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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 1—Wildlife Code: Organization

PROPOSED AMENDMENT

3 CSR 10-1.010 Organization and Methods of Operation. The department proposes to amend section (2).

PURPOSE: This amendment corrects a title change.

(2) The commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees and is assisted by a deputy director with programs and activities carried out by the divisions of fisheries, wildlife, forestry, protection, design and development, outreach and education, administrative services, private land services, natural history and human resources. An assistant *[to]* director provides leadership for special projects and initiatives as assigned by the director; notably legislative liaison, partnerships with other entities, etc.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 28, 1974, effective July 8, 1974. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Aug. 3, 2001.*

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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions

PROPOSED AMENDMENT

4 CSR 100-2.040 Loans. The director of the Division of Credit Unions proposes amending this rule by amending the Purpose, deleting current sections (1), (2), (3), and (4), adding a new section (1), and renumbering current sections (5), (6), and (7).

PURPOSE: This proposed amendment deletes requirements concerning how specific documents are to be prepared and codifies the requirement, currently implemented as part of the examination process, of maintaining current written lending policies.

PURPOSE: [In order to protect the consumer borrower as well as the lending credit union, this rule establishes the minimum requirements to be met for all credit union loans (see sections 370.140(1), 370.220(4) and 370.310, RSMo for statutory requirements).] ***This rule establishes the requirement of maintaining current written lending policies and establishes requirements concerning loans to certain credit union officials.***

(1) *[All notes and security agreements must be completely filled out in detail.]* **Each credit union will maintain current written lending policies. Written lending policies will be sufficiently detailed to adequately address all lending activities and products.**

[(2) Security must be stated on note and listed on security agreement in sufficient detail for identification.

(3) All such instruments shall be typed or in ink.

(4) It is highly recommended that signatures be witnessed on notes, security agreements and financing statements.]

[(5)] **(2)** No member of the board of directors or of the supervisory or credit committee shall enter into loan contracts with the credit union where the total loans outstanding at any one (1) time shall exceed twenty-five thousand dollars ($25,000), except for loans secured by mortgages on primary and secondary borrower-occupied residences, negotiable securities, licensed motor vehicles (licensed motor vehicle shall be defined as a noncommercial vehicle licensed to operate on a highway or waterway) or shares. It is recommended that employees of the credit union shall be subject to similar loan restrictions.

[(6)] **(3)** In processing the loan application of a member of the board of directors or of the credit or supervisory committee where the official makes application to the credit union of which s/he is an official—

(A) The loan application to be approved must receive the majority approval of the members of the credit committee present at the meeting at which the loan application is considered; or

(B) The loan application must be approved by the loan officer in the manner provided in the Credit Union Act and the bylaws of the credit union adopted and where the loan is so approved.

[(7)] **(4)** When a member of the board of directors or of the credit or supervisory committee makes application to the credit union of which she is an official—

(A) The approval of the loan application shall be reported at the next regularly scheduled meeting of the board of directors. The minutes of the meeting of the board shall include number of the account, name of applicant and amount of loan;

(B) An application for an increase in the credit limit of a previously approved line of credit or credit card loan is considered a new application which, if approved, shall be reported to the board. Periodic advances on a previously approved and properly reported line of credit or credit card loan shall not be considered a new application if the previously approved credit limit is not exceeded;

(C) Any loan to a member of the board of directors or to a member of the supervisory or credit committee that becomes sixty (60) days or more delinquent shall be reported to the board of directors by the president or manager at the next board meeting following the discovery of the delinquency. That report shall be recorded in the board minutes. The board then shall act to make appropriate arrangements to bring the loan(s) current. Arrangements to bring the loan current shall be on terms no more favorable than those available to other members and be acceptable to the director of the Division of Credit Unions. In no event shall a loan to an official become more than ninety (90) days delinquent nor shall any loan remain in a delinquent status more than one hundred eighty (180) days;

(D) No director or member of the credit or the supervisory committee in any manner, directly or indirectly, shall participate in the deliberation of any question affecting his/her application for a loan; and

(E) These provisions also are applicable to officials who enter into contracts for a loan(s) as co-makers.

*AUTHORITY: section 370.100, RSMo [1986] **2000**. Original rule filed Jan. 15, 1968, effective Jan. 25, 1968. Amended: Filed Sept. 14, 1972, effective Sept. 24, 1972. Amended: Filed Dec. 15, 1975, effective Dec. 25, 1975. Amended: Filed June 8, 1976, effective Sept. 11, 1976. Emergency amendment filed Feb. 14, 1984, effective Feb. 24, 1984, expired June 23, 1984. Amended: Filed March 12, 1984, effective June 11, 1984. Amended: Filed May 4, 1987, effective July 23, 1987. Amended: Filed Oct. 12, 1988, effective Feb. 11, 1989. Amended: Filed Oct. 11, 1991, effective March 9, 1992. Amended: Filed Aug. 9, 2001.*

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 Division of Credit Unions, John P. Smith, Director, PO Box 1607, 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State Chartered Credit Unions

PROPOSED AMENDMENT

4 CSR 100-2.160 *[Semi-Annual] Call* **Report**s *[of Conditions]*. The director of the Division of Credit Unions proposes amending this rule by amending the title, the purpose, and current section (1).

PURPOSE: This proposed amendment allows the director to require a credit union to file call reports, as often as quarterly, if a credit union is required to file quarterly call reports with the National Credit Union Administration.

*PURPOSE: This rule [gives the director the power to require a semi-annual report of condition, in addition to the annual report, when necessary (see section 370.110(1), RSMo for statutory provisions).] **establishes requirements for submitting call reports to the Division of Credit Unions**.*

(1) *[In addition to the annual report, s]***S**tate-chartered credit unions shall submit *[a semiannual report of condition which shall contain information all prepared in the manner as the director of credit unions shall deem necessary]* **call reports and supplemental information to the Division of Credit Unions as prescribed by the director, as often as four (4) times a year, but no more often than a credit union is required to file a call report with the National Credit Union Administration.** *[This report shall reflect the condition of the credit union as of June 30 and shall be submitted no later than July 20 of the same year.]*

*AUTHORITY: section 370.100, RSMo [1986] **2000**. Original rule filed Dec. 15, 1975, effective Dec. 25, 1975. Amended: Filed June 8, 1976, effective Sept. 11, 1976. Emergency amendment filed Feb. 14, 1984, effective Feb. 24, 1984, expired June 23, 1984. Amended: Filed March 12, 1984, effective June 11, 1984. Amended: Filed Aug. 9, 2001.*

