

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

(3) Officials and employees will be allowed travel expenses when required to travel away from their official domicile on state business. *[In instances where employees incur breakfast or evening meals when leaving and returning to their official domicile, they should indicate on their expense report that an early departure or late arrival was required to conduct state business.]* **To qualify for reimbursement for meal(s), officials and employees must be in continuous travel status for twelve (12) hours or more. Officials and employees shall indicate on their expense report the twelve (12)-hour status, if no overnight lodging is listed.** Mileage reimbursement for official use of a private motor vehicle may be claimed within the official domicile.

[[10] In certain situations (as in the metropolitan areas of Kansas City, St. Joseph, St. Louis and Springfield) where it is clearly economical or advantageous to the state, the Office of Administration may authorize reimbursement for meals for employees traveling on state business in the area, regardless of the location of their official domicile. Generally, this will include the noon meal only. This shall apply only to employees who by the nature of their jobs are required to travel and are reimbursed while on state business in their official domicile.]

[[11]] (10) State employees and officials may be reimbursed for travel expenses incurred for other employees or nonemployees provided the specific business reason necessary for doing so is indicated along with the names of those involved. This is intended to be used for those common types of travel situations where it is normal and practical for one (1) individual to pay for an expense rather than be divided among all individuals. Examples may be a restaurant bill or hotel charge for which a room was shared. Reimbursement for spouse expenses at an official business function requires a written justification preapproved by the commissioner of administration. This reimbursement is limited to elected officials, judges and department directors or those designated to represent them and must be for a legitimate business reason where attendance of the spouse is required to represent the state. State employees and officials may be reimbursed for expenses incurred by their spouses or other members of their families only as provided for concerning transportation to and from the airport in section (9) ((travel rule) (9)), relocation expenses in section *[[20]] (19)* ((travel rule) *[[20]] (19)*) and representing the state at an official business function in section *[[11]] (10)* ((travel rule) *[[11]] (10)*).

[[12]] (11) The following rules shall apply for allowances for travel in privately-owned automobiles, privately-owned and rented aircraft, and aircraft charters:

(A) For travel in privately-owned automobiles, the state mileage allowance shall be at the current rate ordered by the commissioner of administration pursuant to section 33.095, RSMo. Any changes to the mileage allowance rate will be effective on July 1. Contact your agency fiscal office for the current authorized rate. Mileage figures listed on the Monthly Expense Report Form shall be rounded to the nearest whole mile. Toll charges for bridges and turnpikes as well as parking charges will also be allowed. When more than one (1) person travels in the same automobile, only the owner of the vehicle shall be allowed mileage. The state mileage allowance rate represents full compensation for the costs of operating your vehicle. Physical damage or loss to your private vehicle and/or its personal property contents is not covered by the state. Coverage should be obtained through personal auto insurance. Liability to others, including passengers, must be covered by your private auto policy. Refer to your policy or contact your agent for

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 11—Travel Regulations**

PROPOSED AMENDMENT

1 CSR 10-11.010 State of Missouri Travel Regulations. The Office of Administration is amending sections (3), (15), (17) and (19), deleting section (10) and renumbering the remaining sections accordingly.

PURPOSE: These amendments reflect a change to the travel regulations for meal reimbursements and travel outside the state by privately-owned automobiles in lieu of air that could result in savings to the state.

coverage specifics concerning use of your private vehicle for business activities;

(B) For travel in privately-owned or rented aircraft, the employee shall be reimbursed a mileage allowance at a rate of twenty-four and one-half cents (24 1/2¢) per mile. The mileage shall be determined by the number of air miles. When more than one (1) person travels in the same aircraft, only the employee who owned or rented the aircraft shall receive the mileage allowance;

(C) For travel in a chartered aircraft (chartered from a nonaffiliated party and piloted by the charter service), prior authorized approval shall be obtained from the Office of Administration. That approval shall be limited to a reasonable rate based upon the mileage and size of the aircraft needed. When submitted as a reimbursement request, proper receipts shall be attached to the expense report; and

(D) For travel by rented auto, the employee will be reimbursed the actual cost of the rental plus fuel. Direct billing is not allowed. Weekly car rental rates will be allowed if the cost is less than the total cost of renting at the daily rate. The State Legal Expense Fund provides liability coverage for the usage of rental vehicles for official state business. For that reason, employees will not be reimbursed for any car rental insurance incurred. Usage of rental vehicles for personal activities is not covered by the Legal Expense Fund. Employees must provide at their own expense insurance coverage for personal use of rental vehicles. The Office of Administration Risk Management Section publishes a *Guide for Drivers on State Business* which describes procedures to follow should an accident occur.

[[13]] (12) The following rules shall apply for allowances for travel in state-owned vehicles:

(A) Expenses for gasoline, oil, storage, washing, greasing and other necessary services will be allowable as long as proper receipts are attached to the expense report;

(B) Charges for garaging state-owned vehicles shall be allowable for officials and employees at their official domicile providing—

1. That the state has no available facilities for garaging;
2. That the garage used is not owned by the employee or immediate family;
3. That the cost of the garage rental is not included in the rental charge for the living quarters of the state official or employee; and
4. That storage is reasonable in amount, necessary and to the advantage of the state; and

(C) State-issued credit cards for state-owned vehicles shall be used with those companies that have agreed to accept the credit cards. Payments to oil companies covering credit card purchases should be listed on the warrant request. These payments must be supported by the statement received from the company and accompanied by gasoline purchase charge slips. Gasoline purchases with state credit cards will not be listed on the expense report.

[[14]] (13) An officer or employee whose resident city is in some place other than the city of the official domicile shall not be allowed expenses while in such resident city or mileage to travel between the resident city and the city of the official domicile. Reimbursement may be made for a meal charge within the city of residence if incurred as part of a department or agency sponsored conference or business meeting as described in section **[[15]] (14)** ((travel rule) **[[15]] (14)**). Travel expenses shall be reimbursed and computed between the travel site destination and the employee's official domicile or residence, if leaving directly from the residence, whichever is less. Any additional travel expenses incurred by reason of an employee or official choosing to reside in a place other than the city of the official domicile is not allowed. The city/town or place of official domicile must be listed on the monthly expense report.

[[15]] (14) No official or employee shall be allowed hotel or meals while in their city of official domicile, except as provided in **[[section (10) ((travel rule) (10)) and] this section [[15]] (14)** ((travel rule) **[[15]] (14)**). While traveling on state business, employees and officials will not be allowed hotel expenses when it would be more economical and advantageous to the state to return to their residence. Reimbursement or direct billing may be made for agency-provided meal expenses within the city of official domicile when it is incurred as part of a department or agency required meeting or a department sponsored conference. This represents meals served to officers and employees at conferences and meetings who are interacting and conducting state business during the meal period. Direct billing and reimbursement of meals served in conjunction with agency required meetings attended by in-domicile employees shall be documented with the names of those involved or the group name with the number attending and the specific state business reason for the meeting. The state business reason can be documented in the form of an agenda, program, or other specific description.

[[16]] (15) The following procedures will be utilized in submitting claims for reimbursement:

(A) All claims must be prepared on a typewriter or in ink. The original shall be filed with the Office of Administration;

(B) Descriptive invoices for lodging, conference registration, airline/air charter, bus and rail transportation billed directly to the state must be submitted on a warrant request with a copy of an approved Out of State Travel Authorization Form, if applicable, attached to each invoice;

(C) Where charges for transportation, lodging, and conference registrations are not billed directly to the state, the following documentation is required for reimbursement:

1. Reimbursement for transportation must be supported by a vendor document describing the travel and a proof of payment;
2. Reimbursement for lodging must be supported with a hotel document indicating the lodging specifics and a proof of payment;
3. Reimbursement for conference registrations must be supported by a descriptive vendor document and a proof of payment;
4. Proof of payment may be in the form of a vendor receipt or a vendor marking on the invoice document that the charge has been paid. Proof of payment may also be in the form of a credit card receipt, credit card statement copy showing the charge, or a copy of a personal check that has been canceled by the bank; and
5. Fiscal personnel must verify that travel reimbursement claims are correct before submitting the claim to the Office of Administration. Primary responsibility for authenticating travel reimbursement claims rests with the department and agency directors;

(D) Any unusual expenses incurred shall be itemized on the expense report and accompanied by receipts for payment. The justification for incurring any unusual expenses shall be fully explained by letter or notation on the expense report form;

(E) Each monthly expense report shall be limited to cover expenses incurred during a one (1)-month period. The Office of Administration will not accept more than one (1) monthly expense report per individual per month. The expense reports must be rendered currently to facilitate prompt payment;

(F) Rubber stamps or facsimile signatures for the claimant on the expense report form shall not be honored unless otherwise provided by state law; and

(G) All claims for reimbursement of expenses must be itemized and attested to by the claimant and approved by the director of the department or as otherwise provided by state law.

