
|--|---|-------------------|---|-------------------|
| Microbiological Contaminants | | | | |
| 1. Total Coliform Bacteria | (Systems that collect 40 or more samples per month) $\geq 5\%$ of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample. | | (Systems that collect 40 or more samples per month) $\geq 5\%$ of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample. | 0 |
| 2. Fecal coliform and <i>E. coli</i> | 0 | | A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or <i>E. coli</i> positive. | 0 |
| 3. Total organic carbon (ppm) | TT | | TT | n/a |
| 3.] 4. Turbidity | TT | | TT (NTU) | n/a |
| Radioactive Contaminants | | | | |
| 4.] 5. Beta/photon emitters | 4 mrem/yr | | 4 mrem/yr | 0 |
| 5.] 6. Alpha emitters | 15 pCi/l | | 15 pCi/l | 0 |
| 6.] 7. Combined radium | 5 pCi/l | | 5 pCi/l | 0 |
| 8. Uranium (pCi/L) | 30μg/l | | 30 | 0 |
| Inorganic Contaminants | | | | |
| 7.] 9. Antimony | .006 | 1000 | 6 ppb | 6 |

| | | | | |
|---|-----------------------|---------------|----------------------------|---------------------|
| [8.] 10. Arsenic | .05* 0.01** | 1000 | 50 ppb* 10 ppb** | n/a * 0** |
| *These arsenic values are effective until Jan. 23, 2006. **These arsenic values are effective Jan. 23, 2006. | | | | |
| [9.] 11. Asbestos | 7 MFL | | 7 MFL | 7 |
| [10.] 12. Barium | 2 | | 2 ppm | 2 |
| [11.] 13. Beryllium | .004 | 1000 | 4 ppb | 4 |
| 14. Bromate (ppb) | .010 | 1000 | 10 | 0 |
| [12.] 15. Cadmium | .005 | 1000 | 5 ppb | 5 |
| 16. Chloramines (ppm) | MRDL=4 | | MRDL=4 | 4 |
| 17. Chlorine (ppm) | MRDL=4 | | MRDL=4 | 4 |
| 18. Chlorine dioxide (ppb) | MRDL=.8 | 1000 | MRDL=.8 | 800 |
| 19. Chlorite (ppm) | 1 | | 1 | 0.8 |
| [13.] 20. Chromium | .1 | 1000 | 100 ppb | 100 |
| [14.] 21. Copper | AL=1.3 | | AL=1.3 ppm | 1.3 |
| [15.] 22. Cyanide | .2 | 1000 | 200 ppb | 200 |
| [16.] 23. Fluoride | 4 | | 4 ppm | 4 |
| [17.] 24. Lead | AL=.015 | 1000 | AL=15 ppb | 0 |
| [18.] 25. Mercury (inorganic) | .002 | 1000 | 2 ppb | 2 |
| [19.] 26. Nitrate (as Nitrogen) | 10 | | 10 ppm | 10 |
| [20.] 27. Nitrite (as Nitrogen) | 1 | | 1 ppm | 1 |
| [21.] 28. Selenium | .05 | 1000 | 50 ppb | 50 |
| [22.] 29. Thallium | .002 | 1000 | 2 ppb | 0.5 |
| Synthetic Organic Contaminants Including Pesticides and Herbicides | | | | |
| [23.] 30. 2,4-D | .07 | 1000 | 70 ppb | 70 |
| [24.] 31. 2,4,5-TP [Silvex] | .05 | 1000 | 50 ppb | 50 |
| [25.] 32. Acrylamide | | | TT | 0 |
| [26.] 33. Alachlor | .002 | 1000 | 2 ppb | 0 |
| [27.] 34. Atrazine | .003 | 1000 | 3 ppb | 3 |
| [28.] 35. Benzo(a)pyrene [PAH] | .0002 | 1,000,000 | 200 ppt | 0 |
| [29.] 36. Carbofuran | .04 | 1000 | 40 ppb | 40 |
| [30.] 37. Chlordane | .002 | 1000 | 2 ppb | 0 |
| [31.] 38. Dalapon | .2 | 1000 | 200 ppb | 200 |
| [32.] 39. Di(2-ethylhexyl)adipate | .4 | 1000 | 400 ppb | 400 |
| [33.] 40. Di(2-ethylhexyl) phthalate | .006 | 1000 | 6 ppb | 0 |
| [34.] 41. Dibromochloropropane | .0002 | 1,000,000 | 200 ppt | 0 |
| [35.] 42. Dinoseb | .007 | 1000 | 7 ppb | 7 |
| [36.] 43. Diquat | .02 | 1000 | 20 ppb | 20 |
| [37.] 44. Dioxin [2,3,7,8-TCDD] | .00000003 | 1,000,000,000 | 30 ppq | 0 |
| [38.] 45. Endothall | .1 | 1000 | 100 ppb | 100 |
| [39.] 46. Endrin | .002 | 1000 | 2 ppb | 2 |
| [40.] 47. Epichlorohydrin | TT | | TT | 0 |
| [41.] 48. Ethylene dibromide | .00005 | 1,000,000 | 50 ppt | 0 |
| [42.] 49. Glyphosate | .7 | 1000 | 700 ppb | 700 |
| [43.] 50. Heptachlor | .0004 | 1,000,000 | 400 ppt | 0 |
| [44.] 51. Heptachlor epoxide | .0002 | 1,000,000 | 200 ppt | 0 |
| [45.] 52. Hexachlorobenzene | .001 | 1000 | 1 ppb | 0 |
| [46.] 53. Hexachloro-cyclopentadiene | .05 | 1000 | 50 ppb | 50 |
| [47.] 54. Lindane | .0002 | 1,000,000 | 200 ppt | 200 |
| [48.] 55. Methoxychlor | .04 | 1000 | 40 ppb | 40 |
| [49.] 56. Oxamyl [Vydate] | .2 | 1000 | 200 ppb | 200 |
| [50.] 57. PCBs [Polychlorinated biphenyls] | .0005 | 1,000,000 | 500 ppt | 0 |

| | | | | |
|---|-------------|-------------|------------|------------|
| [51.] 58. Pentachlorophenol | .001 | 1000 | 1 ppb | 0 |
| [52.] 59. Picloram | .5 | 1000 | 500 ppb | 500 |
| [53.] 60. Simazine | .004 | 1000 | 4 ppb | 4 |
| [54.] 61. Toxaphene | .003 | 1000 | 3 ppb | 0 |
| Volatile Organic Contaminants | | | | |
| [55.] 62. Benzene | .005 | 1000 | 5 ppb | 0 |
| [56.] 63. Carbon tetrachloride | .005 | 1000 | 5 ppb | 0 |
| [57.] 64. Chlorobenzene | .1 | 1000 | 100 ppb | 100 |
| [58.] 65. o-Dichlorobenzene | .6 | 1000 | 600 ppb | 600 |
| [59.] 66. p-Dichlorobenzene | .075 | 1000 | 75 ppb | 75 |
| [60.] 67. 1,2-Dichloroethane | .005 | 1000 | 5 ppb | 0 |
| [61.] 68. 1,1-Dichloroethylene | .007 | 1000 | 7 ppb | 7 |
| [62.] 69. cis-1,2-Dichloroethylene | .07 | 1000 | 70 ppb | 70 |
| [63.] 70. trans-1,2-Dichloroethylene | .1 | 1000 | 100 ppb | 100 |
| [64.] 71. Dichloromethane | .005 | 1000 | 5 ppb | 0 |
| [65.] 72. 1,2-Dichloropropane | .005 | 1000 | 5 ppb | 0 |
| [66.] 73. Ethylbenzene | .7 | 1000 | 700 ppb | 700 |
| 74. Haloacetic Acids (HAA) (ppb) | .060 | 1000 | 60 | n/a |
| [67.] 75. Styrene | .1 | 1000 | 100 ppb | 100 |
| [68.] 76. Tetrachloroethylene | .005 | 1000 | 5 ppb | 0 |
| [69.] 77. 1,2,4-Trichlorobenzene | .07 | 1000 | 70 ppb | 70 |
| [70.] 78. 1,1,1-Trichloroethane | .2 | 1000 | 200 ppb | 200 |
| [71.] 79. 1,1,2-Trichloroethane | .005 | 1000 | 5 ppb | 3 |
| [72.] 80. Trichloroethylene | .005 | 1000 | 5 ppb | 0 |
| [73.] 81. TTHMs [Total trihalomethanes] | .10/.080 | 1000 | 100/80 ppb | n/a |
| [74.] 82. Toluene | 1 | | 1 ppm | 1 |
| [75.] 83. Vinyl Chloride | .002 | 1000 | 2 ppb | 0 |
| [76.] 84. Xylenes | 10 | | 10 ppm | 10 |