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 Division of Credit Unions, John P. Smith, Director, PO Box 1607, 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 70—Missouri Assistive Technology Advisory Council
Chapter 1—Assistive Technology Programs

PROPOSED AMENDMENT

8 CSR 70-1.010 Telecommunications Access Program. The council proposes to amend sections (3), (4), (5), and (9).

PURPOSE: This amendment is being proposed in order to be consistent with statute change, HB 567 (2001) effective August 28, 2001. The proposed amendment adds licensed hearing instrument specialists to the list of certifiers for the Telecommunications Access Program, establishes a full licensure requirement for all individuals who certify, and establishes standards and procedures for equipment approving agents. Equipment approving agents with knowledge and expertise in adaptive equipment are necessary to ensure an appropriate match between an individual with a disability and adaptive telecommunications equipment as required by section 209.253.3(2), RSMo.

(3) Applicant Eligibility.

(A) Eligible applicants shall:

1. Be certified by a licensed physician, audiologist, speech pathologist, **hearing instrument specialist** or qualified agency as unable to use traditional telecommunications equipment due to disability;

2. Have specific adaptive telecommunications equipment designated by an approved agent;

*[2.]***3**. Be residents of Missouri;

*[3.]***4**. Meet financial income standards;

*[4.]***5**. Have access to basic telephone equipment and service if applying for adaptive telephone equipment or have access to basic *[i]***I**nternet equipment and service if applying for adaptive computer equipment.

(4) General Application and Certification Procedures.

(A) Individuals shall apply for equipment from the program, on forms approved by the program administrator, that include:

1. Applicant name, address, home and work phone, date of birth, Social Security number;

2. Assurance of Missouri residency, assurance of current access to basic telephone equipment and service, assurance of income level;

3. Identification of current or past use of adaptive equipment;

4. Specific request for specialized equipment or request for assistance in selecting equipment;

5. **Original applicant** *[S]***s**ignature and date.

(D) Certifying agents shall, on forms approved by the program administrator, certify that the applicant, by name, is unable to use traditional telecommunications equipment because of a specific category of disability *[and]***. Equipment approving agents shall designate** that the applicant needs **specific** adaptive equipment as identified on *[the application form]* **forms approved by the program administrator**. The certifying agent shall sign and date the certification and provide state license *[or certification]* number if certifying as a physician, audiologist, **hearing instrument specialist** or speech pathologist. **Certifiers shall possess full licensure, not temporary or provisional.** Approved agency representatives **certifying** shall provide the name of the approved agency. All certifying agents shall provide their name, address, and phone number to enable the program administrator to contact them as necessary. **Equipment approving agents shall sign the equipment designation form and shall provide their approval number.**

(5) Approval of Certifying **and Equipment Approving** Agencies and Agents.

(B) Entities desiring to be designated as an equipment approval agent shall participate in training provided by the program administrator. Such training shall include specific information about adaptive telecommunications equipment to support appropriate equipment selection. Upon satisfactory completion of training, the program administrator will provide equipment approval designation.

*[(B)]***(C)** The program administrator will maintain a list of approved certifying **and equipment approval** agencies and those personnel of the agency who are approved to certify **and designate equipment matches**. A list of approved certifying **and equipment approval** agencies will be included with applicant education information and otherwise made available as widely as possible.

(9) TAP for Telephone Specific Procedures.

(B) Application Processing—The program administrator shall process TAP for telephone applications and deliver equipment and services that assure an appropriate match between an individual with a disability and adaptive equipment.

1. Each application shall be reviewed for completeness. If any information is missing, the applicant will be contacted and requested to supply such information.

2. Each applicant's eligibility will be verified by information provided on the application form.

3. If the application:

A. Requests equipment on the approved list, the request will be matched with disability description, as provided by the application form or equipment worksheet, and approved.

[B. Does not request specific equipment, but instead requests assistance in determining equipment needs, the applicant will be contacted and such assistance provided.]

[C.] **B.** Requests equipment not on the approved list, the explanation will be reviewed to determine if the equipment is necessary for basic telephone access and is cost effective as compared to devices on the list. If so, the equipment request will be approved.

4. Upon verification of applicant eligibility and determination of equipment/disability match, the program administrator shall order the equipment from an approved vendor and will notify the applicant that the equipment has been ordered.

5. Equipment orders shall include applicant name, make and model of equipment ordered, applicant shipping address, and date of order. The program administrator shall transmit equipment orders directly to the vendor by facsimile or via other time expedient mechanism that is mutually agreeable.

6. Applicants will be notified if their equipment request cannot be approved as submitted and will be asked to revise their equipment request accordingly.

7. Upon receipt of equipment order, the vendor shall ship the equipment directly to the applicant's Missouri residence by verifiable delivery mechanism.

8. The vendor shall provide the program administrator with a monthly invoice of all equipment ordered and delivered.

9. The program administrator may establish alternative and pilot programs to increase program quality and consumer satisfaction. A voucher program for targeted types of adaptive telephone equipment may be implemented as an option to increase consumer choice for those applicants who are experienced users of such equipment.

AUTHORITY: section 209.253, RSMo 2000. Emergency rule filed July 28, 2000, effective Aug. 28, 2000, expired Feb. 23, 2001. Original rule filed July 28, 2000, effective Jan. 30, 2001. Emergency amendment filed Dec. 21, 2000, effective Dec. 31, 2000, expired June 28, 2001. Amended: Filed Dec. 21, 2000, effective June 30, 2001. Amended: Filed Aug. 7, 2001.

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 Missouri Assistive Technology Advisory Council, 4731 Cochise, Suite 114, Independence, MO 64055. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.020 Permit Application Requirements. The commission is amending subsection (2)(D). The forms that follow this rule in the *Code of State Regulations* are being deleted.

PURPOSE: This rule is being amended in order to add requirements to the permit applications for in-stream sand and gravel mining operations that will comply with standards designed to protect the stream environment and adjacent properties from damage.

(2) As required by section 444.772, RSMo, an applicant shall provide a complete application package submitted which includes the following:

(D) A plan of operation and reclamation which meets the requirements of 444.760—444.790, RSMo.