[[17]] (16) The following additional rules shall apply to all travel outside the state that is necessary for the performance of official state business:

(A) All travel outside the state requires approval by the director, head of the department or their authorized representative. This rule shall not apply to members of the legislature or other legislative branch employees, judges and other judicial branch employees and elected officials of the executive branch and their employees;

(B) A copy of the approved Out of State Travel Authorization Form bearing the signature of the director, head of the department or his/her authorized representative shall be attached to the expense report for reimbursement for travel expenses incurred outside the state. The Out of State Travel Authorization Form must be the form approved by the Office of Administration and include, but not be limited to, the following information: name(s) of employee(s), destination, purpose of the trip, dates of travel, manner of transportation and estimated total expenses;

(C) Agencies shall include on one (1) Out of State Travel Authorization Form the names of all individuals requesting travel to the same place at the same date and for the same purpose. In these instances each employee must secure a copy of the authorization for submission with the monthly expense report; and

(D) Air travel shall be the primary method of transportation outside of the state unless other methods of travel are more economical or advantageous to the state. State agencies should plan their out of state travel by making advance air travel reservations to obtain the lowest convenient air fares. Air travel shall not, however, exceed coach fare for the most direct available route. Travel outside the state by commercial common carrier surface transportation, in lieu of air transportation, shall be limited to the actual cost of the surface carrier. *[Travel outside the state by privately-owned automobile, in lieu of air transportation, shall be limited to the state mileage allowance. The total mileage allowance cannot, however, exceed the highest cost coach air fare available at that time to the same destination. No meals, lodging or other travel expenses incurred as a result of taking surface transportation, in lieu of air, will be allowed.]* **Travel outside the state by privately-owned automobile, in lieu of air transportation, shall be limited to the state mileage allowance plus any actual expenses which would have been allowed or provided if taking air transportation. The total allowable expenses cannot, however, exceed the reasonable coach airfare available at that time to the same destination. Travel outside of the state by rented automobile or state car, in lieu of air transportation, shall be limited to the cost of the rented car and necessary fuel.** The Office of Administration may require a written justification for extensive travel out of state by privately-owned auto when the mileage allowance cost does not appear economical or advantageous to the state.

[(18)] (17) State department directors are authorized to promulgate and enforce regulations governing travel. Departmental regulations may be more restrictive than these regulations. Departmental regulations shall not grant expenses that are not allowed under the State of Missouri Travel Regulations.

[(19)] (18) The commissioner of administration or an authorized representative may approve unusual travel expenses not covered by these regulations or modify procedures for the payment of travel expenses. **The commissioner of administration may make exceptions to any of these regulations deemed appropriate and in the best interests of the state.** The *[need]* request for reimbursement of **exception travel expenses**, or of unusual travel expenses shall be made in writing to the Office of Administration.

[(20)] (19) Reimbursement for recruiting and relocation expenses for new or existing employees and their families will be made in accordance with the applicable department's policy. Before submitting any recruiting or relocation expenses, departments desiring to pay such expenses shall submit their policies to the commissioner of administration for approval. If a department does not sub-

mit a policy for approval, those expenses shall be paid based upon the Office of Administration employee relocation policy distributed to each department.

AUTHORITY: section 33.090, RSMo [Supp. 1995] 2000. Original rule filed Jan. 22, 1974, effective Feb. 1, 1974. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2002, effective July 1, 2002, expires Feb. 27, 2003. Amended: Filed June 20, 2002.

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 the Office of Administration, Laurie Hines, Assistant General Counsel, PO Box 388, Jefferson City, MO 65102. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

PROPOSED AMENDMENT

3 CSR 10-5.340 Resident Fishing Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the resident fishing permit from eleven dollars (\$11) to twelve dollars (\$12).

To pursue, take, possess and transport fish, frogs, mussels, clams, turtles, crayfish and live bait. Fee: *[eleven]* twelve dollars *[(11)]* **(\$12)**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.235. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed June 5, 2002.

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 cost private entities five hundred eleven thousand three hundred fifty-three dollars (\$511,353) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.

**FISCAL NOTE
 PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 5
Type of Rulemaking: Proposed amendment
Rule Number and Name: 3CSR 10-5.340 Resident Fishing Permit

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:
511,353 resident fishing permit buyers	N/A	\$511,353.00

III. WORKSHEET

511,353 resident fishing permit buyers X \$1.00 increase per permit sold = \$511,353.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed--normally within five years--to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.345 Resident Small Game Hunting Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the resident small game hunting permit from nine dollars (\$9) to ten dollars (\$10).

To pursue, take, possess and transport birds (except wild turkey), mammals (except deer) and frogs, and to sell furbearers taken by hunting. Fee: [*nine*] **ten** dollars [*(\$9)*] (**\$10**).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.255. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 5, 2002.

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 cost private entities fifty-six thousand five hundred fifty-nine dollars (\$56,559) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 5
Type of Rulemaking: Proposed amendment
Rule Number and Name: 3 CSR 10-5.345 Resident Small Game Hunting Permit

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:
56,559 resident hunting permit buyers	N/A	\$56,559.00

III. WORKSHEET

56,559 resident hunting permit buyers X \$1.00 increase per permit sold = \$56,559.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed--normally within five years--to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.351 Resident Firearms Any-Deer Hunting Permit.

The commission proposes to amend provisions of this rule.

PURPOSE: This amendment addresses the addition of a statewide any-deer hunting permit, the elimination of the firearms deer hunting permit, and increases the fee of the resident firearms any-deer hunting permit from fifteen dollars (\$15) to seventeen dollars (\$17).

To pursue, take, possess and transport *[an antlered deer statewide or]* a deer of either sex *[in a specified deer management unit]* statewide during the firearms deer hunting season[s]. Fee: *[Fifteen] Seventeen* dollars *[((\$15)] (\$17)*.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 11, 1997, effective March 1, 1998. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed June 5, 2002.

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 cost private entities seven hundred eleven thousand six hundred forty dollars (\$711,640) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.*

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3CSR 10-5.351 Resident Firearms Any-Deer Hunting Permit.

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:
355,820 resident deer hunting permit buyers	N/A	\$711,640.00

III. WORKSHEET

355,820 resident deer hunting permit buyers X \$2.00 increase per permit sold = \$711,640.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed—normally within five years—to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.359 Resident Managed Deer Hunting Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the resident managed deer hunting permit from fifteen dollars (\$15) to seventeen dollars (\$17).

To pursue, take, possess and transport deer during a prescribed managed deer hunt. Fee: [*fifteen*] **seventeen** dollars [*(\$15)*] **(\$17)**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 8, 1998, effective March 1, 1999. Amended: Filed June 5, 2002.

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 cost private entities twelve thousand two hundred eighty-six dollars (\$12,286) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 5
Type of Rulemaking: Proposed amendment
Rule Number and Name: 3 CSR 10-5.359 Resident Managed Deer Hunting Permit

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:
6,143 managed deer hunting permit buyers	N/A	\$12,286.00

III. WORKSHEET

6,143 managed deer hunting permit buyers X \$2.00 increase per permit sold = \$12,286.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed--normally within five years--to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.360 Resident Archer's Hunting Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the resident archer's hunting permit from seventeen dollars (\$17) to nineteen dollars (\$19).

To pursue, take, possess and transport deer and wild turkey during the fall deer and turkey archery season and small game during prescribed seasons, and to sell furbearers taken by hunting. Fee: [*seventeen*] **nineteen** dollars [*(\$17)*] **(\$19)**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.260. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed June 5, 2002.

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 cost private entities one hundred ninety thousand two hundred sixty-four dollars (\$190,264) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3 CSR 10-5.360 Resident Archer's Hunting Permit

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:

95,132 resident archery hunting permit buyers

N/A

\$190,264.00

III. WORKSHEET

95,132 resident archery hunting permit buyers X \$2.00 increase per permit sold = \$190,264.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed—normally within five years—to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.365 Resident Turkey Hunting Permits. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the spring resident turkey hunting permit from fifteen dollars (\$15) to seventeen dollars (\$17) and the fall resident turkey hunting permit from eleven dollars (\$11) to thirteen dollars (\$13).

(1) To pursue, take, possess and transport wild turkey during the prescribed open season.

(A) Spring Season Permit. Fee: [*fifteen*] **seventeen** dollars [*(\$15)*] **(\$17)**.

(B) Fall Season Permit. Fee: [*eleven*] **thirteen** dollars [*(\$11)*] **(\$13)**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.266. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 5, 2002.

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 cost private entities two hundred sixty-seven thousand twelve dollars (\$267,012) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 5
Type of Rulemaking: Proposed amendment
Rule Number and Name: 3 CSR 10-5.365 Resident Turkey Hunting Permits

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:
133,506 Turkey hunting permit buyers	N/A	\$267,012.00

III. WORKSHEET

133,506 turkey hunting permit buyers X \$2.00 increase per permit sold = \$267,012.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed--normally within five years--to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.420 Youth Deer and Turkey Hunting Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment establishes a minimum age and increases the maximum age of those eligible to obtain a youth deer and turkey hunting permit and increases the fee of the permit from fifteen dollars (\$15) to seventeen dollars (\$17).

To pursue, take, possess and transport one (1) [*antlered*] deer of **either sex** statewide, [*or one (1) antlerless deer in a deer management unit where any-deer permits are issued,*] during the firearms deer hunting seasons **except that only an antlerless deer may be taken in seasons open only to antlerless deer;** one (1) male turkey or turkey with visible beard during the spring turkey hunting season; and one (1) turkey of either sex during the fall firearms turkey hunting season; only by persons **at least six (6) and under [*twelve (12)*] sixteen (16)** years of age [*while*] **who are** hunting in the immediate presence of a properly licensed adult hunter who has in his/her possession a valid hunter education certificate card. Fee: [*fifteen*] **seventeen** dollars [*(\$15)*] **(\$17)**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed May 6, 1998, effective March 1, 1999. Amended: Filed May 10, 1999, effective March 1, 2000. Amended: Filed June 5, 2002.

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 cost private entities twenty thousand nine hundred forty-two dollars (\$20,942) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.*

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3 CSR 10-5.420 Youth Deer and Turkey Hunting Permit

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
10,471 Youth deer and turkey hunting permit buyers	N/A	\$20,942.00

III. WORKSHEET

10,471 youth deer and turkey hunting permit buyers X \$2.00 increase per permit sold = \$20,942.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed--normally within five years--to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.440 Daily Fishing Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the daily fishing permit from five dollars (\$5) to five dollars and fifty cents (\$5.50).