Appendix B to 10 CSR 60-8.030
Regulated Contaminants

Key

AL = Action Level
MCL = Maximum Contaminant Level
MCLG = Maximum Contaminant Level Goal
MFL = million fibers per liter
mrem/year = millirems per year (a measure of radiation absorbed by the body)
NTU = Nephelometric Turbidity Units
pCi/l = picocuries per liter (a measure of radioactivity)
ppm = parts per million, or milligrams per liter (mg/l)
ppb = parts per billion, or micrograms per liter (mg/l)
ppt = parts per trillion, or nanograms per liter
ppq = parts per quadrillion, or picograms per liter
TT = Treatment Technique

| Contaminant (units) | MCLG | MCL | Major sources in drinking water |
|--|--|---|---|
| Microbiological Contaminants | | | |
| 1. Total Coliform Bacteria | 0 | (Systems that collect 40 or more samples per month) $\geq 5\%$ of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample. | Naturally present in the environment. |
| 2. Fecal coliform and <i>E. coli</i> | 0 | A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or <i>E. coli</i> positive. | Human and animal fecal waste. |
| 3. Total organic carbon (ppm) | n/a | TT | Naturally present in the environment. |
| [3.] 4. Turbidity | n/a | TT | Soil runoff. |
| Radioactive Contaminants | | | |
| [4.] 5. Beta/photon emitters (mrem/yr) | 0 | 4 | Decay of natural and man-made deposits. |
| [5.] 6. Alpha emitters (pCi/l) | 0 | 15 | Erosion of natural deposits. |
| [6.] 7. Combined radium (pCi/l) | 0 | 5 | Erosion of natural deposits. |
| 8. Uranium | 0 | 30 | Erosion of natural deposits. |
| Inorganic Contaminants | | | |
| [7.] 9. Antimony (ppb) | 6 | 6 | Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder. |
| [8.] 10. Arsenic (ppb) | n/a ¹ 0² | 50 ¹ 10² | Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes. |
| ¹ These arsenic values are effective until Jan. 23, 2006. | | | |
| ² These arsenic values are effective Jan. 23, 2006. | | | |
| [9.] 11. Asbestos (MFL) | 7 | 7 | Decay of asbestos cement water mains; Erosion of natural deposits. |
| [10.] 12. Barium (ppm) | 2 | 2 | Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits. |
| [11.] 13. Beryllium (ppb) | 4 | 4 | Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries. |
| 14. Bromate (ppb) | 0 | 10 | By-product of drinking water disinfection. |

| | | | |
|---|-----------|----------|--|
| [12.] 15. Cadmium (ppb) | 5 | 5 | Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; runoff from waste batteries and paints. |
| 16. Chloramines (ppm) | MRDLG=4 | MRDL=4 | Water additive used to control microbes. |
| 17. Chlorine (ppm) | MRDL=4 | MRDL=4 | Water additive used to control microbes. |
| 18. Chlorine dioxide (ppb) | MRDLG=800 | MRDL=800 | Water additive used to control microbes. |
| 19. Chlorite (ppm) | 0.8 | 1 | By-product of drinking water disinfection. |
| [13.] 20. Chromium (ppb) | 100 | 100 | Discharge from steel and pulp mills; Erosion of natural deposits. |
| [14.] 21. Copper (ppm) | 1.3 | AL=1.3 | Corrosion of household plumbing systems; Erosion of natural deposits; <i>Leaching from wood preservatives</i> . |
| [15.] 22. Cyanide (ppb) | 200 | 200 | Discharge from steel/metal factories; Discharge from plastic and fertilizer factories. |
| [16.] 23. Fluoride (ppm) | 4 | 4 | Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories. |
| [17.] 24. Lead (ppb) | 0 | AL=15 | Corrosion of household plumbing systems; Erosion of natural deposits. |
| [18.] 25. Mercury [inorganic] (ppb) | 2 | 2 | Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland. |
| [19.] 26. Nitrate [as Nitrogen] (ppm) | 10 | 10 | Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits. |
| [20.] 27. Nitrite [as Nitrogen] (ppm) | 1 | 1 | Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits. |
| [21.] 28. Selenium (ppb) | 50 | 50 | Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines. |
| [22.] 29. Thallium (ppb) | 0.5 | 2 | Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories. |
| Synthetic Organic Contaminants Including Pesticides and Herbicides | | | |
| [23.] 30. 2,4-D (ppb) | 70 | 70 | Runoff from herbicide used on row crops. |
| [24.] 31. 2,4,5-TP [Silvex] (ppb) | 50 | 50 | Residue of banned herbicide. |
| [25.] 32. Acrylamide | 0 | TT | Added to water during sewage/wastewater treatment. |
| [26.] 33. Alachlor (ppb) | 0 | 2 | Runoff from herbicide used on row crops. |
| [27.] 34. Atrazine (ppb) | 3 | 3 | Runoff from herbicide used on row crops. |
| [28.] 35. Benzo(a)pyrene [PAH] (nanograms/l) | 0 | 200 | Leaching from linings of water storage tanks and distribution lines. |
| [29.] 36. Carbofuran (ppb) | 40 | 40 | Leaching of soil fumigant used on rice and alfalfa. |
| [30.] 37. Chlordane (ppb) | 0 | 2 | Residue of banned termiticide. |
| [31.] 38. Dalapon (ppb) | 200 | 200 | Runoff from herbicide used on rights of way. |
| [32.] 39. Di(2-ethylhexyl) adipate (ppb) | 400 | 400 | Discharge from chemical factories. |
| [33.] 40. Di(2-ethylhexyl) phthalate (ppb) | 0 | 6 | Discharge from rubber and chemical factories. |
| [34.] 41. Dibromochloropropane (ppt) | 0 | 200 | Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards. |
| [35.] 42. Dinoseb (ppb) | 7 | 7 | Runoff from herbicide used on soybeans and vegetables. |
| [36.] 43. Diquat (ppb) | 20 | 20 | Runoff from herbicide use. |

| | | | |
|--|-----|--------|--|
| [37.] 44. Dioxin [2,3,7,8-TCDD] (ppq) | 0 | 30 | Emissions from waste incineration and other combustion; Discharge from chemical factories. |
| [38.] 45. Endothall (ppb) | 100 | 100 | Runoff from herbicide use. |
| [39.] 46. Endrin (ppb) | 2 | 2 | Residue of banned insecticide. |
| [40.] 47. Epichlorohydrin | 0 | TT | Discharge from industrial chemical factories; An impurity of some water treatment chemicals. |
| [41.] 48. Ethylene dibromide (ppt) | 0 | 50 | Discharge from petroleum refineries. |
| [42.] 49. Glyphosate (ppb) | 700 | 700 | Runoff from herbicide use. |
| [43.] 50. Heptachlor (ppt) | 0 | 400 | Residue of banned termiticide. |
| [44.] 51. Heptachlor epoxide (ppt) | 0 | 200 | Breakdown of heptachlor. |
| [45.] 52. Hexachlorobenzene (ppb) | 0 | 1 | Discharge from metal refineries and agricultural chemical factories. |
| [46.] 53. Hexachlorocyclopentadiene (ppb) | 50 | 50 | Discharge from chemical factories. |
| [47.] 54. Lindane (ppt) | 200 | 200 | Runoff/leaching from insecticide used on cattle, lumber, gardens. |
| [48.] 55. Methoxychlor (ppb) | 40 | 40 | Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, and livestock. |
| [49.] 56. Oxamyl [Vydate](ppb) | 200 | 200 | Runoff/leaching from insecticide used on apples, potatoes and tomatoes. |
| [50.] 57. PCBs [Polychlorinated biphenyls] (ppt) | 0 | 500 | Runoff from landfills; Discharge of waste chemicals. |
| [51.] 58. Pentachlorophenol (ppb) | 0 | 1 | Discharge from wood preserving factories. |
| [52.] 59. Picloram (ppb) | 500 | 500 | Herbicide runoff. |
| [53.] 60. Simazine (ppb) | 4 | 4 | Herbicide runoff. |
| [54.] 61. Toxaphene (ppb) | 0 | 3 | Runoff/leaching from insecticide used on cotton and cattle. |
| Volatile Organic Contaminants | | | |
| [55.] 62. Benzene (ppb) | 0 | 5 | Discharge from factories; Leaching from gas storage tanks and landfills. |
| [56.] 63. Carbon tetrachloride (ppb) | 0 | 5 | Discharge from chemical plants and other industrial activities. |
| [57.] 64. Chlorobenzene (ppb) | 100 | 100 | Discharge from chemical and agricultural chemical factories. |
| [58.] 65. o-Dichlorobenzene (ppb) | 600 | 600 | Discharge from industrial chemical factories. |
| [59.] 66. p-Dichlorobenzene (ppb) | 75 | 75 | Discharge from industrial chemical factories. |
| [60.] 67. 1,2-Dichloroethane (ppb) | 0 | 5 | Discharge from industrial chemical factories. |
| [61.] 68. 1,1-Dichloroethylene (ppb) | 7 | 7 | Discharge from industrial chemical factories. |
| [62.] 69. cis-1,2-Dichloroethylene (ppb) | 70 | 70 | Discharge from industrial chemical factories. |
| [63.] 70. trans-1,2-Dichloroethylene (ppb) | 100 | 100 | Discharge from industrial chemical factories. |
| [64.] 71. Dichloromethane (ppb) | 0 | 5 | Discharge from pharmaceutical and chemical factories. |
| [65.] 72. 1,2-Dichloropropane (ppb) | 0 | 5 | Discharge from industrial chemical factories. |
| [66.] 73. Ethylbenzene (ppb) | 700 | 700 | Discharge from petroleum refineries. |
| 74. Haloacetic Acids (HAA) (ppb) | n/a | 60 | By-product of drinking water disinfection. |
| [67.] 75. Styrene (ppb) | 100 | 100 | Discharge from rubber and plastic factories; Leaching from landfills. |
| [68.] 76. Tetrachloroethylene (ppb) | 0 | 5 | Discharge from factories and dry cleaners. |
| [69.] 77. 1,2,4-Trichlorobenzene (ppb) | 70 | 70 | Discharge from textile-finishing factories. |
| [70.] 78. 1,1,1-Trichloroethane (ppb) | 200 | 200 | Discharge from metal degreasing sites and other factories. |
| [71.] 79. 1,1,2-Trichloroethane (ppb) | 3 | 5 | Discharge from industrial chemical factories. |
| [72.] 80. Trichloroethylene (ppb) | 0 | 5 | Discharge from metal degreasing sites and other factories. |
| [73.] 81. TTHMs [Total trihalomethanes] (ppb) | n/a | 100/80 | By-product of drinking water [chlorination] disinfection. |
| [74.] 82. Toluene (ppm) | 1 | 1 | Discharge from petroleum factories. |
| [75.] 83. Vinyl Chloride (ppb) | 0 | 2 | Leaching from PVC piping; Discharge from plastics factories. |
| [76.] 84. Xylenes (ppm) | 10 | 10 | Discharge from petroleum factories; Discharge from chemical factories. |

Appendix C to 10 CSR 60-/6/8.030
Health Effects Language

Microbiological Contaminants

(1) Total Coliform. "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems."

(2) Fecal coliform/*E. Coli*. "Fecal coliforms and *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems."