1. The operation plan for surface mine operators shall include:

A. A brief description of topsoil availability, removal and storage as outlined in 10 CSR 40-10.050(6);

B. A brief description and location of spoil placement and disposal;

C. A brief description of handling of acid materials, if applicable; and

D. A brief description of the location and arrangement of the pit if not delineated clearly on the map submitted with the application.

2. All applications shall contain a reclamation and operation plan for the lands and water within the proposed permit area.

3. The reclamation plan shall include, at a minimum:

A. A list of species used for reclamation and the seeding/planting rates*[:]***;**

B. Methods and timing of seeding/planting;

C. If required by the commission, references to support revegetation methods;

D. A brief description of the grading, topsoiling and revegetation schedules as outlined in 10 CSR 40-10.050(10); and

E. The land use that area is to be reclaimed to and the acreage of each.

4. In-stream operators must describe what measures will be taken to minimize impacts on the stream environment, that is, *[where possible, confining active operations to gravel bars rather than in flowing water, restricting haul roads through flowing water and restricting damage to stream banks or bank vegetation to the minimum required to transport material out.]* **how they will follow requirements of 10 CSR 40-10.050(13)(D)**.

5. The applicant may provide either a short-term or long-term plan for operations and reclamation. A short-term plan shall describe, at a minimum, the activities required by the operation and reclamation plan outlined in this subsection, which will occur over the one (1)-year term of the permit. A long-term plan shall describe, at a minimum, the activities required by the operation and reclamation plan outlined in this subsection which will occur over more than one (1) year. Permits having long-term operation plans will be issued for one (1)-year terms, except that, upon renewal, the applicant is not required to resubmit an operation plan, provided that the operations will continue to be conducted in the manner originally proposed. Also, the operator only must acquire a permit for the portion of the area included in the long-term plan which will be affected over the upcoming one (1)-year term of the permit. But, in no instance shall the operator affect any area outside of the area included in the current approved permit;

*AUTHORITY: sections 444.767, [RSMo Supp. 1993,] 444.772, [RSMo Supp. 1992] and 444.784, RSMo [Supp. 1990] **2000**. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994. Amended: Filed Aug. 15, 2001.*

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 Natural Resources, Land Reclamation Program, Larry Coen, Staff Director, PO Box 176, Jefferson City, MO 65102, (573) 751-4041. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 10—Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations

PROPOSED AMENDMENT

10 CSR 40-10.050 Performance Requirements. The commission is adding a new subsection (13)(D).

PURPOSE: This rule is being amended in order to require mining operations for in-stream sand and gravel mining operations to comply with standards designed to protect the stream environment and adjacent properties from damage.

(13) Flood Plain.

(D) Operations that conduct sand and/or gravel removal within the stream banks must comply with the following requirements:

1. The following requirements are designed to protect water quality while allowing for the excavation of sand and gravel from riparian environments. The program may establish site specific guidelines to address conditions that may occur at individual locations.

2. Excavation of sand or gravel deposits should be limited to deposits in unconsolidated areas containing primarily smaller material (at least eighty-five percent (85%) of the material is less than three inches (3") in diameter) that is loosely packed and contains no woody perennial vegetation greater than one and one-half inches (1 1/2") in diameter, measured at breast height four and one-half feet (4.5').

3. An undisturbed buffer of twenty feet (20') should be maintained between the removal area and the water line at the time of excavation, and between the removal area and bank vegetation greater than one and one-half inches (1 1/2") in diameter, measured at breast height. Sand and gravel removal for personal use only should maintain an undisturbed buffer of ten feet (10') in the areas specified in this condition. Width of buffer areas may be modified after an on-site visit determines that a smaller width buffer area would not significantly impact the biological, physical, or chemical integrity of the water resource.

4. An undisturbed buffer of twenty-five feet (25') wide should be maintained in an undisturbed condition landward of the high bank for the length of the gravel removal site. Disturbed areas in this riparian zone should be limited to maintained access road(s) for ingress and egress only. No clearing within this riparian area is authorized in association with work authorized by this permit.

5. Sand or gravel should not be excavated below water elevation at the time of removal. If the stream is dry at the time of excavation, excavation should not occur deeper than the lowest undisturbed elevation of the stream bottom adjacent to the site.

6. Water conveyance areas within the channel should not be relocated, straightened, cut-off, shortened, widened, or otherwise modified. A "water conveyance area within the channel" is defined as that area between the high banks of the creek where water is flowing, or in the case of a dry stream, where water would flow after a rain event as indicated by a defined stream channel.

7. Within thirty (30) days of the removal of excavation equipment from the site, streambank areas disturbed by the removal operation should be revegetated or otherwise protected from erosion. For long-term operations (longer than thirty (30) days) or for sites that will be periodically revisited as gravel is deposited, access points should be appropriately constructed and maintained such that stream banks and access roads are protected from erosion.

8. Any aggregate, fines, or oversized material removed from the site should be placed in an upland, non-wetland site that has been approved by the landowner. No material, including oversized material, that results from excavation activity may be stockpiled or otherwise placed into flowing water or placed against streambanks as bank stabilization.

9. All sand or gravel washing, gravel crushing, and gravel sorting should be conducted above the high bank, in a non-wetland area and away from areas that flood, such that gravel, silt, and wash water that is warm, stagnant, or contains silty material cannot enter the stream or any wetland. All fines resulting from the sorting operation should be captured in a transport truck or other suitable container and removed from the sorting location to a suitable disposal site the same day that the sorting occurs. All sorted aggregate should be removed from the gravel bar at the end of each working day, with the exception of oversized material that will be spread out in the excavation area following project completion.

10. When section 404 of the Federal Clean Water Act applies to a sand and gravel removal operation, spawning season restrictions should be followed.

11. Vehicles and other equipment should be limited to removal sites and existing crossings. Streams should be crossed perpendicular to the direction of the stream. Use of off-road vehicles in streams is also regulated under Missouri state law (section 304.013, RSMo).

12. Fuel, oil and other wastes and equipment containing such wastes should not be stored or released at any location between the high banks or in a manner that would enter the stream channel. Such materials should be disposed of at authorized locations.

13. Sand and gravel operations may require a permit for storm water runoff and/or gravel washing. Contact the appropriate Department of Natural Resources, Regional Office, for information.

14. In-stream sand and gravel operations are prohibited from those waters listed as "Outstanding State Resource Waters" or "Outstanding National Resource Waters" (10 CSR 20-7.031).