To pursue, take, possess and transport fish, frogs, mussels, clams, turtles, crayfish and live bait. Fee: five dollars **and fifty cents** (\$5.50) per day. A permit may be purchased for multiple days.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed June 5, 2002.

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 cost private entities one hundred fifty-three thousand four hundred sixteen dollars (\$153,416) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.*

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 5
Type of Rulemaking: Proposed amendment
Rule Number and Name: 3 CSR 10-5.440 Daily Fishing Permit

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:
306,832 daily fishing permit buyers	N/A	\$153,416.00

III. WORKSHEET

306,832 daily fishing permit buyers X \$0.50 increase per permit sold = \$153,416.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed—normally within five years—to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.445 Daily Small Game Hunting Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment increases the fee of the daily small game hunting permit from ten dollars (\$10) to eleven dollars (\$11).

To chase, pursue, take, possess and transport birds (except wild turkey), mammals (except deer and furbearers) and frogs, and to chase furbearers for training dogs during the closed season. Fee: [~~ten~~] **eleven** dollars [~~(\$10)]~~ **(\$11)** per day. A permit may be purchased for multiple days.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed April 25, 1996, effective March 1, 1997. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed June 5, 2002.

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 cost private entities fourteen thousand two hundred eighteen dollars (\$14,218) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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.*

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3 CSR 10-5.445 Daily Small Game Hunting Permit

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:
14,218 daily hunting permit buyers	N/A	\$14,218

III. WORKSHEET

14,218 daily hunting permit buyers X \$1.00 increase per permit sold = \$14,218.00 aggregate cost

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

Based on Permit Year (March 1 through last day of February next following) NOT fiscal year.

Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed—normally within five years—to remain competitive with other states.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.150 Target Shooting and Shooting Ranges. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment requires the use of paper targets attached only to provided target holders on the rifle/pistol portion of unmanned shooting ranges, and for clarification, restricts use of targets on designated shotgun-only portions of ranges to clay targets.

Target shooting is permitted only on designated public shooting ranges or by special use permit. Range use shall be in accordance with posted *[instructions]* **range rules** or as directed by the range officer **listed on the special use permit**, and is contingent upon the right to inspect permits, firearms and ammunition by an agent of the department or certified law enforcement officer. **Only paper targets attached to provided target holders may be used on unmanned target shooting ranges, except that on portions of shooting ranges restricted to shotguns with shotshells, only clay targets may be used.** Use of incendiary, including tracer *[rounds]* **ammunition**, armor piercing or explosive ammunition is prohibited. Fully automatic *[weapons]* **firearms** are permitted only with a special use permit. Range use fees are required at some areas. Possession of alcoholic beverages is prohibited on all ranges and associated parking lots. Groups of more than ten (10) people must obtain a special use permit prior to use of a range.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed June 5, 2002.

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 John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.182 Deer Hunting. The department proposes to amend section (3) of this rule.

PURPOSE: This amendment addresses addition of a statewide youth-only portion of firearms deer hunting season.

(3) During the **Youth-Only**, November and December portions of the firearms deer hunting season, only antlered deer may be taken or possessed on the department areas listed below. Antlerless deer may not be taken on a firearms deer hunting permit.

- (A) Apple Creek Conservation Area
- (B) Ben Cash Conservation Area**
- [(B)]*(C) Buffalo Hills Natural Area
- [(C)]*(D) Busiek State Forest and Wildlife Area
- (E) Chalk Bluff Trails Access**
- [(D)]*(F) Compton Hollow Conservation Area
- [(E)]*(G) Daniel Boone Conservation Area
- [(F)]*(H) Danville Conservation Area (Baldwin, Schulze and Thornhill Annexes)
- [(G)]*(I) DAVISDALE Conservation Area
- (J) Donaldson Point Conservation Area**
- (K) Gayoso Bend Conservation Area**
- [(H)]*(L) General Watkins Conservation Area
- (M) Girvin Conservation Area**
- [(I)]*(N) Indian Trail Conservation Area
- [(J)]*(O) J.N. "Turkey" Kearn Memorial Wildlife Area
- [(K)]*(P) Lamine River Conservation Area
- [(L)]*(Q) Little Indian Creek Conservation Area
- [(M)]*(R) Little Lost Creek Conservation Area
- [(N)]*(S) Long Ridge Conservation Area
- [(O)]*(T) Maintz Wildlife Preserve
- (U) Oak Ridge Conservation Area**
- [(P)]*(V) Ralph and Martha Perry Memorial Conservation Area
- [(Q)]*(W) Pleasant Hope Conservation Area
- [(R)]*(X) Ranacker Conservation Area
- [(S)]*(Y) Red Rock Landing Conservation Area
- [(T)]*(Z) Frank Reifsnider State Forest
- [(U)]*(AA) River 'Round Conservation Area
- [(V)]*(BB) Seventy-Six Conservation Area
- [(W)]*(CC) Robert E. Talbot Conservation Area
- (DD) Wilhemina Conservation Area**
- (EE) Wolf Bayou Conservation Area**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002. Amended: Filed June 5, 2002.

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 John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. 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 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 10—Division of Employment Security
Chapter 4—Unemployment Insurance**

PROPOSED RULE

8 CSR 10-4.180 Coverage of Indian Tribes

PURPOSE: This rule implements the federally mandated coverage of Indian tribes under the Missouri Employment Security Law, Chapter 288, RSMo.

(1) Definitions. As used in this rule, except as otherwise required for the content, the following terms shall have the meanings ascribed:

(A) Director—The administrative head of the Division of Employment Security.

(B) Division—The Division of Employment Security.

(C) Indian tribe—The meaning given to such term in section 3306 of the Federal Unemployment Tax Act (26 U.S.C. 3306).

(D) Employer—Includes any Indian tribe for which service in employment as defined in section 288.034, RSMo is performed.

(E) Employment—Includes service performed in the employ of an Indian tribe, provided such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) of the Federal Unemployment Tax Act, and is not otherwise excluded from employment under Chapter 288, RSMo. For purposes of this rule, the exclusions from employment in subsection 9 of section 288.034, RSMo shall be applicable to services performed in the employ of an Indian tribe.

(2) Benefits. Benefits based on service in employment of an Indian tribe shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to Chapter 288, RSMo. The provisions of subsection 3 of section 288.040, RSMo pertaining to services performed at an educational institution while in the employ of an “educational service agency” shall apply to services performed in an educational institution or educational service agency wholly owned and operated by an Indian tribe or tribal unit.

(3) Contributions. Indian tribes or tribal units (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes) subject to this chapter shall pay contributions under the same terms and conditions as all other subject employers, unless they elect to pay into the state unemployment fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe. An Indian tribe and all tribal units of such Indian tribe shall be jointly and severally liable for any and all contributions, payments in lieu of contributions, interest, penalties, and surcharges owed by the Indian tribe and all tribal units of such Indian tribe.

(4) Payments in Lieu of Contributions. Indian tribes electing to make payments in lieu of contributions must make such election in the same manner and under the same conditions as provided in subsection 3 of section 288.090, RSMo pertaining to state and local governments and nonprofit organizations subject to Chapter 288, RSMo. Indian tribes will determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units. Termination of an Indian tribe’s coverage pursuant to subsection (C) of this section shall terminate the election of such Indian tribe and any tribal units of such Indian tribe to make payments in lieu of contributions.

(A) Indian tribes or tribal units will be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(B) Any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be required, prior to the effective date of its election, to post with the division a surety bond issued by a corporate surety authorized to do business in Missouri in an amount equivalent to the contributions or payments in lieu of contributions for which the Indian tribe or tribal unit was liable in the last calendar year in which it accrued contributions or payments in lieu of contributions, or one hundred thousand dollars (\$100,000), whichever amount is the greater, to ensure prompt payment of all contributions or payments in lieu of contributions, interest, penalties and surcharges for which the Indian tribe or trib-

al unit may be, or becomes, jointly and severally liable pursuant to this chapter.

(C) Failure of the Indian tribe or tribal unit to maintain the required surety bond, including the posting of an additional surety bond or a replacement surety bond within ninety (90) days of being directed by the division, will cause services performed for such Indian tribe to not be treated as “employment” for purposes of Chapter 288, RSMo.

(D) The director may determine that any Indian tribe that loses coverage under subsection (C) of this section, may have services performed for such tribe again included as “employment” for purposes of Chapter 288, RSMo if all contributions, payments in lieu of contributions, penalties, interest, and surcharges have been paid. Upon reinstatement of coverage under this subsection, an Indian tribe or any tribal unit may elect, in accordance with the provisions of this section, to make payments in lieu of contributions.

(E) If an Indian tribe fails to maintain the required surety bond by posting an additional surety bond or a replacement surety bond within ninety (90) days of being directed by the division, the director will immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(F) Notices of surety bond deficiency to Indian tribes or their tribal units shall include information that failure to post an additional surety bond or a replacement surety bond within the prescribed time frame will cause:

1. The Indian tribe to be liable for taxes under the Federal Unemployment Tax Act;

2. The Indian tribe to be excepted from the definition of “employer,” as provided in section (1) of this rule, and services in the employ of the Indian tribe, as provided in section (1) of this rule, to be excepted from “employment.”

(5) Failure to Make Payments. Failure of the Indian tribe or tribal unit to make any payments required in Chapter 288, RSMo, including assessments of interest and penalty, within ninety (90) days of receipt of the bill will cause services performed for such Indian tribe to not be treated as “employment” for purposes of Chapter 288, RSMo.

(A) The director may determine that any Indian tribe that loses coverage under this section, may have services performed for such tribe again included as “employment” for purposes of Chapter 288, RSMo if all contributions, payments in lieu of contributions, penalties, interest, and surcharges have been paid.