(3) Total organic carbon. "**Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection by-products. These by-products include trihalomethanes (THMs) and haloacetic acids (HAAs5). Drinking water containing these by-products in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.**"

[(3)] (4) Turbidity. "Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

Radioactive Contaminants

[(4)] (5) Beta/photon emitters. "Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer."

[(5)] (6) Alpha emitters. "Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer."

[(6)] (7) Combined Radium 226/228. "Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer."

(8) Uranium. "**Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.**"

Inorganic Contaminants

[(7)] (9) Antimony. "Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar."

[(8)] (10) Arsenic. "Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer."

[(9)] (11) Asbestos. "Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps."

[(10)] (12) Barium. "Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure."

[(11)] (13) Beryllium. "Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions."

(14) Bromate. "**Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.**"

[(12)] (15) Cadmium. "Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage."

(16) Chloramines. "**Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drinking-water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.**"

(17) Chlorine. "**Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drinking-water containing chlorine well in excess of the MRDL could experience stomach discomfort.**"

(18) Chlorine dioxide. "**Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.**"

(19) Chlorite. "**Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.**"

[(13)] (20) Chromium. "Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis."

[(14)] (21) Copper. "Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor."

[(15)] (22) Cyanide. "Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid."

[(16)] (23) Fluoride. "Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. *[Children may get mottled teeth.]* **Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.**"

[(17)] (24) Lead. "Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure."

[(18)] (25) Mercury (inorganic). "Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage."

[(19)] (26) Nitrate. "Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome."

[(20)] (27) Nitrite. "Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome."

[(21)] (28) Selenium. "Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation."

[(22)] (29) Thallium. "Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver."

Synthetic Organic Contaminants Including Pesticides and Herbicides

[(23)] (30) 2,4-D. "Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands."

[(24)] (31) 2,4,5-TP (Silvex). "Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems."

[(25)] (32) Acrylamide. "Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer."

[(26)] (33) Alachlor. "Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer."

[(27)] (34) Atrazine. "Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties."

[(28)] (35) Benzo(a)pyrene (PAH). "Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer."

[(29)] (36) Carbofuran. "Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems."

[(30)] (37) Chlordane. "Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer."

[(31)] (38) Dalapon. "Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes."

[(32)] (39) Di(2-ethylhexyl) adipate. "Some people who drink water containing di(2-ethylhexyl) adipate well in excess of the MCL over many years could experience *[general]* toxic effects **such as weight loss, liver enlargement, or possible** reproductive difficulties."

[(33)] (40) Di(2-ethylhexyl) phthalate. "Some people who drink water containing di(2-ethylhexyl) phthalate **well** in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer."

[(34)] (41) Dibromochloropropane (DBCP). "Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer."

[(35)] (42) Dinoseb. "Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties."

[(36)] (43) Dioxin (2,3,7,8-TCDD). "Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer."

[(37)] (44) Diquat. "Some people who drink water containing diquat in excess of the MCL over many years could get cataracts."

[(38)] (45) Endothall. "Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines."

[(39)] (46) Endrin. "Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems."

[(40)] (47) Epichlorohydrin. "Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer."

[(41)] (48) Ethylene dibromide. "Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer."

[(42)] (49) Glyphosate. "Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties."

[(43)] (50) Heptachlor. "Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer."

[(44)] (51) Heptachlor epoxide. "Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer."

[(45)] (52) Hexachlorobenzene. "Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer."

[(46)] (53) Hexachlorocyclopentadiene. "Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach."

[(47)] (54) Lindane. "Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver."

[(48)] (55) Methoxychlor. "Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties."

[(49)] (56) Oxamyl (Vydate). "Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects."

[(50)] (57) PCBs (Polychlorinated biphenyls). "Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer."

[(51)] (58) Pentachlorophenol. "Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer."

[(52)] (59) Picloram. "Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver."

[(53)] (60) Simazine. "Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood."

[(54)] (61) Toxaphene. "Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer."

Volatile Organic Contaminants

[(55)] (62) Benzene. "Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer."

[(56)] (63) Carbon Tetrachloride. "Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer."

[(57)] (64) Chlorobenzene. "Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys."

[(58)] (65) o-Dichlorobenzene. "Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems."

[(59)] (66) p-Dichlorobenzene. "Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood."

[(60)] (67) 1,2-Dichloroethane. "Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer."

[(61)] (68) 1,1-Dichloroethylene. "Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver."

[(62)] (69) cis-1,2-Dichloroethylene. "Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver."

[(63)] (70) trans-1,2-Dichloroethylene. "Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver."

[(64)] (71) Dichloromethane. "Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer."

[(65)] (72) 1,2-Dichloropropane. "Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer."

[(66)] (73) Ethylbenzene. "Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys."

(74) Haloacetic Acids (HAA). "Some people who drinking water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer."

[(67)] (75) Styrene. "Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system."

[(68)] (76) Tetrachloroethylene. "Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer."

[(69)] (77) 1,2,4-Trichlorobenzene. "Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands."

[(70)] (78) 1,1,1,-Trichloroethane. "Some people who drink water containing 1,1,1-Trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system."

[(71)] (79) 1,1,2-Trichloroethane. "Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems."

[(72)] (80) Trichloroethylene. "Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer."

[(73)] (81) TTHMs (Total Trihalomethanes). "Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer."

[(74)] (82) Toluene. "Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver."

[(75)] (83) Vinyl Chloride. "Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer."

[(76)] (84) Xylenes. "Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system."

AUTHORITY: sections 640.100, and 640.125.1, RSMo Supp. [1998] 2002. Original rule filed July 1, 1999, effective March 30, 2000. Amended: Filed March 17, 2003.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed amendment. An information meeting and public hearing will be held May 22, 2003, 10:00 a.m., at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by June 16, 2003. Comments may be mailed or faxed to: Ms. Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 9—Record Maintenance**

PROPOSED AMENDMENT

10 CSR 60-9.010 Requirements for Maintaining Public Water System Records. The commission is amending subsections (1)(D)–(1)(F).

PURPOSE: This amendment adopts a new federal record keeping requirement from the Public Notice Rule, which was published in the May 4, 2000 *Federal Register* and became effective in Missouri on May 4, 2002. The federal rule requires copies of public notices and certifications of public notice to be retained by the public water systems for at least three (3) years. Consistent with the proposed adoption of this requirement, this amendment deletes the state rule requirement for public notice documentation to be retained twelve (12) years. The federal rule, fact sheets, and other background information are available on-line at <http://www.epa.gov/safewater/pn.html>, or by calling the Public Drinking Water Program at (573) 751-5331.

(1) All suppliers of water to a public water system must retain records on their premises or at a convenient location near their premises as follows:

(D) Records concerning a variance or exemption granted to the system must be retained for a period of at least five (5) years following the expiration of the variance or exemption; *and*

(E) Original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, state determinations and any other information required by 10 CSR 60-5.010, 10 CSR 60-5.020, 10 CSR 60-7.020, [10 CSR 60-8.010] and 10 CSR 60-15.010–10 CSR 60-15.090 must be retained for no fewer than twelve (12) years[.]; *and*

(F) Copies of public notices issued pursuant to 10 CSR 60-8.010 and certifications issued to the department pursuant to 10 CSR 60-7.010(9) shall be kept for at least three (3) years after issuance.

AUTHORITY: section 640.100, RSMo Supp. [1989] 2002. Original rule filed May 4, 1979, effective Sept. 14, 1979. Amended: Filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed March 17, 2003.

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions less than five hundred dollars (\$500) in the aggregate for the duration of the rule.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than five hundred dollars (\$500) in the aggregate for the duration of the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or in opposition to this proposed amendment. An information meeting and public hearing will be held May 22, 2003, 10:00 a.m., at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the *Missouri Register* page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by June 16, 2003. Comments may be mailed or faxed to: Ms. Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 20—Division of Environmental Health and
Communicable Disease Prevention
Chapter 20—Communicable Diseases**

PROPOSED AMENDMENT

19 CSR 20-20.080 Duties of Laboratories. The division is amending section (1).

PURPOSE: This amendment to the rule establishes consistency with 19 CSR 20-20.020 by authorizing the director or person in charge of any laboratory to designate a third party as the reporting entity for the laboratory to report the results of any test that is positive for, or suggestive of, any disease or condition listed in 19 CSR 20-20.020.

(1) The director, [or] person in charge of any laboratory, or designee of the director or person in charge of any laboratory shall report to the local health authority or the Missouri Department of Health and Senior Services the result of any test that is positive for, or suggestive of, any disease or condition listed in 19 CSR 20-20.020. These reports shall be made according to the time and manner specified for each disease or condition following completion of the test and shall designate the test performed, the results of the test, the name and address of the attending physician, the name of the disease or condition diagnosed or suspected, the date the test results were obtained, the name and home address (with zip code) of the patient, and the patient's age, date of birth, sex, and race.

AUTHORITY: sections 192.006[, RSMo Supp. 1999] and 192.020, RSMo [1994] 2000. This rule was previously filed as 13 CSR 50-101.090. Original rule filed July 15, 1948, effective Sept. 13, 1948. For intervening history please consult the *Code of State Regulations*. Amended: Filed March 14, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, 930 Wildwood, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 20—Division of Environmental Health and
Communicable Disease Prevention
Chapter 20—Communicable Diseases**

PROPOSED RULE

19 CSR 20-20.091 Testing for Contagious or Infectious Disease

PURPOSE: This rule determines the contagious or infectious diseases for which testing is reasonable and appropriate and which may be administered pursuant to section 191.631, RSMo.

(1) Tests for the following contagious or infectious diseases may be administered pursuant to sections 191.630 to 191.631, RSMo:

- (A) Hepatitis B;
- (B) Hepatitis C;
- (C) Syphilis; and/or
- (D) Human T-Cell Lymphotropic Virus (HTLV) I/II.