15. If any part of the authorized work is performed by a contractor or other party, these conditions should be discussed with the contractor or party. A copy of these conditions should be given to the contractor or other party involved in the excavation activities.

16. Operators should consult with the Missouri Department of Conservation and the U.S. Fish and Wildlife Service as to the presence of state and federal threatened and endangered species in the stream reach in order to avoid jeopardizing the species' continued existence or destroying or adversely modifying the habitat of such species.

*AUTHORITY: sections 444.767, [RSMo Supp. 1993,] 444.774 and 444.784, RSMo [Supp. 1990] **2000**. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994. Amended: Filed Aug. 15, 2001.*

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 Natural Resources, Land Reclamation Program, Larry Coen, Staff Director, PO Box 176, Jefferson City, MO 65102, (573) 751-4041. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 7—Reporting

PROPOSED AMENDMENT

10 CSR 60-7.020 Reporting Requirements for Lead and Copper Monitoring. The commission is amending sections (1), (5), (6), and (7) and adding section (8).

*PURPOSE: This amendment adopts changes necessary to be consistent with the federal rule as amended in the January 12, 2000 and June 30, 1994 **Federal Registers**. These changes are required in order to maintain delegation of the federal program.*

(1) Reporting requirements for lead and copper tap water monitoring and for water quality parameter monitoring.

(A) *[A]* **Except as provided in paragraph (1)(A)7., a** water system shall report to the department the following information for all tap water samples **and all water quality parameter samples specified in 10 CSR 60-15.080** within the first ten (10) days following the end of each applicable monitoring period specified in 10 CSR 60-15.070, 10 CSR 60-15.080 and 10 CSR 60-15.090 (such as, every six (6) months, annually or every three (3) years):

1. The results of all tap samples for lead and copper including the location of each site and the criteria under 10 CSR 60-15.070(1) under which the site was selected for the system's sampling pool;

2. Documentation for each tap water lead or copper sample for which the water system requests invalidation pursuant to 10 CSR 60-15.070(6);

[2. A certification that each first draw sample collected by the water system is one liter (1l) in volume and, to the best of their knowledge, has stood motionless in the service line or in the interior plumbing of a sampling site for at least six (6) hours;

3. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures specified in 10 CSR 60-15.070(2)(B);]

[4.] **3.** The ninetieth percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 10 CSR 60-15.010(3)(C))**, unless the department calculates the system's ninetieth percentile lead and copper levels under section (8) of this rule**;

[5.] **4.** With the exception of initial tap sampling conducted pursuant to 10 CSR 60-15.070(4)(A), the system shall specify any site which was not sampled during previous monitoring periods and include an explanation of why sampling sites have changed;

[6.] **5.** The results of all tap samples for pH and, where applicable, alkalinity, calcium, conductivity, temperature and orthophosphate or silica collected under 10 CSR 60-15.080(2)–(5); *[and]*

[7.] **6.** The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 10 CSR 60-15.080(2)–(5)*[.]***; and**

7. A water system shall report the results of all water quality parameter samples collected under 10 CSR 60-15.080(3)–(6) during each six (6)-month monitoring period specified in 10 CSR 60-15.080(4) within the first ten (10) days following the end of the monitoring period unless the department has specified a more frequent reporting requirement.

[(B) By the applicable date in 10 CSR 60-15.070(4)(A) for commencement of monitoring, each community water system which does not complete its targeted sampling pool with tier 1 sampling sites meeting the criteria in 10 CSR 60-15.070(1)(C) shall send a letter to the department justifying its selection of tier 2 or tier 3, or both, sampling sites under 10 CSR 60-15.070(1)(D) or (E), or both.

(C) By the applicable date in 10 CSR 60-15.070(4)(A) for commencement of monitoring, each nontransient noncommunity water system which does not complete its sampling pool with tier 1 sampling sites meeting the criteria in 10 CSR 60-15.070(1)(F) shall send a letter to the department justifying its selection of sampling sites under 10 CSR 60-15.070(1)(G).

(D) By the applicable date in 10 CSR 60-15.070(4)(A) for commencement of monitoring, each water system with lead service lines that is not able to locate the number of sites served by those lines required under 10 CSR 60-15.070(1)(I) shall send a letter to the department demonstrating why it was unable to locate a sufficient number of these sites based upon the information listed in 10 CSR 60-15.070(1)(B).

(E) Each water system that requests that the department reduce the number and frequency of sampling shall provide the information required under 10 CSR 60-15.070(4)(D).]

(B) For a nontransient noncommunity water system, or a community water system meeting the criteria of 10 CSR 60-15.060(3)(G)1. and 2., that does not have enough taps that can provide first-draw samples, the system must either:

1. Provide written documentation to the department identifying standing times and locations for enough non-first-draw samples to make up its sampling pool under 10 CSR 60-15.070(2)(E) by the start of the first applicable monitoring period under 10 CSR 60-15.070(4) that commences after April 11, 2000, unless the department has waived prior department approval of non-first-draw sample sites selected by the system pursuant to 10 CSR 60-15.070(2)(E); or

2. If the department has waived prior approval of non-first-draw sample sites selected by the system, identify, in writing, each site that did not meet the six (6)-hour minimum standing time and the length of standing time for that particular substitute sample collected pursuant to 10 CSR 60-15.070(2)(E) and include this information with the lead and copper tap sample results required to be submitted pursuant to paragraph (1)(A)1. of this rule.

(C) No later than sixty (60) days after the addition of a new source or any change in water treatment, unless the department requires earlier notification, a water system deemed to have optimized corrosion control under 10 CSR 60-15.020(2)(C), a water system subject to reduced monitoring pursuant to 10 CSR 60-15.070(4)(D), or a water system subject to a monitoring waiver pursuant to 10 CSR 60-15.070(6), shall send written documentation to the department describing the change. In those instances where prior department approval of the treatment change or new source is not required, water systems are encouraged to provide the notification to the department beforehand to minimize the risk that the treatment change or new source will adversely affect optimal corrosion control.

(D) Any small system applying for a monitoring waiver under 10 CSR 60-15.070(6), or subject to a waiver granted pursuant to 10 CSR 60-15.070(6)(C), shall provide the following information to the state in writing by the specified deadline:

1. By the start of the first applicable monitoring period in 10 CSR 60-15.070(4), any small water system applying for a monitoring waiver shall provide the documentation required to demonstrate that it meets the waiver criteria of 10 CSR 60-15.070(6)(A)–(B).