(B) If an Indian tribe fails to make required payments (including assessments of interest and penalty) within ninety (90) days of a final notice of delinquency, the director will immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(C) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame will cause:

1. The Indian tribe to be liable for taxes under the Federal Unemployment Tax Act;

2. The Indian tribe to be excepted from the definition of “employer,” as provided in section (1) of this rule, and services in the employ of the Indian tribe, as provided in section (1) of this rule, to be excepted from “employment.”

(6) Extended Benefits. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

AUTHORITY: section 288.220, RSMo 2000. Emergency rule filed June 13, 2002, effective July 1, 2002, expires Dec. 27, 2002. Original rule filed June 13, 2002.

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 Employment Security, Gracia Y. Backer, Director, PO Box 59, Jefferson City, MO 65104-0059. 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 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 3—Local Assessment of Property and Appeals
From Local Boards of Equalization

PROPOSED RESCISSION

12 CSR 30-3.010 Appeals From the Local Board of Equalization. This rule informed taxpayers of their right to protest an assessed value which s/he felt was unlawful, unfair, improper, arbitrary or capricious and the procedure for filing such protest.

PURPOSE: This rule is being rescinded because various text changes were numerous and the State Tax Commission believes that it is more efficient to rescind the rule than to amend it. A new rule to replace this rescinded rule is being filed simultaneously.

AUTHORITY: section 138.430, RSMo 1994. This rule previously was filed as 12 CSR 30-2.030. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Rescinded and readopted: Filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996. Rescinded: Filed June 12, 2002.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Tax Commission of Missouri, Rosemary P. Kaiser, Administrative Secretary, 621 East Capitol Avenue, Jefferson City, MO 65101. 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 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 3—Local Assessment of Property and Appeals
From Local Boards of Equalization

PROPOSED RULE

12 CSR 30-3.010 Appeals From the Local Board of Equalization

PURPOSE: This rule informs the local taxpayer of his/her right to protest by complaint or appeal an assessed value which s/he feels

is unlawful, unfair, improper, arbitrary or capricious and the procedure for filing these complaints or appeals.

(1) Every owner of real property or tangible personal property shall have the right to appeal from the decision of the local board of equalization, upon compliance with the following rules:

(A) This appeal shall be initiated by filing a complaint on forms prescribed by this commission and directed to the State Tax Commission. No complaint will be accepted unless on forms prescribed by this commission; provided, that any complainant may attach to commission forms any additional written pleading deemed appropriate by complainant. The complaint shall specify the name of the complainant; the business address of the complainant or an attorney to whom notice of hearing may be mailed; the legal description of the real property or the complete description of the tangible personal property at issue; a brief statement of the grounds upon which the assessment of the property is claimed to be unlawful, unfair, improper, arbitrary or capricious; a statement that the complainant had appealed to the proper local board of equalization; a statement of the relief to which complainant may feel entitled; if required under 12 CSR 30-3.025(3), a verified statement which states facts tending to demonstrate that the commission should reconsider the appropriateness of the value in the even-numbered year; and other information as shall be requested upon the commission forms;

(B) A complaint appealing a property assessment in counties of the first class, counties of charter government and the City of St. Louis shall be filed not later than August 15 or within thirty (30) days of the decision of the board of equalization, whichever is later. In all other counties, the complaint shall be filed not later than September 30 or within thirty (30) days of the decision of the board of equalization, whichever is later;

1. In any county or the City of St. Louis where the assessor fails to notify the owner of the property, or the predecessor in title or interest, of an initial assessment or an increase in assessment from the previous year, prior to the deadline for filing an appeal to the board of equalization, the owner may appeal directly to the State Tax Commission. Appeals under this paragraph shall be filed within thirty (30) days after a county official mailed a tax statement or otherwise first communicated the assessment or the amount of taxes to the owner or on or before December 31 of the tax year in question, whichever is later. Proof of late notice shall be attached to, or set forth in, the complaint.

2. A property owner who, due to lack of notice, files an appeal directly with the State Tax Commission after tax statements are mailed shall pay his or her taxes under protest pursuant to the requirements of section 139.031.1, RSMo, and the county collector shall upon receiving either the payment under protest or the notice specified in section 140.430, RSMo, impound all portions of taxes which are in dispute. Payment of taxes without a section 139.031.1, RSMo protest and prior to the time when the State Tax Commission's notice under section 138.430.4, RSMo is received by the county collector, will result in disbursal of taxes and dismissal of complainant's appeal;

(C) Any complaint shall be served upon the State Tax Commission personally to any commissioner or to the administrative secretary of the commission, by certified, registered, regular, private carrier service mail or facsimile transmission addressed to the State Tax Commission in Jefferson City.

1. If personal service is made, it may be proven by the affidavit of any person competent to testify, or by the official certificate of any officer authorized under the laws of Missouri to execute process. In determining whether complaints personally served are filed within the time prescribed by law, the date on which personal service is obtained shall be deemed to be the date the complaint is filed with the commission.

2. In determining whether complaints are filed within the time prescribed by law, the complaints may be transmitted to the

commission by registered, certified, or regular mail or by private carrier service. Complaints filed by registered or certified mail shall be deemed filed with the commission as of the date deposited with the United States Postal Service. Complaints filed by private carrier service shall be deemed filed as of the date shown by the record of the mailing. Complaints filed by regular or metered mail shall be deemed filed on the date of post office cancellation; or three (3) days before the date the commission receives the complaints if there is no dated post office cancellation.

3. In determining whether complaints filed by facsimile transmission are filed within the time prescribed by law, complaints so filed shall be deemed filed with the commission as of the date the facsimile transmission is received by the commission. A complaint filed by facsimile transmission shall have the same effect as the filing of an original document and a facsimile signature shall have the same effect as an original signature;

(D) Two (2) copies of the complaint shall be filed with the commission, one (1) copy of which will be forwarded to the assessor with notice of institution of the proceedings to review assessment; and

(E) The State Tax Commission, upon the filing of the complaint, shall set the matter for hearing at the office of the county court at the county seat, or at another place in the county of assessment, as the commission considers convenient, and notice of the hearing shall be given in the manner provided by law.

(2) On any appeal taken to the commission from the local board of equalization, a natural person may represent him/herself in the proceedings before the commission. The county assessor, but not a deputy, may represent his/her office in such proceedings. All others must appear through an attorney licensed to practice law in Missouri or in another jurisdiction.

(A) Any person who signs a pleading or brief, or who enters an appearance at a hearing for an entity or another person, by an act expressly represents that s/he is authorized to so act and that s/he is a licensed attorney-at-law in this state or his/her state of residence.

(B) Any attorney, not licensed in this state but who is a member in good standing of the bar of any court of record, may be permitted to appear and participate in a particular case before the commission under the following conditions: The visiting attorney shall file with his/her initial pleading a statement identifying each court of which s/he is a member of the bar and certifying that neither s/he nor any member of his/her firm is disqualified from appearing in any such court. Also, the statement shall designate some member of the Missouri Bar having an office in Missouri as associate counsel. This designated attorney shall enter his/her appearance as an attorney of record.

(3) When a lawyer is a witness for his/her client, except as to merely formal matters, s/he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying before this commission in behalf of his/her client.

(4) The commission shall make arrangements to have all hearings in appeals from the local boards of equalization suitably recorded and preserved.

(5) The fundamental rules of evidence will apply at hearings before the commission.

(6) In computing any period of time prescribed or allowed by these rules, by order of the commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of

the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(7) When by these rules or by a notice given thereunder or by order of the commission an act is required or allowed to be done at or within a specified time, the commission for cause shown may at any time in its discretion 1) with or without motion or notice order the period enlarged if request is made before the expiration of the period originally prescribed or as extended by previous order or 2) upon notice and motion made after the expiration or the specified period permit the act to be done where the failure to act was the result of excusable neglect; but the commission may not extend the time for taking any action under rules 12 CSR 30-2.021(1)(A); 12 CSR 30-3.021(1)(C); 12 CSR 30-3.005—Appeals of the Assessment of Real Property to the Local Board of Equalization Under the Two-Year Assessed Value Cycle; 12 CSR 30-3.010—Appeals from the Local Board of Equalization; 12 CSR 30-3.020—Intervention; or 12 CSR 30-3.025—Collateral Estoppel.

(8) Any complaint, correspondence, routine motion or application for review shall be accepted for filing by facsimile transmission. Facsimile filings received by the commission before 5:00 p.m. of a regular workday are deemed filed as of that day. Filings received after 5:00 p.m. are deemed filed on the next regular commission workday. Time of receipt is determined by the commission's facsimile machine. The time when transmission began shall be used to determine if transmission occurred prior to 5:00 p.m. If a document is not received by the commission or if it is illegible, it is deemed not filed. Risk of loss in transmission, receipt or illegibility is upon the party transmitting and filing by facsimile transmission.

AUTHORITY: section 138.430, RSMo 2000. This rule was previously filed as 12 CSR 30-2.030. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Rescinded and readopted: Filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996. Rescinded and readopted: Filed June 12, 2002.

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 State Tax Commission of Missouri, Rosemary P. Kaiser, Administrative Secretary, 621 East Capitol Avenue, Jefferson City, MO 65101. 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 2—Income Maintenance**

PROPOSED AMENDMENT

13 CSR 40-2.140 Limitations on Amount of Cash Payments.
The division is amending section (6).

PURPOSE: This amendment expands the reasons for ineligibility for General Relief when a family meets the definition of a

Temporary Assistance household to include families losing Temporary Assistance when they reach their lifetime limits and due to other prohibitions of receipt of Temporary Assistance.