AUTHORITY: section 191.631, RSMo Supp. 2002. Original rule filed March 14, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Environmental Health and Communicable Disease Prevention, 930 Wildwood, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES**

**Division 20—Division of Environmental Health and
Communicable Disease Prevention
Chapter 20—Communicable Diseases**

PROPOSED RULE

**19 CSR 20-20.092 Blood-borne Pathogen Standard Required for
Occupational Exposure of Public Employees to Blood and Other
Infectious Materials**

PURPOSE: This rule establishes standards for protection of public employees from occupational exposure to blood-borne pathogens in the workplace.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The blood-borne pathogen standard governing public employers in the state of Missouri having employees with occupational exposure to blood or other potentially infectious materials shall be the standard of the Occupational Safety and Health Administration as codified in 29 CFR 1910.1030. The Occupational Safety and Health Administration standard as codified in 29 CFR 1910.1030 is incorporated herein by reference.

(2) As part of the Occupational Safety and Health Administration blood-borne pathogen standard codified in 29 CFR 1910.1030, each public employer having employees with occupational exposure is required to establish a written Exposure Control Plan. Such plan shall include a requirement that the most effective available needle-

less systems and sharps with engineered sharps injury protection be included as engineering and work practice controls. However, such engineering controls shall not be required if:

- (A) None are available in the marketplace; or
- (B) An evaluation committee, as described in section 191.640.5, RSMo determines by means of objective product evaluation criteria that use of such devices will jeopardize patient or employee safety with regard to a specific medical procedure.

AUTHORITY: sections 191.640, RSMo Supp. 2001 and 192.006, RSMo 2000. Original rule filed March 14, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Environmental Health and Communicable Disease Prevention, 930 Wildwood, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 4—Long-Term Care**

PROPOSED RESCISSION

20 CSR 400-4.100 Long-Term Care. This regulation implemented sections 376.951-376.958, RSMo, (currently cited as sections 376.1100-376.1118, RSMo Supp. 2002) to promote the public interest, promote the availability of long-term care insurance coverage, protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, facilitate public understanding and comparison of long-term care insurance coverages and facilitate flexibility and innovation in the development of long-term care insurance.

PURPOSE: This rule is being rescinded because it is being replaced by a new rule, namely 20 CSR 400-4.100 Long-Term Care Insurance.

AUTHORITY: sections 374.045 and 660.551, RSMo 2000 and 376.951-376.958 RSMo 2000 and Supp. 2002. Original rule filed Jan. 28, 1991, effective Sept. 30, 1991. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Rescinded: Filed March 17, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rescission at 10:00 a.m. on May 20, 2003. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in sup-

port of or in opposition to the proposed rescission, until 5:00 p.m. on May 20, 2003. Written statements shall be sent to Carolyn H. Kerr, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 4—Long-Term Care

PROPOSED RULE

20 CSR 400-4.100 Long-Term Care Insurance

PURPOSE: This rule implements sections 376.1100–376.1130, RSMo Supp. 2002, to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages and to facilitate flexibility and innovation in the development of long-term care insurance.

(1) Applicability and Scope.

(A) Except as otherwise specifically provided, this regulation applies to all long-term care insurance policies, including qualified long-term care contracts and life insurance policies that accelerate benefits for long-term care delivered or issued for delivery in this state on or after the effective date by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations and all similar organizations. Certain provisions of this regulation apply only to qualified long-term care insurance contracts as noted.

(B) Additionally, this regulation is intended to apply to policies having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if:

1. The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services;
2. The disability income policy is advertised, marketed or offered as insurance for long-term care services; or
3. Benefits under the policy may commence after the policyholder has reached Social Security's normal retirement age unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

(2) **Definitions.** For the purpose of this regulation, the terms "long-term care insurance," "qualified long-term care insurance," "group long-term care insurance," "director," "applicant," "policy" and "certificate" shall have the meanings set forth in section 376.1100.2, RSMo. In addition, the following definitions apply:

(A) "Exceptional increase."

1. Exceptional increase means only those increases filed by an insurer as exceptional for which the director determines the need for the premium rate increase is justified:

- A. Due to changes in laws or regulations applicable to long-term care coverage in this state; or
- B. Due to increased and unexpected utilization that affects the majority of insurers of similar products.

2. Except as provided in section (18) of this regulation, exceptional increases are subject to the same requirements as other premi-

um rate schedule increases.

3. The director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

4. The director, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

(B) "Incidental," as used in subsection (18)(J) of this regulation, means that the value of the long-term care benefits provided is less than ten percent (10%) of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

(C) "Qualified actuary" means a member in good standing of the American Academy of Actuaries (AAA).

(D) "Similar policy forms" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in section 376.1100.2(4)(a), RSMo, are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows:

1. Institutional long-term care benefits only;
2. Non-institutional long-term care benefits only; or
3. Comprehensive long-term care benefits.

(3) **Policy Definitions.** No long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

(A) "Activities of daily living" means at least bathing, continence, dressing, eating, toileting and transferring.

(B) "Acute condition" means that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

(C) "Adult day care" means a program for six (6) or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

(D) "Bathing" means washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.

(E) "Cognitive impairment" means a deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

(F) "Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

(G) "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

(H) "Eating" means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

(I) "Hands-on assistance" means physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

(J) "Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living and respite care services.

(K) "Medicare" means "The Health Insurance for the Aged Act,

Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended,” or “Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof,” or words of similar import.

(L) “Mental or nervous disorder” shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

(M) “Personal care” means the provision of hands-on services to assist an individual with activities of daily living.

(N) “Skilled nursing care,” “intermediate care,” “personal care,” “home care” and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

(O) “Toileting” means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

(P) “Transferring” means moving into or out of a bed, chair or wheelchair.

(Q) All providers of services, including but not limited to “skilled nursing facility,” “extended care facility,” “intermediate care facility,” “convalescent nursing home,” “personal care facility,” and “home care agency” shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

(4) Policy Practices and Provisions.

(A) Renewability. The terms “guaranteed renewable” and “non-cancellable” shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of section (7) of this regulation.

1. A policy issued to an individual shall not contain renewal provisions other than “guaranteed renewable” or “noncancellable.”

2. The term “guaranteed renewable” may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

3. The term “noncancellable” may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

4. The term “level premium” may only be used when the insurer does not have the right to change the premium.

5. In addition to the other requirements of this subsection, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Internal Revenue Code (IRC), section 7702B(b)(1)(C), as referenced herein.

(B) Limitations and Exclusions. A policy may not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

1. Preexisting conditions or diseases;

2. Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer’s disease;

3. Alcoholism and drug addiction;

4. Illness, treatment or medical condition arising out of:

A. War or act of war (whether declared or undeclared);

B. Participation in a felony, riot or insurrection;

C. Service in the armed forces or units auxiliary thereto;

D. Suicide or attempted suicide while sane or intentionally self-inflicted injury; or

E. Aviation (this exclusion applies only to non-fare-paying passengers);

5. Treatment provided in a government facility (unless otherwise required by law), services to the extent that benefits are available under Title XVIII of the Social Security Act (Medicare) or other governmental program (except Medicaid), any state or federal workers’ compensation, employer’s liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person’s immediate family and services for which no charge is normally made in the absence of insurance;

6. Expenses for services or items available or paid under another long-term care insurance or health insurance policy;

7. In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Medicare or would be so reimbursable but for the application of a deductible or coinsurance amount;

8. This subsection is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

(C) Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

(D) Continuation or Conversion.

1. Group long-term care insurance issued in this state on or after the effective date of this regulation shall provide covered individuals with a basis for continuation or conversion of coverage.

2. For the purposes of this section, “a basis for continuation of coverage” means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The director shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

3. For the purposes of this section, “a basis for conversion of coverage” means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six (6) months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

4. For the purposes of this section, “converted policy” means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

5. Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than thirty-one (31) days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

6. Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

7. Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

A. Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

B. The terminating coverage is replaced not later than thirty-one (31) days after termination, by group coverage effective on the day following the termination of coverage:

(I) Providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(II) The premium for which is calculated in a manner consistent with the requirements of paragraph (4)(D)6. of this rule.

8. Notwithstanding any other provision of this section, a converted policy issued to an individual who, at the time of conversion, is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent (100%) of incurred expenses. The provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

9. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

10. Notwithstanding any other provision of this section, an insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

11. For the purposes of this section a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

(E) Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

1. Shall not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

2. Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

(F) Premium.

1. The premium charged to an insured shall not increase due to either:

A. The increasing age of the insured at ages beyond sixty-five (65); or

B. The duration the insured has been covered under the policy.

2. The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under section (24) of this regulation, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium.

3. A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under section (24) of this regulation, the initial annual premium shall be based on the reduced benefits.

(G) Electronic Enrollment for Group Policies.

1. In the case of a group defined in section 376.1100.2(4)(a), RSMo, any requirement that a signature of an insured be obtained by a producer or insurer shall be deemed satisfied if:

A. The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee;

B. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records; and

C. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of personally identifiable financial information as defined by 20 CSR 100-6.100, is maintained.

2. The insurer shall make available, upon request of the director, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts.

(5) Unintentional Lapse. Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

(A) Notice Before Lapse or Termination.

1. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one (1) person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one (1) person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one (1) person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state:

"Protection against unintended lapse. I understand that I have the right to designate at least one (1) person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

2. The insurer shall notify the insured of the right to change this written designation, no less often than once every two (2) years.

3. When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in paragraph (5)(A)1. of this rule need not be met until sixty (60) days after the

policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.

4. Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least thirty (30) days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to paragraph (5)(A)1. of this regulation, at the address provided by the insured for purposes of receiving notice of lapse or termination.

A. Notice shall be given by first class United States mail, postage prepaid.

B. Notice may not be given until thirty (30) days after a premium is due and unpaid.

C. Notice shall be deemed to have been given as of five (5) days after the date of mailing.

(B) Reinstatement. In addition to the requirement in subsection (5)(A) of this rule, a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five (5) months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

(6) Required Disclosure Provisions.

(A) Renewability. Individual long-term care insurance policies shall contain a renewability provision.

1. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state that the coverage is guaranteed renewable or noncancellable. This provision shall not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder, including long-term care policies that are part of or combined with life insurance policies, since life insurance policies do not contain renewability provisions.