2. No later than nine (9) years after the monitoring previously conducted pursuant to 10 CSR 60-15.070(6)(B) or 10 CSR 60-15.070(6)(D)1., each small system desiring to maintain its monitoring waiver shall provide the information required by 10 CSR 60-15.070(6)(D)1. and 2.

3. No later than sixty (60) days after it becomes aware that it is no longer free of lead-containing and/or copper-containing material, as appropriate, each small system with a monitoring waiver shall provide written notification to the state, setting forth the circumstances resulting in the lead-containing and/or copper-containing materials being introduced into the system and what corrective action, if any, the system plans to remove these materials.

(E) Each groundwater system that limits water quality parameter monitoring to a subset of entry points under 10 CSR 60-15.080(3)(C) shall provide, by the commencement of such monitoring, written correspondence to the department that identifies the selected entry points and includes information sufficient

to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(5) Lead Service Line Replacement Reporting Requirements. Systems shall report the following information to the department to demonstrate compliance with the requirements of 10 CSR 60-15.050:

(B) Within twelve (12) months after a system exceeds the lead action level in sampling referred to in 10 CSR 60-15.050(1), and every twelve (12) months after that, the system shall demonstrate to the department in writing that the system has either—

1. Replaced in the previous twelve (12) months at least seven percent (7%) of the initial lead service lines (or a greater number of lines specified by the department under 10 CSR 60-15.050*[(6)]***(5)**) in its distribution system; or

2. Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to 10 CSR 60-15.070(2)(C), is less than or equal to 0.015 milligrams per liter (mg/l). In those cases, the total number of lines replaced or which meet the criteria in 10 CSR 60-15.050(2), or both, shall equal at least seven percent (7%) of the initial number of lead lines identified under subsection (5)(A) of this rule (or the percentage specified by the department under 10 CSR 60-15.050*[(6)]***(5)**);

(D) *[As soon as practicable, but in no case later than three (3) months after a system exceeds the lead action level in sampling referred to in 10 CSR 60-15.050(1), any system seeking to rebut the presumption that it has control over the entire lead service line pursuant to 10 CSR 60-15.050(4) shall submit a letter to the department describing the legal authority (for example, state statutes, municipal ordinances, public service contracts or other applicable legal authority) which limits the system's control over the service lines and the extent of the system's control.]* **Any system which collects lead service line samples following partial lead service line replacement required by 10 CSR 60-15.050 shall report the results and any additional information as specified by the department to the department in a time and manner prescribed by the department, to verify that all partial lead service line replacement activities have taken place.**

(6) Public Education Program Reporting Requirements.

(A) *[By December 31 of each year, a]***A**ny water system that is subject to the public education requirements in 10 CSR 60-15.060 shall**, within ten (10) days after the end of each period in which the system is required to perform public education tasks in accordance with 10 CSR 60-15.060(3),** submit *[a letter]* **written documentation** to the department **that contains:**

1. A *[demonstrating]* **demonstration** that the system has delivered the public education materials that meet the content requirements in 10 CSR 60-15.060(1) and (2) and the delivery requirements in 10 CSR 60-15.060(3)*[.]***; and**

2. *[This information shall include a]* **A** list of all the newspapers, radio stations, television stations, facilities and organizations to which the system delivered public education materials during the *[previous year. The water system shall submit the letter required by this section annually for as long as it exceeds the lead action level]* **period in which the system was required to perform public education tasks**.

(B) Unless required by the department, a system that previously has submitted the information required by paragraph (6)(A)2. of this rule need not resubmit that information as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(7) Reporting of Additional Monitoring Data. Any system which collects sampling data in addition to that required by this rule shall report the results to the department *[by]* **within the first ten (10) days following** the end of the applicable monitoring period under 10 CSR 60-15.070, 10 CSR 60-15.080 and 10 CSR 60-15.090 during which the samples are collected.

(8) Reporting of ninetieth percentile lead and copper concentrations where the department calculates a system's ninetieth percentile concentrations. A water system is not required to report the ninetieth percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period, as required by paragraph (1)(A)3. of this rule if:

(A) The department has previously notified the water system that it will calculate the water system's ninetieth percentile lead and copper concentrations, based on the lead and copper tap results submitted pursuant to paragraph (8)(B)1. of this rule, and has specified a date before the end of the applicable monitoring period by which the system must provide the results of lead and copper tap water samples;

(B) The system has provided the following information to the department by the date specified in subsection (8)(A) of this rule:

1. The results of all tap samples for lead and copper including the location of each site and the criteria under 10 CSR 60-15.070(1)(C), (D), (E), (F) and/or (G) under which the site was selected for the system's sampling pool, pursuant to paragraph (1)(A)1. of this rule; and

2. An identification of sampling sites utilized during the current monitoring period that were not sampled during previous monitoring periods, and an explanation why sampling sites have changed; and

(C) The department has provided the results of the ninetieth percentile lead and copper calculations, in writing, to the water system before the end of the monitoring period.

*AUTHORITY: section 640.100, RSMo [1994] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 14, 2001.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 10—Plans and Specifications; Siting Requirements; Recreational Use of Impoundments

PROPOSED AMENDMENT

10 CSR 60-10.040 Prohibition of Lead Pipes, Lead Pipe Fittings and Lead Solder and Flux. The commission is amending section (2).

PURPOSE: This amendment adopts changes necessary to be consistent with the federal rule as amended in the January 12, 2000 ***Federal Register****.*

(2) For the purpose of this rule, the term lead-free, when used with respect to—

(A) Solder and flux, refers to solders and flux containing not more than two-tenths percent (0.2%) lead; *[and]*

(B) Pipes and pipe fittings, refers to pipes and pipe fittings containing not more than eight percent (8.0%) lead*[.]***; and**

(C) Plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion, refers to fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300g–6(e).

AUTHORITY: section 640.100, RSMo [Supp. 1989] 2000. Original rule filed June 2, 1988, effective Aug. 31, 1988. Amended: Filed Aug. 14, 2001.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the ***Missouri Register*** *page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.020 Applicability of Corrosion Control Treatment Steps to Small, Medium-Size and Large Water Systems. The commission is amending subsections (1)(B) and (2)(B).