(6) All persons who meet the definition of *[an AFDC] a Temporary Assistance* household must have their eligibility explored under *[AFDC (except under emergency situations when GR orders may be utilized)] Temporary Assistance* before having their eligibility for GR explored. Any person whose eligibility has been explored under *[AFDC] Temporary Assistance* and is found to be ineligible for *[AFDC cash payments] Temporary Assistance* because of the following reasons shall be ineligible for GR:

(A) The person refuses to cooperate in establishing his/her eligibility for *[AFDC] Temporary Assistance* (this would include persons who refuse to apply for a Social Security number, *[refuse to register for Work Incentive (WIN) program] refuse to participate in work activities*, refuse to make an assignment of support rights, refuse to cooperate in the identification or location of absent parents, **refuse to participate in a self-sufficiency pact or an assessment pursuant to 13 CSR 40-2.370**, and the like);

(D) The available resources exceed the maximum allowed; *[or]*

(E) The children are not deprived of parental support $[.]$;

(F) **The person meets the prohibition in 13 CSR 40-2.305, 13 CSR 40-2.340, 13 CSR 40-2.345, 13 CSR 40-2.355, 13 CSR 40-2.360, or 13 CSR 40-2.365; or**

(G) **The person is ineligible due to the lifetime limits outlined in 13 CSR 40-2.350.**

AUTHORITY: section 207.020 RSMo [1986] 2000. Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2002, effective July 1, 2002, expires Dec. 27, 2002. Amended: Filed June 20, 2002.

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 the Department of Social Services, Division of Family Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Family Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.375 Medical Assistance for Families

PURPOSE: This rule establishes the income limit for the Medical Assistance for Families program after June 30, 2002.

(1) The income limit for persons to be eligible for the Medical Assistance for Families program established pursuant to section 208.145, RSMo is at or below seventy-seven percent (77%) of the federal poverty level for the household size.

(2) The standard work expense for persons with earned income shall be ninety dollars (\$90).

AUTHORITY: sections 208.145 and 207.020 RSMo 2000. Emergency rule filed June 7, 2002, effective July 1, 2002, expires Dec. 27, 2002. Original rule filed June 11, 2002.

PUBLIC COST: This proposed rule will cost the Division of Family Services fourteen thousand eight hundred and seven dollars (\$14,807) 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 Department of Social Services, Division of Family Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Family Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

RULE NUMBER

Rule Number and Name: 13 CSR 40-2.375

Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Division of Family Services	\$14,807

WORKSHEET

21,775 times two equals 43,550 letters times \$0.34 postage per letter equals \$14,807 postage cost.

IV. ASSUMPTIONS

Approximately 21,775 families will be sent two letters notifying the affected clients. The cost will be \$0.34 cents per letter. Administrative costs are matched by the federal government at 50%. Therefore half, or \$7,403.50 would be general revenue cost and the other half \$7,403.50 would be federal Medicaid cost.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 30—Permanency Planning for Children

PROPOSED RULE

13 CSR 40-30.030 Attorney Fees and Guardian Ad Litem Fees in Subsidized Adoption and Guardianship Cases

PURPOSE: This rule establishes fees for attorneys and guardians ad litem who provide services in subsidized adoption and subsidized guardianship cases.

(1) If permanency for the children requires that children be adopted or placed under a guardianship, the children's prospective adoptive parents/guardians shall be provided representation in such cases which shall include counsel, investigative, expert and other services to ensure adequate representation. Representation shall be provided for any person(s) who has been identified as a prospective adoptive resource for a child who is eligible for the Missouri Adoption Subsidy program. A family is considered to be a prospective adoptive resource when it has been identified as a potential resource for a child via an adoption staffing held by the case manager of the child who is available for adoption. A child is considered eligible for the Missouri Adoption Subsidy program when he or she is or has been in the custody of the Division of Family Services or one (1) of the following agencies: Department of Mental Health, Division of Youth Services or a licensed child-placing agency.

(2) Payment for attorney representation shall be made as provided below.

(A) Hourly Rate. Any attorney shall, at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of the hearing and at the conclusion of appeal), be compensated at a rate not exceeding one hundred dollars (\$100) per hour for time expended in court and seventy-five dollars (\$75) per hour for time reasonably expended out of court, unless the court determines that a higher rate of not in excess of one hundred dollars (\$100) per hour is justified for the area where the services were performed or by reason of the nature of the services performed. Attorneys may be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the court.

(B) Maximum Amounts. The compensation to be paid for representation at an adoption hearing shall not exceed one thousand five hundred dollars (\$1,500) for uncontested matters and three thousand dollars (\$3,000) for contested matters. For representation in an appellate court, the compensation shall not exceed two thousand five hundred dollars (\$2,500) at one hundred dollars (\$100) per hour. The compensation to be paid for representation for a guardianship action shall not exceed five hundred dollars (\$500) as budgeted by the state legislature.

(C) Waiving Maximum Amounts. Payment in excess of any maximum amount provided in subsection (2)(B) may be made for extended or complex representation whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the court. At any time an attorney believes that the cost of representation will surpass the limit of three thousand dollars (\$3,000), they must provide written documentation to the Division of Family Services, as to why they do not think that the case will be completed under the current maximum fee.

(D) Disclosure of Fees. The amounts paid to particular attorneys or groups of attorneys shall be available as public records. However, the identity of parties, including parents, children, foster parents and anyone whose confidentiality is established in Chapter 210 or 211, RSMo, shall not be publicly available.

(E) Filing Claims. A separate claim for compensation and reimbursement shall be made to the adoptive parent for each case. Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the court, and the compensation and reimbursement applied for or received in the same case from any other source. The Division of Family Services may agree to the claim, may negotiate the claim with the applying attorney, or may deny the claim in which case the attorney shall apply to the court to determine the compensation and reimbursement to be paid to the attorney.

(F) New Hearings. For purposes of compensation and other payments authorized by this section, an order by a trial or appellate court granting a new trial shall be deemed to initiate a new case.

(3) Payment for Guardian Ad Litem. Children involved in adoption or guardianship cases are entitled to a guardian ad litem. The fees for the guardian ad litem shall be paid in the maximum amount of five hundred dollars (\$500) at seventy-five dollars (\$75) per hour.

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed June 13, 2002, effective June 24, 2002, expires Dec. 20, 2002. Original rule filed June 13, 2002.

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 Family Services, Denise Cross, Director, PO Box 88, Jefferson City, MO 65102. 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.090 Uninsured Parents' Health Insurance Program. The division is amending sections (2), (6), (7), and (8) and deleting sections (3) and (4).

PURPOSE: This proposed amendment establishes who will be eligible for the Uninsured Parents' Health Insurance Program after June 30, 2002.

(2) The following uninsured individuals shall be eligible to receive medical services to the extent and in the manner provided in this regulation:

(A) Individuals losing transitional medical assistance (TMA) who would not otherwise be insured or Medicaid eligible, with [gross] net income at or below [three hundred percent (300%)] one hundred percent (100%) of the federal poverty level for the household size—

1. Eligibility for the Uninsured Parents' Health Insurance Program for individuals losing TMA ends [twenty-four (24)] twelve (12) months after TMA eligibility ends; and

2. After coverage ends, the individuals with a child eligible for MC+ have the option of staying in the MC+ health plan, where managed care is available, if the parents pay the cost of the state's cost for the time period covered by the Missouri Medicaid

Section 1115 Health Care Reform Demonstration Proposal as approved by the Health Care Financing Administration;

[(B) Uninsured non-custodial parents with income at or below one hundred twenty-five percent (125%) of the federal poverty level for the household size who are current in paying their child support—

1. Eligibility for the Uninsured Parents' Health Insurance Program for uninsured non-custodial parents with income below one hundred twenty-five percent (125%) of the federal poverty level ends after twenty-four (24) total months, the months can be non-consecutive; and

2. Child support refers to a legally obligated dollar amount established by court or administrative order;

(C) Uninsured non-custodial parents who are actively participating in Missouri's Parents' Fair Share Program;

(D) Uninsured custodial parents with family income at or below one hundred percent (100%) of the federal poverty level for the household size; and]

[(E)] (B) Uninsured women who do not qualify for other medical assistance benefits, and would lose their Medicaid eligibility sixty (60) days after the birth of their child or sixty (60) days after a miscarriage, will continue to be eligible for family planning and limited testing of sexually transmitted diseases (EWH), regardless of income, for [twenty-four (24)] twelve (12) consecutive months [after the pregnancy ends].

[(3) Uninsured parents identified in subsections (2)(B), (2)(C) or (2)(D) who had health insurance in the six (6) months prior to the month of application shall not be eligible for coverage under this rule until six (6) months after coverage was dropped.

(4) The six (6)-month period of ineligibility would not apply to parents who lose health insurance due to:

(A) Loss of employment due to factors other than voluntary termination;

(B) Employment with a new employer that does not provide an option for coverage;

(C) Expiration of the Consolidated Budget Reconciliation Act (COBRA) coverage period;

(D) Lapse of health insurance when the lifetime maximum benefits under their private health insurance have been exhausted; or

(E) Lapse of health insurance when maintained by an individual other than the parent, individual losing TMA, or women who qualify for EWH.]

[(5)] (3) Beneficiaries covered in section (2) of this rule shall be eligible for service(s) from the date their application is received. No service(s) will be covered prior to the date the application is received.