2. A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

(B) Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider or endorsement.

(C) Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage.

(D) Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the

limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

(E) Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in section 376.1109, RSMo, shall set forth a description of the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits."

(F) Disclosure of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.

(G) Benefit Triggers. Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained in this section. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

(H) A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in the provision of paragraph (27)(E)3. of this regulation, that the policy is intended to be a qualified long-term care insurance contract under IRC, section 7702B(b), as referenced herein.

(I) A nonqualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in the provisions of paragraph (27)(E)3. of this regulation, that the policy is not intended to be a qualified long-term care insurance contract.

(7) Required Disclosure of Rating Practices to Consumers.

(A) This section shall apply as follows:

1. Except as provided in paragraph (7)(A)2., below, this section applies to any long-term care policy or certificate issued in this state six (6) months following the effective date of this regulation.

2. For certificates issued on or after the effective date of this regulation under a group long-term care insurance policy as defined in section 376.1100.2(4)(a), RSMo, which policy was in force at the time this regulation became effective, the provisions of this section shall apply on the policy anniversary following July 1 of the year following the year in which this regulation becomes effective.

(B) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time (e.g., application made by mail). In such a case, an insurer shall provide all of the information listed in this section to the applicant no later than at the time of delivery of the policy or certificate.

1. A statement that the policy may be subject to rate increases in the future;

2. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision;

3. The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

4. A general explanation for applying premium rate or rate schedule adjustments that shall include:

A. A description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and

B. The right to a revised premium rate or rate schedule as provided in paragraph (7)(B)3. of this rule if the premium rate or rate schedule is changed;

5. Information relating to premium rate increases.

A. Information regarding each premium rate increase on this policy form or similar policy forms over the past ten (10) years for this state or any other state that, at a minimum, identifies:

(I) The policy forms for which premium rates have been increased;

(II) The calendar years when the form was available for purchase; and

(III) The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

B. The insurer may, in a manner that is not misleading to the applicant, provide additional explanatory information related to the rate increases.

C. An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition.

D. If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of either the effective date of this regulation or the end of a twenty-four (24)-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with subparagraph (7)(B)5.A. of this rule.

E. If the acquiring insurer in the provisions of subparagraph (7)(B)5.D. of this regulation, above, files for a subsequent rate increase, even within the twenty-four (24)-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in provisions of subparagraph (7)(B)5.D. of this regulation, above, the acquiring insurer shall make all disclosures required by paragraph (7)(B)5. above, including disclosure of the earlier rate increase referenced in the provisions of subparagraph (7)(B)5.D. of this regulation.

(C) An applicant shall sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under paragraphs (7)(B)1. and (7)(B)5. of this rule. If due to the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate.

(D) An insurer shall use the forms in Appendices B and F, which are included herein, to comply with the requirements of subsections (7)(B) and (D) of this rule.

(E) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least forty-five (45) days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by subsection (7)(B) when the rate increase is implemented.

(8) Initial Filing Requirements.

(A) This section applies to any long-term care policy issued in this

state six (6) months following the effective date of this regulation.

(B) An insurer shall provide the information listed in this subsection to the director thirty (30) days prior to making a long-term care insurance form available for sale.

1. A copy of the disclosure documents required in section (7) of this regulation; and

2. An actuarial certification consisting of at least the following:

A. A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

B. A statement that the policy design and coverage provided have been reviewed and taken into consideration;

C. A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

D. A complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(I) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(II) A statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(III) A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted);

(IV) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;

(V) When the difference between the gross premium and the renewal net valuation premiums is not sufficient to cover expected renewal expenses, the description provided could demonstrate the type and level of change in the reserve assumptions that would be necessary for the difference to be sufficient.

(a) An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship;

(b) If the gross premiums for certain age groups appear to be inconsistent with this requirement, the director may request a demonstration under subsection (8)(C) of this regulation based on a standard age distribution; and

E. Premium rate schedule.

(I) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or

(II) A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences. At a minimum, the insurer must provide that a broad range of expected combinations in a manner designed to provide a fair presentation for review by the director.

(C) The director may request additional information to be provided.

1. The director may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both.

2. In the event the director asks for additional information under this provision, the period in subsection (8)(B) of this regulation does not include the period during which the insurer is preparing the requested information.

(9) Prohibition Against Post-Claims Underwriting.

(A) All applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(B) Medication.

1. If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

2. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

(C) Except for policies or certificates that are guaranteed issue:

1. The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

"Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy."

2. The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

"Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]"

3. Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer shall obtain one (1) of the following:

- A. A report of a physical examination;
- B. An assessment of functional capacity;
- C. An attending physician's statement; or
- D. Copies of medical records.

(D) A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(E) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the insurance director in the format prescribed by the National Association of Insurance Commissioners (NAIC) in Appendix A, which is included herein.

(10) Minimum standards for home health and community care benefits in long-term care insurance policies.

(A) A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits:

1. By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided;

2. By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home,

community or institutional setting before home health care services are covered;

3. By limiting eligible services to services provided by registered nurses or licensed practical nurses;

4. By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

5. By excluding coverage for personal care services provided by a home health aide;

6. By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

7. By requiring that the insured or claimant have an acute condition before home health care services are covered;

8. By limiting benefits to services provided by Medicare-certified agencies or providers; or

9. By excluding coverage for adult day care services.

(B) A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half (1/2) of one (1) year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities.

(C) Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. This subsection is not intended to restrict home health care to a period of time which would make the benefit illusory. Fewer than three hundred sixty-five (365) benefit days and less than a twenty-five dollar (\$25) daily maximum benefit constitute illusory home health care benefits.

(11) Requirement to Offer Inflation Protection.

(A) No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder, in addition to any other inflation protection, the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one (1) of the following:

1. Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%);

2. Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

3. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(B) Where the policy is issued to a group, the required offer in subsection (11)(A) of this rule, above, shall be made to the group policyholder; except, if the policy is issued to a group defined in section 376.1100.2(4)(a), RSMo, other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder.

(C) The offer in subsection (11)(A) of this rule, above, shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

(D) Information Required in or with the Outline of Coverage.

1. Insurers shall include the following information in or with the outline of coverage:

A. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty (20)-year period; and

B. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases.

2. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(E) Inflation protection benefit increases under a policy that contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(F) An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(G) Rejection of Inflation Protection.

1. Inflation protection as provided in paragraph (11)(A)1. of this rule, above, shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection.

2. The rejection may be either in the application or on a separate form.

3. The rejection shall be considered a part of the application and shall state:

"I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection."

(12) Requirements for Application Forms and Replacement Coverage.

(A) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by section 376.1100.2(4)(a), RSMo, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement:

1. "Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?"

2. "Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months?"

A. "If so, with which company?"

B. "If that policy lapsed, when did it lapse?"

3. "Are you covered by Medicaid?"

4. "Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?"

(B) Producers shall list any other health insurance policies they have sold to the applicant, including the following:

1. All policies sold that are still in force.

2. All policies sold in the past five (5) years that are no longer in force.

(C) Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its producer, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage.

1. One (1) copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer.

2. The required notice shall be provided in the following manner:

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF
INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM
CARE INSURANCE**

[Insurance company's name and address]

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN
THE FUTURE.**

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

**STATEMENT TO APPLICANT BY PRODUCER [OR OTHER
REPRESENTATIVE]:**

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Producer or Other Representative)

[Typed Name and Address of Producer]

The above "Notice to Applicant" was delivered to me on:

(Applicant's Signature) (Date)

(D) Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

[Company Name]

(E) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Notice shall be provided within five (5) working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(F) Life insurance policies that accelerate benefits for long-term care shall comply with this section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of 20 CSR 400-5.400. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements.

(13) Reporting Requirements.

(A) For purposes of this section:

1. "Policy" means only long-term care insurance;
2. Subject to paragraph (13)(G)3., below, "claim" means a request for payment of benefits under an in-force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;
3. "Denied" means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and
4. "Report" means on a statewide basis.

(B) Every insurer shall maintain records for each producer of that producer's amount of replacement sales as a percent of the producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the producer as a percent of the producer's total annual sales.

(C) Every insurer shall report, annually by June 30, the ten percent (10%) of its producers with the greatest percentages of lapses and replacements as measured by subsection (13)(A) of this rule,

above. The required report is printed as Appendix G to this regulation, which is included herein.

(D) Every insurer shall report annually by June 30, by completing Appendix G, the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(E) Every insurer shall report annually by June 30, by completing Appendix G, the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

(F) Every insurer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. The required report is printed as Appendix E to this regulation, which is included herein.

(G) Reports required under this section shall be filed with the director.

(14) Licensing. A producer is not authorized to sell, solicit or negotiate with respect to long-term care insurance except as authorized by section 375.018, RSMo.

(15) Discretionary Powers of Director. The director may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this regulation with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(A) The modification or suspension would be in the best interest of the insureds;

(B) The purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

(C) Either one of the following:

1. The modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care;

2. The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

3. The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

(16) Reserve Standards.

(A) When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits shall be determined in accordance with section 376.380, RSMo. Claim reserves shall also be established in the case when the policy or rider is in claim status.

(B) Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit.

(C) In the development and calculation of reserves for policies and riders subject to this subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on pro-

jected claim costs, including, but not limited to, the following:

1. Definition of insured events;
2. Covered long-term care facilities;
3. Existence of home convalescence care coverage;
4. Definition of facilities;
5. Existence or absence of barriers to eligibility;
6. Premium waiver provision;
7. Renewability;
8. Ability to raise premiums;
9. Marketing method;
10. Underwriting procedures;
11. Claims adjustment procedures;
12. Waiting period;
13. Maximum benefit;
14. Availability of eligible facilities;
15. Margins in claim costs;
16. Optional nature of benefit;
17. Delay in eligibility for benefit;
18. Inflation protection provisions; and
19. Guaranteed insurability option.

20. Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the AAA.