PURPOSE: This amendment adopts changes necessary to be consistent with amendments to the federal lead and copper rule published in the June 30, 1994 and January 12, 2000 ***Federal Registers*** *(59 FR 33864 and 65 FR 1950). These changes are required in order to maintain delegation of the federal program.*

(1) A large system (serving more than fifty thousand (50,000) persons) shall complete the corrosion control treatment steps as follows unless it is deemed to have optimized corrosion control under paragraph (1)(B)1. or 2.

(B) A large system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one (1) of the following criteria*[:]***. Any such large system deemed to have optimized corrosion control, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the department determines appropriate to ensure optimal corrosion control treatment is maintained.**

1. The system demonstrates to the satisfaction of the department that it has conducted activities equivalent to the corrosion control steps applicable to large systems. If the department makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with 10 CSR 60-15.030(7). *[A system shall provide the department with the following information in order to support a determination:]* **Water systems deemed to have optimized corrosion control shall operate in compliance with the department-designated optimal water quality control parameters in accordance with 10 CSR 60-15.030(8) and continue to conduct lead and copper tap and water quality parameter sampling in accordance with 10 CSR 60-15.070(4)(C) and 10 CSR 60-15.080(4). A system shall provide the department with the following information in order to support this determination:**

A. The results of all test samples collected for each of the water quality parameters in 10 CSR 60-15.030(3)(C);

B. A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in 10 CSR 60-15.030(3)(A), the results of all tests conducted and the basis for the system's selection of optimal corrosion control treatment;

C. A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

D. The results of tap water samples collected in accordance with 10 CSR 60-15.070 at least once every six (6) months for one (1) year after corrosion control has been installed*[; and]***.**

2. The water system submits results of tap water monitoring conducted in accordance with 10 CSR 60-15.070 and source water monitoring conducted in accordance with 10 CSR 60-15.090 that demonstrates for two (2) consecutive six (6)-month monitoring periods that the difference between the ninetieth percentile tap water lead level, computed under 10 CSR 60-15.010(3)(C), and the highest source water lead concentration is less than the practical quantitation level for lead specified in 10 CSR 60-5.010*[(1)]***(5)**(H).

A. Those systems whose highest source water lead level is below the method detection limit may also be deemed to have optimized corrosion control under this paragraph if the ninetieth percentile tap water lead level is less than or equal to the practical quantitation level for lead for two (2) consecutive six (6)-month monitoring periods.

B. Any water system deemed to have optimized corrosion control in accordance with this paragraph (1)(B)2. shall continue monitoring for lead and copper at the tap no less frequently than once every three (3) calendar years using the reduced number of sites specified in 10 CSR 60-15.070(3) and collecting the samples at times and locations specified in 10 CSR 60-15.070(4)(D)4.

C. Any water system deemed to have optimized corrosion control pursuant to this paragraph (1)(B)2. shall notify the department in writing pursuant to 10 CSR 60-7.020(1)(C) of any change in treatment or the addition of a new source. The department may require any such system to conduct additional monitoring or to take other action the department deems appropriate to ensure that such system maintains minimal levels of corrosion in the distribution system.

D. A system is not deemed to have optimized corrosion control pursuant to this paragraph (1)(B)2., and shall implement corrosion control treatment pursuant to subparagraph (1)(B)2.E. of this rule unless it meets the copper action level.

E. Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control

under paragraph (1)(B)2. shall implement corrosion control treatment in accordance with the deadlines in subsection (2)(A) of this rule. Any such large system shall adhere to the schedule specified in subsection (2)(A) of this rule for medium-size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control under paragraph (1)(B)2. of this rule.

(2) A small system (serving fewer than three thousand three hundred (3,300) persons) and a medium-size system (serving three thousand three hundred one to fifty thousand (3,301–50,000) persons) shall complete the corrosion control treatment steps specified as follows unless it is deemed to have optimized corrosion control under paragraph (2)(B)1., 2. or 3. of this rule:

(B) A small- or medium-size water system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one (1) of the following criteria*[:]*. **Any such system deemed to have optimized corrosion control, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the department determines appropriate to ensure optimal corrosion control treatment is maintained.**

1. The system meets the lead and copper action levels during each of two (2) consecutive six (6)-month monitoring periods conducted in accordance with 10 CSR 60-15.070*[;]*.

2. The system demonstrates to the satisfaction of the department that it has conducted activities equivalent to the corrosion control steps applicable to medium-size or small systems under this section. If the department makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with 10 CSR 60-15.030(7). **Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the department-designated optimal water quality control parameters in accordance with 10 CSR 60-15.030(8) and shall continue to conduct lead and copper tap and water quality parameter sampling in accordance with 10 CSR 60-15.070(4)(C) and 10 CSR 60-15.080(4).** The system shall provide the department with the following information in order to support a determination:

A. The results of all test samples collected for each of the water quality parameters in 10 CSR 60-15.030(3)(C);

B. A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in 10 CSR 60-15.030(3)(A), the results of all tests conducted and the basis for the system's selection of optimal corrosion control treatment;

C. A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

D. The results of tap water samples collected in accordance with 10 CSR 60-15.070 at least once every six (6) months for one (1) year after corrosion control has been installed*[; or]*.

[3. The water system submits results of tap water monitoring conducted in accordance with 10 CSR 60-15.070 and source water monitoring conducted in accordance with 10 CSR 60-15.090 that demonstrates for two (2) consecutive six (6)-month monitoring periods that the difference between the ninetieth percentile tap water lead level, computed under 10 CSR 60-15.010(3)(C), and the highest source water lead concentration is less than the practical quantitation level for lead specified in 10 CSR 60-5.010(1)(H); and]

3. Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with 10 CSR 60-15.070 and source water monitoring conducted in accordance with 10 CSR 60-15.090 that demonstrates for two (2) consecutive six (6)-month monitoring periods that the difference between the ninetieth percentile tap water lead level computed under 10 CSR 60-15.010(3)(C) and the highest source water lead concentration is less than the practical quantitation level for lead specified in 10 CSR 60-5.010(5)(H).

A. Those systems whose highest source water lead level is below the method detection limit may also be deemed to have optimized corrosion control under this paragraph if the ninetieth percentile tap water lead level is less than or equal to the practical quantitation level for lead for two (2) consecutive six (6)-month monitoring periods.