[(6)] (4) The following services are covered for beneficiaries of the Uninsured Parents' Health Insurance Program if they are medically necessary:

(A) Inpatient hospital services;

(B) Outpatient hospital services;

(C) Emergency room services;

(D) Ambulatory surgical center, birthing center;

(E) Physician, advanced practice nurse, and certified nurse midwife services;

(F) Maternity benefits for inpatient hospital and certified nurse midwife. The health plan shall provide coverage for a minimum of forty-eight (48) hours of inpatient hospital services following a vaginal delivery and a minimum of ninety-six (96) hours of inpatient hospital services following a cesarean section for a mother and her newly born child in a hospital or any other health care facility licensed to provide obstetrical care under the provision of

Chapter 197, RSMo. A shorter length of hospital stay for services related to maternity and newborn care may be authorized if a shorter inpatient hospital stay meets with the approval of the attending physician after consulting with the mother and is in keeping with federal and state law. The health plan is to provide coverage for post-discharge care to the mother and her newborn. The physician's approval to discharge shall be made in accordance with the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, or similar guidelines prepared by another nationally recognized medical organization and be documented in the patient's medical record. The first post-discharge visit shall occur within twenty-four (24) to forty-eight (48) hours. Post-discharge care shall consist of a minimum of two (2) visits at least one (1) of which shall be in the home, in accordance with accepted maternal and neonatal physical assessments, by a registered professional nurse with experience in maternal and child health nursing or a physician. The location and schedule of the post-discharge visits shall be determined by the attending physician. Services provided by the registered professional nurse or physician shall include, but not be limited to, physician assessment of the newborn and mother, parent education, assistance and training in breast or bottle feeding, education and services for complete childhood immunizations, the performance of any necessary and appropriate clinical tests and submission of a metabolic specimen satisfactory to the state laboratory. Such services shall be in accordance with the medical criteria outlined in the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, or similar guidelines prepared by another nationally recognized medical organization. If the health plan intends to use another nationally recognized medical organization's guidelines, the state agency must approve prior to implementation of its use;

(G) Family planning services;

(H) Pharmacy benefits;

(I) Dental services to treat trauma [or disease];

(J) Laboratory, radiology and other diagnostic services;

(K) Prenatal case management;

(L) Hearing aids and related services;

(M) Eye exams and services to treat trauma or disease (one (1) pair of glasses after cataract surgery only);

(N) Home health services;

(O) Emergent (ground or air) transportation;

(P) Non-emergent transportation only for members in ME Code 78 Parents' Fair Share;

(Q) Mental health and substance abuse services;

(R) Services of other providers when referred by the health plan's primary care provider;

(S) Hospice services;

(T) Durable medical equipment (including but not limited to: orthotic and prosthetic devices, respiratory equipment and oxygen, enteral and parenteral nutrition, wheelchairs and walkers, diabetes supplies and equipment);

(U) Diabetes self-management training for persons with gestational, Type I or Type II diabetes;

(V) Services provided by local health agencies (may be provided by the health plan or through an arrangement between the local health agency and the health plan)—

1. Screening, diagnosis, and treatment of sexually transmitted diseases;

2. HIV screening and diagnostic services;

3. Screening, diagnosis, and treatment of tuberculosis; and

(W) Emergency medical services. Emergency medical services are defined as those health care items and services furnished or required to evaluate or stabilize a sudden and unforeseen situation or occurrence or a sudden onset of a medical or mental health condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the failure to provide immediate

medical attention could reasonably be expected by a prudent lay person, possessing average knowledge of health and medicine, to result in:

1. Placing the patient's health (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; or
2. Serious impairment of bodily functions; or
3. Serious dysfunction of any bodily organ or part; or
4. Serious harm to a member or others due to an alcohol or drug abuse emergency; or
5. Injury to self or bodily harm to others; or
6. With respect to a pregnant woman who is having contractions: a) that there is inadequate time to effect a safe transfer to another hospital before delivery; or b) that transfer may pose a threat to the health or safety of the woman or the unborn child.

[[7]] (5) Individuals losing TMA[, uninsured non-custodial parent(s) with family income at or below one hundred twenty-five percent (125%) of the federal poverty level who are current in paying their child support and uninsured custodial parent(s) with family income at or below one hundred percent (100%) of the federal poverty level] shall owe a ten dollar (\$10) co-payment for certain professional services and a five dollar (\$5) co-payment in addition to the recipient portion of the professional dispensing fee for pharmacy services required by 13 CSR 70-4.051.

(A) Providers may request payment of the mandatory co-payment(s) prior to or after service delivery.

(B) The co-payment amount shall be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(C) Service(s) may not be denied for failure to pay the mandatory co-payment(s).

(D) When a mandatory co-payment is not paid, the Medicaid provider will have the following options:

1. Forego the co-payment entirely;
2. Make arrangements for future payment with the recipient;

or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment(s) and secure payment for the service from the Division of Medical Services.

(E) When the Division of Medical Services receives a claim from a Medicaid fee-for-service provider for non-payment of the mandatory co-payment, the division shall send a notice to the recipient—

1. Requesting that the recipient reimburse the Division of Medical Services for the mandatory co-payment made on their behalf;
2. Requesting information from the recipient to determine if the mandatory co-payment was not made because there has been a change in the financial situation of the family; and
3. Advising the recipient of the possible loss of coverage for up to six (6) months if the recipient fails to pay three (3) co-payments in one (1) year.

(F) The recipient will be allowed fourteen (14) calendar days to respond. If the recipient indicated there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or
2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category another notice will be sent to the recipient about the mandatory co-payment provision of the program which shall include the number of co-payments that have not been paid and how many may not be paid before a recipient is terminated from the program.

(G) Notice of non-payment of mandatory co-payment(s) sent to the recipient during the course of a year shall establish a pattern of

not meeting the mandatory cost sharing requirement of the program. The process to terminate eligibility shall proceed with the third failure to pay a mandatory co-payment in any one (1) year or until one (1) or more of the three (3) delinquent mandatory co-payments is made. Coverage shall begin again only after payment of one (1) or more of the three (3) co-payments or passage of six (6) months time whichever occurs first. Health care coverage shall not be retroactive.

1. A year starts at the time a co-payment is reported not paid to the Division of Medical Services;

2. Payment of a delinquent co-payment or co-payments will eliminate the failure to pay a mandatory co-payment or co-payments.

(H) Recipient(s) shall have access to a fair hearing process to appeal the disenrollment decision.

(I) If the recipient fails to pay the mandatory co-payments three (3) times within a year and is disenrolled from coverage the recipient shall not be eligible for coverage for six (6) months after the department provides notice to the recipient of disenrollment for failure to pay mandatory co-payments or until one (1) or more of the three (3) delinquent mandatory co-payments is paid. Coverage shall begin again only after payment of one (1) or more of the three (3) co-payments or passage of six (6) months whichever occurs first. Coverage shall not be retroactive.

[[8]] (6) [Uninsured non-custodial parents who are actively participating in Missouri's Parents' Fair Share Program and u/Uninsured women who do not qualify for other benefits, and would lose their Medicaid eligibility sixty (60) days after the birth of their child or sixty (60) days after a miscarriage are not required to pay a co-payment for services.

[[9]] (7) The Department of Social Services, Division of Medical Services shall provide for granting an opportunity for a fair hearing to any applicant or recipient whose claim for benefits under the Missouri Medicaid Section 1115 Health Care Reform Demonstration Proposal is denied or disenrollment for failure to pay mandatory co-payments has been determined by the Division of Medical Services. There are established positions of state hearing officer within the Department of Social Services, Division of Legal Services in order to comply with all pertinent federal and state law and regulations. The state hearing officers shall have authority to conduct state level hearings of an appeal nature and shall serve as direct representative of the director of the Division of [Medicaid] Medical Services.

AUTHORITY: sections 208.040, RSMo Supp. 2001, 208.201 and 660.017, RSMo 2000. Emergency rule filed Sept. 13, 1999, effective Sept. 23, 1999, terminated Oct. 15, 1999. Original rule filed Aug. 16, 1999, effective March 30, 2000. Amended: Filed March 29, 2001, effective Oct. 30, 2001. Emergency amendment filed June 7, 2002, effective July 1, 2002, expires Dec. 27, 2002. Amended: Filed June 11, 2002.

PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions eight thousand eight hundred fifty-two dollars (\$8,852) 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 the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

RULE NUMBER

Rule Number and Name: 13 CSR 70-4.090 Uninsured Parents' Health
Insurance Program
Type of Rulemaking: Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision Estimated Cost of Compliance in the Aggregate
Dept of Social Services (DSS) \$8,852

WORKSHEET

**DSS, Division of Medical Services: 1,629 notices sent @ .253
per piece = \$412.14**

**DSS, Division of Family Services: 24,000 notices sent @.34 per
piece = \$8,438.48**

IV. ASSUMPTIONS

**Non-Custodial Parents/Parents Fair Share – 2 notices to 1,659
cases**

**Extended Women's Health Services – 13,602 cases, 5,330 of
these will receive 2 notices**

**Extended Transitional Medical Assistance – 1,720 cases will be
notified, 852 will receive 2 notices**

Administrative cost are matched at a fifty percent (50%) rate.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.040 Inpatient Hospital and Outpatient Hospital Settlements. The division is amending section (1) and subsections (2)(E), (4)(A), (4)(C)–(E) and adding subsection (4)(F).

PURPOSE: This amendment amends section (1) and subsections (2)(E), (4)(A), (4)(C)–(E) and adds (4)(F). The proposed changes eliminate final or amended settlements for outpatient hospital services for cost reports ending after December 31, 1998 for hospitals reimbursed under the prospective outpatient methodology authorized in 13 CSR 70-15.160.

(1) General. This regulation defines the specific procedures used to calculate inpatient and outpatient settlements for Missouri in-state hospitals participating in the Missouri Medicaid program. Although inpatient and outpatient settlements are calculated at the same time, an overpayment for outpatient services shall not be offset against an underpayment for inpatient services. **Outpatient settlements shall not be determined for cost report periods ending after December 31, 1998 except for recently closed hospitals and new hospitals as provided for in subsection (4)(E).**

(2) Definitions.