(D) When long-term care benefits are provided other than as in subsections (A) through (C) of this section, above, reserves shall be determined in accordance with section 376.410, RSMo, and 20 CSR 200-1.140.

(17) Loss Ratio.

(A) This section shall apply to all long-term care insurance policies or certificates except those covered under sections (8) and (18) of this regulation.

(B) Benefits under long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least sixty percent (60%), calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

1. Statistical credibility of incurred claims experience and earned premiums;
2. The period for which rates are computed to provide coverage;
3. Experienced and projected trends;
4. Concentration of experience within early policy duration;
5. Expected claim fluctuation;
6. Experience refunds, adjustments or dividends;
7. Renewability features;
8. All appropriate expense factors;
9. Interest;
10. Experimental nature of the coverage;
11. Policy reserves;
12. Mix of business by risk classification; and
13. Product features such as long elimination periods, high deductibles and high maximum limits.

(C) Subsection (B) of this section, above, shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid if the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
2. The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of section 376.670, RSMo;

3. The policy meets the disclosure requirements of section 376.1109, RSMo;

4. Any policy illustration that meets the applicable requirements of sections 375.1500–375.1527, RSMo; and

5. An actuarial memorandum is filed with the department that includes:

A. A description of the basis on which the long-term care rates were determined;

B. A description of the basis for the reserves;

C. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

D. A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

E. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

F. The estimated average annual premium per policy and the average issue age;

G. A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

H. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

(18) Premium Rate Schedule Increases.

(A) This section shall apply as follows:

1. Except as provided in paragraph (18)(A)2., below, this section applies to any long-term care policy or certificate issued in this state six (6) months following the effective date of this regulation.

2. For certificates issued on or after the effective date of this proposed rule under a group long-term care insurance policy as defined in section 376.1100.2(4)(a), RSMo, which policy was in force at the time this proposed rule became effective, the provisions of this section shall apply on the policy anniversary following twelve (12) months after the effective date of this regulation.

(B) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the director at least thirty (30) days prior to the notice to the policyholders and shall include:

1. Information required by section (7) of this regulation, above;

2. Certification by a qualified actuary that:

A. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and

B. The premium rate filing is in compliance with the provisions of this section;

3. An actuarial memorandum justifying the rate schedule change request that includes:

A. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale:

(I) Annual values for the five (5) years preceding and the three (3) years following the valuation date shall be provided separately;

(II) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(III) The projections shall demonstrate compliance with subsection (18)(C), below; and

(IV) For exceptional increases:

(a) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(b) In the event the director determines, as provided in the provisions of paragraph (2)(A)4. of this regulation, that offsets may exist, the insurer shall use appropriate net projected experience;

B. Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

C. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

D. A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

E. In the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer must also file composite rates reflecting projections of new certificates;

4. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the director; and

5. Sufficient information for review of the premium rate schedule increase by the director.

(C) All premium rate schedule increases shall be determined in accordance with the following requirements:

1. Exceptional increases shall provide that seventy percent (70%) of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

2. Premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

A. The accumulated value of the initial earned premium times fifty-eight percent (58%);

B. Eighty-five percent (85%) of the accumulated value of prior premium rate schedule increases on an earned basis;

C. The present value of future projected initial earned premiums times fifty-eight percent (58%); and

D. Eighty-five percent (85%) of the present value of future projected premiums not in subparagraph (18)(C)2.C., above, on an earned basis;

3. In the event that a policy form has both exceptional and other increases, the values in the provisions of subparagraphs (18)(C)2.B. and D., above, will also include seventy percent (70%) for exceptional rate increase amounts; and

4. All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in 20 CSR 200-1.140. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(D) For each rate increase that is implemented, the insurer shall file for review by the director updated projections, as defined in the provisions of subparagraph (18)(B)3.A. of this rule, above, annually for the next three (3) years and include a comparison of actual results to projected values. The director may extend the period to greater than three (3) years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (K) of this section, below, the projections required by this subsection shall be provided to the policyholder in lieu of filing with the director.

(E) If any premium rate in the revised premium rate schedule is greater than two hundred percent (200%) of the comparable rate in the initial premium schedule, lifetime projections, as defined in the provisions of subparagraph (18)(B)3.A., above, shall be filed for review by the director every five (5) years following the end of the required period in subsection (D) of this section, above. For group insurance policies that meet the conditions in subsection (K) of this section, below, the projections required by this subsection shall be provided to the policyholder in lieu of filing with the director.

(F) Director may request additional steps be taken by the insurer.

1. If the director has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (C) of this section, above, the director may require the insurer to implement any of the following:

A. Premium rate schedule adjustments; or

B. Other measures to reduce the difference between the projected and actual experience.

2. In determining whether the actual experience adequately matches the projected experience, consideration should be given to the provisions of subparagraph (18)(B)3.E. of this regulation, if applicable.

(G) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file the following documents:

1. A plan, subject to the director's approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the director may impose the condition in subsection (H) of this section, below; and

2. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (C) of this section, above, had the greater of the original anticipated lifetime loss ratio or fifty-eight percent (58%) been used in the calculations described in the provisions of subparagraphs (18)(C)2.A. and C., above.

(H) Significant Adverse Lapsation.

1. For a rate increase filing that meets the following criteria, the director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the twelve (12) months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

A. The rate increase is not the first rate increase requested for the specific policy form or forms;

B. The rate increase is not an exceptional increase; and

C. The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

2. In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the director may determine that a rate spiral exists. If it is determined that a rate spiral exists, the director may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase the option to replace existing coverage with one (1) or more reasonably comparable products being offered by the insurer or its affiliates.

A. The offer shall:

(I) Be subject to the approval of the director;

(II) Be based on actuarially sound principles, but not be based on attained age; and

(III) Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

B. The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

(I) The maximum rate increase determined based on the combined experience; and

(II) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent (10%).

(I) If the director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the director may, in addition to the provisions of subsection (H) of this section, above, prohibit the insurer from either of the following:

1. Filing and marketing comparable coverage for a period of up to five (5) years; or

2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(J) Subsections (A) through (I) of this section shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in subsection (2)(B), above, if the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

A. Section 376.670, RSMo;

B. Section 376.671, RSMo;

3. The policy meets the disclosure requirements of section 376.1109, RSMo;

4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

A. Policy illustrations as required by sections 375.1500-375.1527, RSMo;

B. Disclosure requirements in 20 CSR 400-1.020; and

5. An actuarial memorandum is filed with the department that includes:

A. A description of the basis on which the long-term care rates were determined;

B. A description of the basis for the reserves;

C. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

D. A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

E. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

F. The estimated average annual premium per policy and the average issue age;

G. A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

H. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

(K) Subsections (F) and (H) of this section, above, shall not apply to group insurance policies as defined in section 376.1100.2(4)(a), RSMo, where:

1. The policies insure two hundred fifty (250) or more persons and the policyholder has five thousand (5,000) or more eligible employees of a single employer; or

2. The policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than twenty percent (20%) of the total premium for the group in the calendar year prior to the year a rate increase is filed.

(19) Filing Requirement. Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to section 376.1103, RSMo, it shall file with the director evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

(20) Filing Requirements for Advertising.

(A) Every insurer, health care service plan or other entity providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio or television medium to the director for review or approval by the director to the extent it may be required under state law. In addition, all advertisements shall be retained by the insurer, health care service plan or other entity for at least three (3) years from the date the advertisement was first used.

(B) The director may exempt from these requirements any advertising form or material when, in the director's opinion, that requirement may not be reasonably applied.

(21) Standards for Marketing.

(A) Every insurer, health care service plan or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

1. Establish marketing procedures and producer training requirements to assure that:

A. Any marketing activities, including any comparison of policies, by its producers will be fair and accurate; and

B. Excessive insurance is not sold or issued.

2. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

3. Provide copies of the disclosure forms required in subsection (7)(C) of this regulation (Appendices B and F, which are included herein) to the applicant.

4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.

5. Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with subsection (A) of this section, above.

6. If the state in which the policy or certificate is to be delivered or issued for delivery has a state senior health insurance assistance program approved by the director, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificateholder that the program is available and the name, address and telephone number of the program.

7. For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to the provisions of (4)(A)3. of this regulation.

8. Provide an explanation of contingent benefit upon lapse provided for in the provisions of paragraph (24)(D)3. of this regulation.

(B) In addition to the practices prohibited in sections 376.930 to 376.948, RSMo, the following acts and practices are prohibited:

1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

3. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.

4. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

(C) Association Responsibility.

1. With respect to the obligations set forth in this subsection, the primary responsibility of an association, as defined in section 376.1100.2(4)(b), RSMo, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

2. The insurer shall file with the department the following material:

A. The policy and certificate;

B. A corresponding outline of coverage; and

C. All advertisements requested by the department.

3. The association shall disclose in any long-term care insurance solicitation, the following information:

A. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and

B. A brief description of the process under which the policies and the insurer issuing the policies were selected.

4. If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members.

5. The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and

approve the insurance policies as well as the compensation arrangements made with the insurer.

6. The association shall also do the following:

A. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates and update the examination thereafter in the event of material change;

B. Actively monitor the marketing efforts of the insurer and its producers;

C. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates;

D. The provisions of subparagraphs (21)(C)6.A. through C. of this regulation shall not apply to qualified long-term care insurance contracts.

7. The materials specified for filing in this section shall be filed in accordance with this state's filing due dates and procedures.

8. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the department the information required in this subsection.

9. The insurer shall not issue a long term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in this subsection.

10. Knowingly failing to comply with the filing and certification requirements of this section constitutes an unfair trade practice in violation of section 375.936(5), RSMo.

(22) Suitability.

(A) This section shall not apply to life insurance policies that accelerate benefits for long-term care.

(B) Every insurer, health care service plan or other entity marketing long-term care insurance (the "issuer") shall do the following:

1. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

2. Train its producers in the use of its suitability standards; and

3. Maintain a copy of its suitability standards and make them available for inspection upon request by the director.

(C) Requirement to Develop Procedures.