B. Any water system deemed to have optimized corrosion control in accordance with this paragraph (2)(B)3. shall continue monitoring for lead and copper at the tap no less frequently than once every three (3) calendar years using the reduced number of sites specified in 10 CSR 60-15.070(3) and collecting the samples at times and locations specified in 10 CSR 60-15.070(4)(D)4.

C. Any water system deemed to have optimized corrosion control pursuant to this paragraph (2)(B)3. shall notify the department in writing pursuant to 10 CSR 60-7.020(1)(C) of any change in treatment or the addition of a new source. The department may require any such system to conduct additional monitoring or to take other action the department deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

D. A system is not deemed to have optimized corrosion control pursuant to this paragraph (2)(B)3., and shall implement corrosion control treatment pursuant to subparagraph (2)(B)3.E. of this rule unless it meets the copper action level.

E. Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under paragraph (2)(B)3. shall implement corrosion control treatment in accordance with the deadlines in subsection (2)(A) of this rule. Any such large system shall adhere to the schedule specified in subsection (2)(A) of this rule for medium-size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control under paragraph (2)(B)3. of this rule; and

(C) Any small- or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two (2) consecutive monitoring periods conducted pursuant to 10 CSR 60-15.070 and submits the results to the department. If any such water system after that exceeds the lead or copper action level during any monitoring period, the system (or the department, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The department may require a system to repeat treatment steps previously completed by the system where the department determines that this is necessary to implement properly the treatment requirements of this section. The department shall notify the system in writing of the determination and explain the basis for its decision. **The requirement for any small- or medium-size system to implement corrosion control treatment steps (including systems deemed to have optimized corrosion control) is triggered whenever any small- or medium-size system exceeds the lead or copper action level.**

*AUTHORITY: section 640.100, RSMo [Supp. 1989] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.030 Description of Corrosion Control Treatment Requirements. The commission is amending section (8).

*PURPOSE: This amendment adopts changes necessary to be consistent with changes to the federal lead and copper rule published in the January 12, 2000 **Federal Register** (65 FR 1950). These changes are required in order to maintain delegation of the federal program.*

(8) *[All systems shall maintain water quality parameter values at or above minimum values or within ranges designated by the department under section (7) of this rule in each sample collected under 10 CSR 60-15.080(4). If the water quality parameter value of any sample is below the minimum value or outside the range designated by the department, then the system is out of compliance. As specified in 10 CSR 60-15.080(4), the system may take a confirmation sample for any water quality parameter value no later than three (3) days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under this section. The department will have discretion to delete results of obvious sampling errors from this calculation.]* **All systems optimizing corrosion control shall continue to operate and maintain optimal corrosion control treatment, including maintaining water quality parameters at or above minimum values or within ranges designated by the department under section (7) of this rule for all samples collected under 10 CSR 60-15.080(4)–(6). Compliance with this section shall be determined every six (6) months, as specified under 10 CSR 60-15.080(4). A water system is out of compliance with the requirements of this section (8) for a six (6)-month period if it has excursions for any department-specified parameter on more than nine (9) days during the period. An excursion occurs whenever the daily value for one (1) or more of the water quality parameters measured at a sampling location is below the minimum value or outside the range designated by the department. Daily values are calculated as follows. The department shall have discretion to delete results of obvious sampling errors from this calculation.**

(A) On days when more than one (1) measurement for the water quality parameter is collected at the sampling location, the daily value shall be the average of all results collected during the day regardless of whether they are collected through continuous monitoring, grab sampling, or a combination of both.

(B) On days when only one (1) measurement for the water quality parameter is collected at the sampling location, the daily value shall be the result of that measurement.

(C) On days when no measurement is collected for the water quality parameter at the sampling location, the daily value shall be the daily value calculated on the most recent day on which the water quality parameter was measured at the sample site.

*AUTHORITY: section 640.100, RSMo [Supp. 1989] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001.*

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

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

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.050 Lead Service Line Replacement Requirements. The commission is amending sections (2) and (4), deleting section (5) and renumbering subsequent sections.

*PURPOSE: This amendment adopts changes necessary to be consistent with changes to the federal rule published in the January 12, 2000 **Federal Register** (65 FR 1950). These changes are required in order to maintain delegation of the federal program.*

(2) A **water** system *[annually]* shall replace **annually** at least seven percent (7%) of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system**, including an identification of the portion(s) owned by the system,** based upon a materials evaluation, including the evaluation required under 10 CSR 60-15.070(1) **and relevant legal authorities (e.g., contracts, local ordinances) regarding the portion owned by the system**. The first year of lead service line replacement shall begin on the date the action

level was exceeded in tap sampling referenced in section (1) of this rule.

(4) *[A water system shall replace the entire service line (up to the building inlet) unless it demonstrates to the satisfaction of the department under section (5) of this rule that it controls less than the entire service line. In those cases, the system shall replace the portion of the line which the department determines is under the system's control. The system shall notify the user served by the line that the system will replace the portion of the service line under its control and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the water system shall inform the resident(s) that the system will collect a first flush tap water sample after partial replacement of the service line is completed if the resident(s) so desires. In cases where the resident(s) accepts the offer, the system shall collect the sample and report the results to the resident(s) within fourteen (14) days following partial lead service line replacement.]* **A water system shall replace that portion of the lead service line that it owns. In cases where the system does not own the entire lead service line, the system shall notify the owner of the line, or the owner's authorized agent, that the system will replace the portion of the service line that it owns and shall offer to replace the owner's portion of the line. A system is not required to bear the cost of replacing the privately-owned portion of the line, nor is it required to replace the privately-owned portion where the owner chooses not to pay the cost of replacing the privately-owned portion of the line, or where replacing the privately-owned portion would be precluded by department, local or common law. A water system that does not replace the entire length of the service line also shall complete the following tasks:**

(A) At least forty-five (45) days prior to commencing with the partial replacement of a lead service line, the water system shall provide notice to the resident(s) of all buildings served by the line explaining that they may experience a temporary increase of lead levels in their drinking water, along with guidance on measures consumers can take to minimize their exposure to lead. The department may allow the water system to provide this notice less than forty-five (45) days prior to commencing partial lead service line replacement where such replacement is in conjunction with emergency repairs. In addition, the water system shall inform the resident(s) served by the line that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content, as prescribed under 10 CSR 60-15.070(2)(C), within seventy-two (72) hours after the completion of the partial replacement of the service line. The system shall collect the sample and report the results of the analysis to the owner and the resident(s) served by the line within three (3) business days of receiving the results. Mailed notices postmarked within three (3) business days of receiving the results shall be considered "on time"; and

(B) The water system shall provide the information required by subsection (4)(A) of this rule to the residents of individual dwellings by mail or by other methods approved by the department. In instances where multi-family dwellings are served by the line, the water system shall have the option to post the information at a conspicuous location.