(E) Outpatient services/cost. Reimbursable outpatient services or costs are services or costs that are provided prior to the patient being admitted to the hospital. Only outpatient services or cost which are reimbursed on a percentage of charge as defined in *[13 CSR 70-15.010]* **13 CSR 70-15.160** will be included in the final settlement, unless they are excluded elsewhere in this regulation.

(4) Outpatient Hospital Settlements, Provider Based Rural Health Clinic (PBRHC) settlements or Provider Based Federally Qualified Health Centers (PBFQHC) settlements will be calculated after the division receives the Medicare/Medicaid cost report with a NPR from the hospital fiscal intermediary.

(A) The Division of Medical Services shall adjust the hospital's outpatient Medicaid payments, PBRHC or PBFQHC Medicaid payments to conform with the percent of cost paid on an interim basis under *[13 CSR 70-15.010(13)(A)]* **13 CSR 70-15.160** for the appropriate time period (except for those hospitals that qualify under subsection (4)(B), whose payments will be based on the percent of cost in paragraph (4)(A)1., 2., or 3.) for—

1. Services prior to January 5, 1994, the lower of eighty percent (80%) of the outpatient share of the costs from subsection (4)(D), or eighty percent (80%) of the outpatient charges from paragraph (4)(C)1.;

2. Services after January 4, 1994 and prior to April 1, 1998, the lower of ninety percent (90%) of the outpatient share of the cost from subsection (4)(D), or ninety percent (90%) of the outpatient charge from paragraph (4)(C)1.;

3. Services after March 31, 1998, **included in cost reports ending prior to January 1, 1999**, the lower of one hundred percent (100%) of the outpatient share of the cost from subsection (4)(D), or one hundred percent (100%) of the outpatient charge from paragraph (4)(C)1.; and

4. PBRHC and PBFQHC shall be reimbursed one hundred percent (100%) of its share of the cost in paragraph (4)(E)2.

(C) The Medicaid charges used to determine the cost, and the payments used to determine the settlement will be—

1. For outpatient services the charges and payments extracted from the Medicaid outpatient claims history for reimbursable services paid on a percentage basis under *[13 CSR 70-15.010]* **13 CSR 70-15.160**.

2. For PBRHC and PBFQHC the charges and payments will be for services billed under 13 CSR 70-94.020.

(D) The Medicaid hospital's outpatient, cost will be determined by multiplying the overall outpatient cost-to-charge ratio, determined in accordance with paragraph (4)(D)1., by the Medicaid charges from paragraphs (4)(C)1. To this product will be added the Medicaid outpatient share of GME. The GME will be determined using the methodology on worksheet E-3 part IV from the Medicare/Medicaid cost report (HCFA 2552-92) by substituting Medicaid data in place of Medicare data.

1. The overall outpatient cost-to-charge ratio will be determined by multiplying the reported total outpatient charges for each ancillary cost center, excluding PBRHC or PBFQHC, on the supplemental worksheet C column 10 (HCFA 2552-83) or substitute schedule by the appropriate cost-to-charge ratio from worksheet C (HCFA 2552-92) column 7 part I of the fiscal intermediary's audited Medicare/Medicaid cost report to determine the outpatient cost for each cost center reimbursed on a percentage of charge basis by Medicaid under *[13 CSR 70-15.010]* **13 CSR 70-15.160**. Total the outpatient costs from each cost center and total the outpatient charges from each cost center. Divide the total outpatient costs by the total outpatient charges to arrive at the overall outpatient cost-to-charge ratio.

(E) The Medicaid outpatient final settlement for cost reports ending prior to January 1, 1999, unless the hospital closed prior to July 1, 2002, will determine either an overpayment or an underpayment for the hospital's outpatient services *[and PBRHC or PBFQHC]*.

1. The outpatient Medicaid cost determined in subsection (4)(D) is multiplied by the percent of cost allowed in paragraph (4)(A)1., 2., or 3., to determine the reimbursable cost for outpatient services. (If a cost report covers both periods the outpatient Medicaid charges will be split to determine the reimbursable cost for each time period.) From this cost subtract the outpatient payments made on a percentage of charge basis under *[13 CSR 70-15.010]* **13 CSR 70-15.160** for the time period. (Medicaid payments include the actual payment by Medicaid, third party payments, coinsurance and deductibles.) The difference is either an overpayment (negative amount) due from provider or underpayment (positive amount) due to provider; *[and]*

2. *[For PBRHC or PBFQHC services multiply the PBRHC or PBFQHC Medicaid charges from paragraph (4)(C)2., by the cost center's cost-to-charge ratio to determine PBRHC or PBFQHC cost. From this cost, the PBRHC or PBFQHC payments associated with charges from paragraph (4)(C)2., are subtracted. The difference is either an overpayment (negative amount) due from provider or underpayment (positive amount) due to provider.] Closed facilities. Hospitals which closed after January 1, 1999 but before July 1, 2002 will have final settlements for cost reports ending during this time period calculated in accordance with 13 CSR 70-15.040(4)(E)1.; and*

3. **New hospitals which do not have a fourth, fifth, and sixth prior year cost report necessary for establishment of a prospective rate will have final settlement calculated for their initial three (3) cost report periods.**

(F) The Medicaid PBRHC or PBFQHC final settlement will determine either an overpayment or an underpayment for the hospital's PBRHC or PBFQHC services. For PBRHC or PBFQHC services multiply the PBRHC or PBFQHC Medicaid charges from paragraph (4)(C)2., by the cost center's cost-to-charge ratio to determine PBRHC or PBFQHC cost. From this cost, the PBRHC or PBFQHC payments associated with charges from paragraph (4)(C)2., are subtracted. The difference is either an overpayment (negative amount) due from provider or an underpayment (positive amount) due to provider.

AUTHORITY: sections 208.152, 208.153, 208.201, RSMo 2000 and 208.471, RSMo Supp. 2001. Original rule filed June 2, 1994, effective Dec. 30, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2002, effective July 1, 2002, expires Feb. 27, 2003. Amended: Filed June 14, 2002.

PUBLIC COST: This proposed amendment is expected to cost state agencies or political subdivisions \$17,659,856 in the aggregate in SFY 2003. This fiscal impact is because the division will not calculate final settlements on hospital's 1999 cost report.

PRIVATE COST: This proposed amendment is not expected to cost private entities more than five hundred dollars (\$500) in the aggregate in SFY 2003.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

RULE NUMBER

Rule Number and Name:	13 CSR 70-15.040 Inpatient Hospital and Outpatient Hospital Settlements
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services Division of Medical Services	\$17,659,856

WORKSHEET

The worksheets calculate the estimated final settlements on hospitals 1999 cost reports. The worksheet reports an overpayment to hospitals in the amount of \$17,659,856. Prior to this change, this amount would have been either repaid by the hospital or offset from current Medicaid payments.

IV. ASSUMPTIONS

The assumptions are the final settlements for hospitals 1999 cost reports would result in an overpayment to hospitals in the amount of \$17,659,856 to hospitals which would have been repaid by the hospital either by check or through recoupment from current payment prior to this amendment. However, the Division has also submitted a new proposed rule (13 CSR 70-15.160) which establishes an outpatient prospective payment methodology. Under this proposed rule, the hospitals' interim outpatient payments would be reduced by \$13,781,196 for the current year and each subsequent year, resulting in a net cost to the state of \$3,878,660 for the first year only. Subsequent-year reductions in payments to hospitals will reduce state costs for outpatient services to Medicaid beneficiaries by a comparable amount. The net effect of a more accurate computation of a prospective payment ratio over time will result in a budget neutral impact of this proposed amendment to the state and hospitals.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

PROPOSED RULE

13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology

PURPOSE: This rule establishes a prospective outpatient reimbursement methodology for hospitals in place of the current retrospective reimbursement methodology. This rule establishes the methodology for setting a hospital's prospective outpatient payment percentage for hospital services effective July 1, 2002.

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) Prospective Outpatient Hospital Services Reimbursement Percentage for Hospitals Located Within Missouri.

(A) Outpatient hospital services shall be reimbursed on a prospective outpatient payment percentage effective July 1, 2002 except for services identified in subsection (1)(C). The prospective outpatient payment percentage will be calculated using the Medicaid over-all outpatient cost-to-charge ratio from the fourth, fifth, and sixth prior base year cost reports regressed to the current State Fiscal Year (SFY). (If the current SFY is 2003 the fourth, fifth and sixth prior year cost reports would be the cost report filed in calendar year 1997, 1998 and 1999.) The prospective outpatient payment percentage shall not exceed one hundred percent (100%) except for nominal charge providers and shall not be less than twenty percent (20%).

(B) Outpatient cost-to-charge ratios will be as determined in the desk review of the base year cost reports.

(C) Outpatient hospital services reimbursement limited by rule.

1. All services provided to General Relief (GR) recipients will be reimbursed from the Medicaid fee schedule in accordance with provisions of 13 CSR 70-2.020.

2. Effective for dates of service September 1, 1985, and annually updated, certain clinical diagnostic laboratory procedures will be reimbursed from a Medicaid fee schedule which shall not exceed a national fee limitation.

3. Services of hospital-based physicians and certified registered nurse anesthetists shall be billed on an HCFA-1500 professional claim form which is incorporated by reference as part of this rule, and reimbursed from a Medicaid fee schedule or the billed charge, if less.

4. Outpatient hospital services provided for those recipients having available Medicare benefits shall be reimbursed by Medicaid to the extent of the deductible and coinsurance as imposed under Title XVIII.

(2) Exempt Hospitals. Medicaid providers which do not have a fourth, fifth and sixth prior year cost report.