1. To determine whether the applicant meets the standards developed by the issuer, the producer and issuer shall develop procedures that take the following into consideration:

A. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

B. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and

C. The values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

2. The issuer, and where a producer is involved, the producer shall make reasonable efforts to obtain the information set out in paragraph (22)(C)1. above. The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B, which is included herein, in not less than twelve (12)-point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the director.

3. A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of

employer group long-term care insurance to employees and their spouses.

4. The sale or dissemination outside the company or business entity by the issuer or producer of information obtained through the personal worksheet in Appendix B is prohibited.

(D) The issuer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(E) Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance.

(F) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C, which is included herein, in not less than twelve (12)-point type.

(G) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to the format outlined in Appendix D, which is included herein. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(H) The issuer shall report annually by June 30 to the director the following information:

1. The total number of applications received from residents of this state;

2. The number of those who declined to provide information on the personal worksheet;

3. The number of applicants who did not meet the suitability standards; and

4. The number of those who chose to confirm after receiving a suitability letter.

(23) Prohibition against preexisting conditions and probationary periods in replacement policies or certificates. If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

(24) Nonforfeiture Benefit Requirement.

(A) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(B) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of section 376.1127, RSMo:

1. A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection (E) of this section, below; and

2. The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the "Outline of Coverage" or other materials given to the prospective policyholder.

(C) If the offer required to be made under section 376.1127, RSMo, is rejected, the insurer shall provide the contingent benefit upon lapse described in this section.

(D) Actions Required after Rejection.

1. After rejection of the offer required under section 376.1127, RSMo, for individual and group policies without nonforfeiture benefits issued after the effective date of this section, the insurer shall provide a contingent benefit upon lapse.

2. In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall

provide either the nonforfeiture benefit or the contingent benefit upon lapse.

3. The contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, and the policy or certificate lapses within one hundred-twenty (120) days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase
Percent Increase Over
Initial Premium

| Issue Age | Percent Increase Over Initial Premium |
|--------------|---------------------------------------|
| 29 and under | 200% |
| 30-34 | 190% |
| 35-39 | 170% |
| 40-44 | 150% |
| 45-49 | 130% |
| 50-54 | 110% |
| 55-59 | 90% |
| 60 | 70% |
| 61 | 66% |
| 62 | 62% |
| 63 | 58% |
| 64 | 54% |
| 65 | 50% |
| 66 | 48% |
| 67 | 46% |
| 68 | 44% |
| 69 | 42% |
| 70 | 40% |
| 71 | 38% |
| 72 | 36% |
| 73 | 34% |
| 74 | 32% |
| 75 | 30% |
| 76 | 28% |
| 77 | 26% |
| 78 | 24% |
| 79 | 22% |
| 80 | 20% |
| 81 | 19% |
| 82 | 18% |
| 83 | 17% |
| 84 | 16% |
| 85 | 15% |
| 86 | 14% |
| 87 | 13% |
| 88 | 12% |
| 89 | 11% |
| 90 and over | 10% |

4. On or before the effective date of a substantial premium increase as defined in the provisions of (24)(D)3. of this regulation, above, the insurer shall:

A. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased. The insured's right to reduce policy benefits in the event of the premium increase does not affect any other right to elect a reduction in benefits provided under the policy;

B. Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection

(E) of this section, below. This option may be elected at any time during the one hundred twenty (120)-day period referenced in paragraph (24)(D)3. of this rule, above; and

C. Notify the policyholder or certificateholder that a default or lapse at any time during the one hundred twenty (120)-day period referenced in the paragraph (24)(D)3. of this rule, above, shall be deemed to be the election of the offer to convert as provided for by the provisions of (24)(D)4.B. of this regulation, above.

(E) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse.

1. For purposes of this subsection, "attained age rating" is defined as a schedule of premiums starting from the issue date which increases age at least one percent (1%) per year prior to age fifty (50), and at least three percent (3%) per year beyond age fifty (50).

2. For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in the provisions of paragraph (24)(E)3. of this rule, below.

3. The standard nonforfeiture credit will be equal to one hundred percent (100%) of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (F) of this section, below.

4. Timing of nonforfeiture benefit.

A. The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three (3) years as well as thereafter.

B. Notwithstanding the provisions of (24)(E)4.A., above, for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

(I) The end of the tenth year following the policy or certificate issue date; or

(II) The end of the second year following the date the policy or certificate is no longer subject to attained age rating.

5. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(F) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid-up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status.

(G) There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

(H) The requirements set forth in this section shall become effective twelve (12) months after the effective date of this regulation and shall apply as follows:

1. Except as provided in the provisions of paragraph (24)(H)2., below, the provisions of this section apply to any long-term care policy issued in this state on or after the effective date of this proposed rule.

2. The provisions of this section shall not apply to certificates issued on or after the effective date of this regulation, under a group long-term care insurance policy as defined in section 376.1100.2(4)(a), RSMo, which policy was in force at the time this regulation became effective.

(I) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of section (17) of this regulation treating the policy as a whole.

(J) To determine whether contingent nonforfeiture upon lapse provisions are triggered under paragraph (24)(D)3., of this rule, above, a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(K) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

1. The nonforfeiture provision shall be appropriately captioned;
2. The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the director for the same contract form; and
3. The nonforfeiture provision shall provide at least one (1) of the following:
 - A. Reduced paid-up insurance;
 - B. Extended term insurance;
 - C. Shortened benefit period; or
 - D. Other similar offerings approved by the director.

(25) Standards for Benefit Triggers.

(A) A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three (3) of the activities of daily living or the presence of cognitive impairment.

(B) Activities of Daily Living.

1. Activities of daily living shall include at least the following as defined in section (3) of this regulation and in the policy:

- A. Bathing;
- B. Continence;
- C. Dressing;
- D. Eating;
- E. Toileting; and
- F. Transferring;

2. Insurers may use activities of daily living to trigger covered benefits in addition to those contained in paragraph (25)(B)1., of this rule, above, as long as they are defined in the policy.

(C) An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate. However, the provisions shall not restrict, and are not in lieu of, the requirements contained in subsections (A) and (B) of this section, above.

(D) For purposes of this section, the determination of a deficiency shall not be more restrictive than:

1. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or
2. If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

(E) Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(F) Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations.

(G) The requirements set forth in this section shall be effective one (1) year from the date that this regulation becomes effective and shall apply as follows:

1. Except as provided by paragraph (25)(G)2., of this rule, below, the provisions of this section apply to a long-term care policy issued in this state on or after the effective date of this regulation.

2. The provisions of this section shall not apply to certificates issued on or after the effective date of this regulation, under a group long-term care insurance policy as defined in section 376.1100.2(4)(a), RSMo, that was in force at the time this regulation became effective.

(26) Additional standards for benefit triggers for qualified long-term care insurance contracts.

(A) For purposes of this section, the following definitions apply:

1. "Qualified long-term care services" means services that meet the requirements of IRC, section 7702(c)(1) as referenced herein, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

2. "Chronically ill individual."

A. Chronically ill individual has the meaning prescribed for this term by IRC, section 7702B(c)(2) as referenced herein. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

(I) Being unable to perform (without substantial assistance from another individual) at least two (2) activities of daily living for a period of at least ninety (90) days due to a loss of functional capacity; or

(II) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

B. The term "chronically ill individual" shall not include an individual otherwise meeting these requirements unless within the preceding twelve (12)-month period a licensed health care practitioner has certified that the individual meets these requirements.

3. "Licensed health care practitioner" means a physician, as defined in section 1861(r)(1) of the Social Security Act, a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the United States Secretary of the Treasury.

4. "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

(B) A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(C) A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity or to severe cognitive impairment.

(D) Certifications regarding activities of daily living and cognitive impairment required pursuant to subsection (C) of this section, above, shall be performed by the following licensed or certified professionals: physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the United States Secretary of the Treasury.

(E) Certifications required pursuant to subsection (C) of this section, above, may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with

respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the ninety (90)-day period.

(F) Qualified long-term care insurance contracts shall include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

(27) Standard Format Outline of Coverage. This section implements, interprets and makes specific, the provisions of section 376.1115, RSMo, in prescribing a standard format and the content of an outline of coverage.

(A) The outline of coverage shall be a free-standing document, using no smaller than ten (10)-point type.

(B) The outline of coverage shall contain no material of an advertising nature.

(C) Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring.

(D) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(E) The format for the outline of coverage shall be as follows:

[COMPANY NAME]

[ADDRESS—CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] [a group policy] which was issued in the [indicate jurisdiction in which group policy was issued].

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the

policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. FEDERAL TAX CONSEQUENCES.

This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

(c) [Describe waiver of premium provisions or state that there are not such provisions.]

5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

[In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]

6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return—"free look"—provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the

policy or certificate. If the policy contains such provisions, include a description of them.]

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For producers] Neither [insert company name] nor its producers represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one (1) or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

9. BENEFITS PROVIDED BY THIS POLICY.

(a) [Covered services, related deductibles, waiting periods, elimination periods and benefit maximums.]

(b) [Institutional benefits, by skill level.]

(c) [Non-institutional benefits, by skill level.]

(d) Eligibility for Payment of Benefits

[Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.]

[Any additional benefit triggers must also be explained. If these triggers differ for different benefits, explanation of the triggers should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

(a) Preexisting conditions;

(b) Non-eligible facilities and provider;

(c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions and exceptions;

(e) Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in Number 6 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

[(a) State the total annual premium for the policy;

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

[(a) Indicate if medical underwriting is used;

(b) Describe other important features.]

15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE PROGRAM IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

(28) Requirement to Deliver Shopper's Guide.

(A) A long-term care insurance shopper's guide in the format developed by the NAIC, or a guide developed or approved by the director, shall be provided to all prospective applicants of a long-term care insurance policy or certificate.

1. In the case of producer solicitations, a producer must deliver the shopper's guide prior to the presentation of an application or enrollment form.

2. In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

(B) Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under section 376.1115, RSMo.