(A) Interim Payment Percentage. An interim outpatient payment percentage for new Medicaid hospital providers will be set at seventy-five percent (75%) for the first three (3) state fiscal years in which the hospital operates. The cost reports for these three (3)

years will have a cost settlement calculated in accordance with 13 CSR 70-15.040.

(B) Outpatient Percentage. The outpatient payment percentage for the fourth and fifth year in which the hospital operates will be based on the overall Medicaid cost-to-charge ratio from its fourth prior year cost report.

(3) Closed Facilities. Hospitals which closed after January 1, 1999 but before July 1, 2002 will have final settlements for cost reports ending during this time period calculated in accordance with 13 CSR 70-15.040.

(4) Definitions.

(A) Base cost report. Desk-reviewed Medicare/Medicaid cost report. When a facility has more than one (1) cost report with periods ending in the fourth prior calendar year, the cost report covering a full twelve (12)-month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve (12)-month period, the data shall be adjusted, based on the number of months reflected in the base cost report to a twelve (12)-month period.

(B) Cost report. A cost report details, for purposes of both Medicare and Medicaid reimbursement, the cost of rendering covered services for the fiscal reporting period. The Medicare/Medicaid Uniform Cost Report contains the forms utilized in filing the cost report.

(C) Effective date.

1. The plan effective date shall be July 1, 2002.

2. New prospective outpatient payment percentages will be effective July 1 of each SFY.

(5) Out-of-State Outpatient Reimbursement.

(A) Out-of-state outpatient hospital services and services of federally-operated hospitals located within Missouri will be reimbursed by Missouri Medicaid at sixty percent (60%) of usual and customary charges as billed by the provider for covered services with the exceptions for services in subsection (1)(C).

AUTHORITY: sections 208.152, 208.153, 208.201, RSMo and 208.471, RSMo Supp. 2001. Emergency rule filed June 20, 2002, effective July 1, 2002, expires Feb. 27, 2003. Original rule filed June 14, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate in SFY 2003.

PRIVATE COST: This proposed rule will cost private entities \$13,781,196 in the aggregate in SFY 2003. It is anticipated these payments would have been recouped as outpatient overpayments under the current retrospective reimbursement methodology in future years.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

RULE NUMBER

Rule Number and Name:	13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be	Classification by types of the business entities which would likely be	Estimate in the aggregate as to the cost of compliance with the rule by
135 Hospitals	Hospital	\$13,781,196

WORKSHEET

The worksheet provided the reduction in claim payment of \$13,781,961 for outpatient hospital services using a prospective payment system with a minimum payment percentage after the regression of 20%.

ASSUMPTIONS

The assumption used to arrive at the fiscal impact on private entities are as follows:

Hospitals prospective outpatient payment percentages were determined using a regression of the 1997, 1998 and 1999 cost-to-charge ratio to arrive at the SFY 2003 prospective outpatient payment percentage. This percentage was limited to a floor of 20%.

The reduction in the hospitals outpatient payment percent using the regression analysis with 20% floor results in hospitals payment dropping \$13,781,196.

While this proposed rule shows an impact of \$13,781,196 on hospitals, the net impact of this new proposed rule and the changes to 13 CSR 70-15.040 on hospitals would be a gain \$3,878,660 in SFY 2003 as the Division would have completed final settlements for \$17,654,836 which the hospital would have repaid in SFY 1999 in accordance with 13 CSR 70-15.040.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.031 List of Excludable Drugs for Which Prior Authorization is Required. The division is amending section (3).

PURPOSE: This amendment establishes a more timely notification to providers regarding products requiring Prior Authorization in order for them to be reimbursable under the Missouri Medicaid Pharmacy Program.

(3) List of drugs or categories of excludable drugs which are restricted to require prior authorization for certain specified indications [—] shall be made available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms, provider bulletins, and updates to the provider manual.

<i>[Drug or Category of Drug]</i>	<i>Allowed Indications</i>
<i>Amphetamines</i>	<i>Attention Deficit Hyperactivity Disorder Narcolepsy</i>
<i>Barbiturates (with the exception of phenobarbital and mephobarbital and methabarbital which do not require prior authorization)</i>	<i>All medically accepted uses</i>
<i>Isotretinoin</i>	<i>Noncosmetic uses</i>
<i>Orlistat</i>	<i>Dyslipidemia</i>
<i>Retinoic Acid, topical</i>	<i>Noncosmetic uses</i>

AUTHORITY: sections 208.153 and 208.201, RSMo [1994] 2000. Original rule filed Dec. 13, 1991, effective Aug. 6, 1992. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 7, 2002, effective July 1, 2002, expires Dec. 27, 2002. Amended: Filed June 11, 2002.

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 the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.032 List of Drugs Excluded From Coverage Under the Missouri Medicaid Pharmacy Program. The division is amending section (2).

PURPOSE: This amendment establishes a more timely notification to providers regarding products for which reimbursement is not available through the Missouri Medicaid Pharmacy Program.

(2) List of drugs or classes which are excluded from reimbursement through the Missouri Medicaid Pharmacy Program [—] shall be made available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms, provider bulletins, and updates to the provider manual.

<i>Drug or Category</i>	<i>[Exceptions— Reimbursable]</i>
<i>Drugs used to promote fertility</i>	
<i>Drugs used to promote weight loss</i>	
<i>Drugs used to promote hair growth</i>	
<i>Drugs used for cosmetic purposes</i>	
<i>Nonlegend vitamins, multivitamins and minerals, adult</i>	<i>Children's Chewable Multi-vitamins</i>
	<i>Calcium Preparations Iron Preparations</i>
<i>Drugs used to promote smoking cessation</i>	
<i>Nonlegend lotions, shampoos and medicated soaps</i>	
<i>Nonlegend acne preparations</i>	
<i>Nonlegend weight control products</i>	
<i>Nonlegend ophthalmic products</i>	<i>Artificial tear products Eyewash products Ocular lubricants</i>
<i>Contact lens products</i>	
<i>Nonlegend oral analgesics</i>	<i>All nonlegend strengths and dosage forms of: Acetaminophen Aspirin Buffered aspirin Ibuprofen Naproxensodium</i>
<i>Nonlegend stimulant products</i>	
<i>Nonlegend external analgesic products</i>	

<i>Drug or Category</i>	<i>[Exceptions— Reimbursable]</i>
<i>Nonlegend hemorrhoidal products</i>	
<i>Halazepam</i>	
<i>Prazepam</i>	
<i>Estazolam</i>	
<i>Quazepam</i>	

AUTHORITY: sections 208.153 and 208.201, RSMo [1994] 2000. Original rule filed Dec. 13, 1991, effective Aug. 6, 1992. Amended: Filed June 30, 2000, effective Feb. 28, 2001. Emergency amendment filed June 7, 2002, effective July 1, 2002, expires Dec. 27, 2002. Amended: Filed June 11, 2002.

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 the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.034 List of Non-Excludable Drugs for Which Prior Authorization Is Required. The division is amending section (2).

PURPOSE: This amendment establishes a more timely notification to providers regarding products requiring prior authorization in order for them to be reimbursable under the Missouri Medicaid Pharmacy Program.

(2) List of drugs or categories of drugs which are restricted to require prior authorization for certain specified indications [—] shall be made available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms, provider bulletins, and updates to the provider manual.

[Drug or Category

of Drug

Abortionifacients

Allowed Indications

Termination of pregnancy resulting from an act of rape or incest or when necessary to protect the life of the mother

Butorphanol,
nasal spray

Override of quantity restriction allowed for medically accepted uses

Drugs used to treat
sexual dysfunction

Sexual dysfunction

Histamine 2 Receptor
Antagonists

Medically accepted uses

Ketorolac, oral

Short-term treatment of moderately severe acute pain following injection of same entity

Linezolid, oral

Medically accepted uses

Modafanil

Narcolepsy

Proton Pump
Inhibitors]

Medically accepted uses

AUTHORITY: sections 208.152, 208.153 and 208.201, RSMo [1994] 2000. Emergency rule filed Nov. 21, 2000, effective Dec. 1, 2000, expired May 29, 2001. Original rule filed June 29, 2000, effective Feb. 28, 2001. Emergency amendment filed June 7, 2002, effective July 1, 2002, expires Dec. 27, 2002. Amended: Filed June 11, 2002.

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 the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. 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 AMENDMENT

19 CSR 20-20.040 Measures for the Control of Communicable, Environmental and Occupational Diseases. This proposed amendment deletes section (6).

PURPOSE: This amendment is to remove the sunset clause on this rule in order to continue to define investigative and control measures for communicable, environmental, and occupational diseases.

[(6) This rule will expire on June 30, 2002.]

AUTHORITY: sections 192.006[.1] and 192.020, RSMo [1994] 2000. This rule was previously filed as 13 CSR 50-101.050. Original rule filed July 15, 1948, effective Sept. 13, 1948. Rescinded and readopted: Filed Dec. 11, 1981, effective May 13, 1982. Amended: Filed Sept. 16, 1982, effective Jan. 14, 1983. Amended: Filed March 21, 1984, effective July 15, 1984. Amended: Filed June 2, 1988, effective Aug. 25, 1988. Amended: Filed Nov. 15, 1989, effective Feb. 11, 1990. Amended: Filed Aug. 14, 1992, effective April 8, 1993. Amended: Filed Sept. 15, 1995, effective April 30, 1996. Emergency amendment filed June 13, 2002, effective July 1, 2002, expires Dec. 27, 2002. Amended: Filed June 13, 2002.

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 Pam Walker, Division Director, Division of Environmental Health and Communicable Disease Prevention, 930 Wildwood, Jefferson City, MO 65109. 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.