APPENDIX A

**RESCISSION REPORTING FORM FOR
LONG-TERM CARE POLICIES
FOR THE STATE OF MISSOURI
FOR THE REPORTING YEAR 20[]**

Company Name: _____

Address: _____

Phone Number: _____

Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one (1) form per rescission.

| Policy Form # | Policy and Certificate # | Name of Insured | Date of Policy Issuance | Date/s Claim/s Submitted | Date of Rescission |
|---------------|--------------------------|-----------------|-------------------------|--------------------------|--------------------|
| | | | | | |

Detailed reason for rescission: _____

Signature

Name and Title (please type)

Date

APPENDIX B

Long-Term Care Insurance
Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long-term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and **ask** you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers _____

The premium for the coverage you are considering will be [\$_____ per month, or \$_____ per year,] [a one-time single premium of \$_____].

Type of Policy (noncancellable/guaranteed renewable): _____

The Company's Right to Increase Premiums: _____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

Rate Increase History The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last ten (10) years.] [The company has raised its premium rates on this policy form or similar policy forms in the last ten (10) years. Following is a summary of the rate increases.]

Questions Related to Your Income

How will you pay each year's premium?

From my Income From my Savings/Investments My Family will Pay

[Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 20%?]

Drafting Note: This is not required if the policy is fully paid up or is a noncancellable policy.

What is your annual income? (check one) Under \$10,000 \$[10-20,000] \$[20-30,000] \$[30-50,000]
 Over \$50,000

Drafting Note: The issuer may choose the numbers to put in the brackets to fit its suitability standards.

How do you expect your income to change over the next ten (10) years? (check one)

No change Increase Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) Yes No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

From my Income From my Savings/Investments My Family will Pay

The national average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In ten (10) years the national average annual cost would be about [insert \$ amount] if costs increase 5% annually.

Drafting Note: The projected cost can be based on federal estimates in a current year. In the above statement, the second figure equals 163% of the first figure.

What elimination period are you considering? Number of days _____ Approximate cost \$_____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)

- From my Income From my Savings/Investments My Family will Pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

- Under \$20,000 \$20,000-\$30,000 \$30,000-\$50,000 Over \$50,000

How do you expect your assets to change over the next ten (10) years? (check one)

- Stay about the same Increase Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

- The answers to the questions above describe my financial situation.
- Or**
- I choose not to complete this information.
(Check one.)

I acknowledge that the carrier and/or its producer (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. **I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: _____ (Applicant) _____ (Date)

[I explained to the applicant the importance of completing this information.

Signed: _____ (Producer) _____ (Date)

Producer's Printed Name: _____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My producer has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.

Drafting Note: Choose the appropriate sentences depending on whether this is a direct mail or producer sale.

Signed: _____ (Applicant) _____ (Date)

Drafting Note: When the Long-Term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the page may be removed.

The company may contact you to verify your answers.

APPENDIX C

**Things You Should Know Before You Buy
Long-Term Care Insurance**

**Long-Term
Care
Insurance**

- A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.
- [You should **not** buy this insurance policy unless you can afford to pay the premiums every year.] [Remember that the company can increase premiums in the future.]

Drafting Note: For single premium policies, delete this bullet; for noncancellable policies, delete the second sentence only.

- The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.

Medicare

- Medicare does **not** pay for most long-term care.

Medicaid

- Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should **not** buy this policy if you are now eligible for Medicaid.
- Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services.
- When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.
- Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.

**Shopper's
Guide**

- Make sure the insurance company or producer gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within thirty (30) days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.

Counseling

- Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.

APPENDIX D

Long-Term Care Insurance Suitability Letter

Dear [Applicant]:

Your recent application for long-term care insurance included a “personal worksheet,” which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet “Shopper’s Guide to Long-Term Care Insurance” and the page titled “Things You Should Know Before Buying Long-Term Care Insurance.” Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

Drafting Note: Choose the paragraph that applies.

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next sixty (60) days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next sixty (60) days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue you a policy.

Please check one box and return in the enclosed envelope.

- Yes**, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this _____ coverage. Please resume review of my application.

Note: Delete the phrase in brackets if the applicant did not answer the questions about income.

- No**. I have decided not to buy a policy at this time.

APPLICANT’S SIGNATURE

DATE

Please return to [issuer] at [address] by [date].

APPENDIX F

Instructions:

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Insurers shall provide all of the following information to the applicant:**Long-Term Care Insurance
Potential Rate Increase Disclosure Form**

1. **[Premium Rate] [Premium Rate Schedules]:** [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [filed][approved] for an increase [is][are] [on the application][\$ _____]
2. **The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.**

3. **Rate Schedule Adjustments:**

The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____

4. **Potential Rate Revisions:**

This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

- Pay the increased premium and continue your policy in force as is.
- Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)
- Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
- Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

Turn the Page

* **Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within one hundred-twenty (120) days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you've paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter. Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

- You bought the policy at age 65 and paid the \$1,000 annual premium for 10 years, so you have paid a total of \$10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or \$500 for a new annual premium of \$1,500, and you decide to lapse the policy (not pay any more premiums).
- Your "paid-up" policy benefits are \$10,000 (provided you have at least \$10,000 of benefits remaining under your policy.)

Turn the Page

| Contingent Nonforfeiture | |
|---|---------------------------------------|
| Cumulative Premium Increase over Initial Premium | |
| That Qualifies for Contingent Nonforfeiture | |
| (Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.) | |
| Issue Age | Percent Increase Over Initial Premium |
| 29 and under | 200% |
| 30-34 | 190% |
| 35-39 | 170% |
| 40-44 | 150% |
| 45-49 | 130% |
| 50-54 | 110% |
| 55-59 | 90% |
| 60 | 70% |
| 61 | 66% |
| 62 | 62% |
| 63 | 58% |
| 64 | 54% |
| 65 | 50% |
| 66 | 48% |
| 67 | 46% |
| 68 | 44% |
| 69 | 42% |
| 70 | 40% |
| 71 | 38% |
| 72 | 36% |
| 73 | 34% |
| 74 | 32% |
| 75 | 30% |
| 76 | 28% |
| 77 | 26% |
| 78 | 24% |
| 79 | 22% |
| 80 | 20% |
| 81 | 19% |
| 82 | 18% |
| 83 | 17% |
| 84 | 16% |
| 85 | 15% |
| 86 | 14% |
| 87 | 13% |
| 88 | 12% |
| 89 | 11% |
| 90 and over | 10% |

Appendix G

**Long-Term Care Insurance
Replacement and Lapse Reporting Form**

For the State of Missouri

For the Reporting Year of _____

Company Name: _____
Company Address: _____
Contact Person: _____

Due: June 30 annually
Company NAIC Number: _____
Phone Number: (____) _____

Instructions

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Specifically, every insurer shall maintain records for each producer on that producer's amount of long-term care insurance replacement sales as a percent of the producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the producer as a percent of the producer's total annual sales. The tables below should be used to report the ten percent (10%) of the insurer's producers with the greatest percentages of replacements and lapses.

Listing of the 10% of Producers with the Greatest Percentage of Replacements

| Producer's Name | Number of Policies Sold By This Producer | Number of Policies Replaced By This Producer | Number of Replacements As % of Number Sold By This Producer |
|-----------------|--|--|---|
| | | | |

Listing of the 10% of Producers with the Greatest Percentage of Lapses

| Producer's Name | Number of Policies Sold By This Producer | Number of Policies Lapsed By This Producer | Number of Lapses As % of Number Sold By This Producer |
|-----------------|--|--|---|
| | | | |

Company Totals

Percentage of Replacement Policies Sold to Total Annual Sales ____%

Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) ____%

Percentage of Lapsed Policies to Total Annual Sales ____%

Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) ____%

AUTHORITY: sections 374.045 and 536.016, RSMo 2000 and 376.1109, 376.1127 and 376.1130, RSMo Supp. 2002. Original rule filed June 28, 1991, effective Sept 30, 1991. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Rescinded and readopted: Filed March 17, 2003.

PUBLIC COST: This proposed rule is a modification of a current regulation. It is being proposed in this form rather than as a proposed amendment because of the substantial changes to the regulation's organizational structure. Any substantive changes to the regulation's provisions, however, should not impose any greater burden on the Department of Insurance than the current regulation. Accordingly, this proposed regulation will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on May 20, 2003. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on May 20, 2003. Written statements shall be sent to Carolyn H. Kerr, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

| | |
|-----------------------|--|
| Rule Number and Name: | 20 CSR 400-4.100, Long-Term Care Insurance |
| Type of Rulemaking: | Proposed Rule |

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: |
|--|--|--|
| 53 | Insurance companies writing individual long-term care insurance policies | \$530,000 |
| 6 | Insurance companies writing group long-term care insurance policies | \$60,000 |

III. WORKSHEET

| | | | | |
|------------------------------------|---|-----------------|---|-----------|
| 53 companies (individual policies) | * | \$10,000 (each) | = | \$530,000 |
| 6 companies (group policies) | * | \$10,000 (each) | = | \$ 60,000 |
| TOTAL (all companies) | | | | \$590,000 |

IV. ASSUMPTIONS

According to data obtained by the department, all insurers that are actively marketing long-term care insurance in Missouri and that reported written premium through 2001 are also licensed in at least one (1) other state that has adopted the latest version of the NAIC model long-term care regulation, upon which the proposed rule is based. Because those insurers must comply with the other states' statutes and regulations modeled after the NAIC rule, it would appear that the fiscal impact of Missouri's adoption of the regulation would be minimized. In addition, a majority of the long-term care policies submitted to the department for approval over the last year or two have been worded to comply with the model regulation.

However, the department acknowledges that companies marketing individual and group policies in Missouri after the promulgation of the proposed rule may have some increased costs to comply with this particular rule. For example, there may be costs associated with training Missouri producers to comply with the rule or actuarial costs associated with determining rates and other risk factors that may be Missouri-specific. For these reasons, the department has estimated that the aggregate costs to private companies marketing long-term care insurance to comply with the proposed regulation would be \$10,000 per company in the aggregate.