[(5) A water system is presumed to control the entire lead service line (up to the building inlet) unless the system demonstrates to the satisfaction of the department, in a letter submitted under 10 CSR 60-7.020(5)(D), that it does not have any of the following forms of control over the entire line (as defined by Missouri statutes, municipal ordinances, public service contracts or other applicable legal authority): authority to set standards for construction, repair or maintenance of the line; authority to replace, repair or maintain the service line; or ownership of the service line. The department shall review the information supplied by the system and determine whether the system controls less than the entire service line and, in those cases, shall determine the extent of the system's control. The department's determination shall be in writing and explain the basis for its decision.]

[(6)] **(5)** The department shall require a system to replace lead service lines on a shorter time schedule than that required by this section, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The department shall make this determination in writing and notify the system of its finding within six (6) months after the system is triggered into lead service line replacement based on monitoring referenced in section (1) of this rule.

[(7)] **(6)** Any system may cease replacing lead service lines whenever first-draw tap samples collected pursuant to 10 CSR 60-15.070(4)(C) meet the lead action level during each of two (2) consecutive monitoring periods and the system submits the results to the department. If the first-draw tap samples in any such water system after that exceed the lead action level, the system shall recommence replacing lead service lines, pursuant to section (2) of this rule.

[(8)] **(7)** To demonstrate compliance with sections (1)–(4) of this rule, a system shall report to the department the information specified in 10 CSR 60-7.020(5).

*AUTHORITY: section 640.100, RSMo [Supp. 1989] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.060 Public Education and Supplemental Monitoring Requirements. The commission is amending sections (1)–(3).

PURPOSE: This amendment adopts changes to the federal rule published in the January 12, 2000 ***Federal Register*** *(65 FR 1950). These changes are required in order to maintain delegation of the federal program.*

(1) Content of Written Materials.

(A) Community Water Systems. A **community** water system shall include the following text in all of the printed materials it distributes through its lead public education program. **Systems may delete information pertaining to lead service lines, upon approval by the department, if no lead service lines exist anywhere in the water system service area. Public education language at parts (1)(A)4.B.(V) and (1)(A)4.D.(II) of this rule may be modified regarding building permit record availability and consumer access to these records, if approved by the department.** Any additional information presented by a system shall be consistent with the information in this rule and be in plain English that can be understood by lay persons. A water system that exceeds the lead action level based on tap water samples collected in accordance with 10 CSR 60-15.070 shall deliver the public education materials contained in sections (1) and (2) of this rule in accordance with the requirements in section (3) of this rule*[:]***.**

[(A)] **1.** Introduction. "The Missouri Department of Natural Resources (DNR) and *(insert name of water supplier)* are concerned about lead in your drinking water. Although most homes have very low levels of lead in their drinking water, some homes in the community have lead levels above the DNR action level of *[fifteen]* **15** parts per billion (*[15]* ppb) or 0.015 milligrams of lead per liter of water (mg/l). Under federal and state law we are required to have a program in place to minimize lead in your drinking water by *(insert date when corrosion control will be completed for your system)*. This program includes corrosion control treatment, source water treatment and public education. We are also required to replace **the portion of** each lead service line that we control if the line contributes lead concentrations of more than *[fifteen (15)]* **15** ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead rule please give us a call at *(insert water system's phone number)*. This brochure explains the simple steps you can take to protect you and your family by reducing your exposure to lead in drinking water*[;]***.**"

[(B)] **2.** Health Effects of Lead. "Lead is a common metal found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery porcelain and pewter, brass fixtures and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that will not hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination, like dirt and dust, that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths*[;]***.**"

[(C)] **3.** Lead in Drinking Water.

[1.] **A.** "Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The DNR estimates that drinking water can make up *[twenty]* **20** percent *[(20%)]* or more of a person's total exposure to lead.

[2.] **B.** "Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. It is also rare in groundwater, even in Missouri's lead belt. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome-plated brass faucets, and, in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than *[two-tenths]* **0.2** percent *[(0.2%)]* lead and restricted the lead content of faucets, pipes and other plumbing materials to *[eight]* **8.0** percent *[(8.0%)]*. Missouri rule 10 CSR 60-10.040 *[reads: 'As]* **requires that as** of January 1, 1989, all materials used in the construction, expansion, modification or improvement of a public water system or customer water system shall be lead-free. This does not apply to leaded joints necessary for the repair of cast iron pipes. In addition, any customer water system constructed, expanded, modified or repaired after January 1, 1989, that is connected to a public water system and later is found to contain materials that are not lead-free, shall have the water meter removed or otherwise have the service line severed from the public water system when the supplier of water is so ordered by the appropriate local government authority (if one exists) or by the department. This requirement does not apply to any customer water system previously served by a water system other than a public water system.*[']*

[3.] **C.** "When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning or later in the afternoon after returning from work or school can contain fairly high levels of lead*[;" and]***."**

[(D)] **4.** Steps You Can Take in the Home to Reduce Exposure to Lead in Drinking Water.

[1.] **A.** "Despite our best efforts mentioned earlier to control water corrosivity and remove lead from the water supply, lead levels in some homes or buildings can be high. To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. For more information on having your water tested, please call *(insert phone number of water system)*.

[2.] **B.** "If a water test indicates that the drinking water drawn from a tap in your home contains lead above *[fifteen (15)]* **15** ppb, then you should take the following precautions:

[A.] **(I)** "Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than six *[(6)]* hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about *[fifteen to thirty (]* 15–30*[)]* seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time, perhaps one *[(1)]* minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than one *[(1)]* or two *[(2)]* gallons of water and costs less than *(insert a cost estimate based on flushing two [(2)] times a day for [thirty (]*30*[)] days)* per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap and whenever possible use the first flush water to wash the dishes or water the plants. If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level;

[B.] **(II)** "Try not to cook with or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove;

[C.] **(III)** "Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from three to five *[(3–5)]* minutes. After that, periodically remove the strainers and flush out any debris that has accumulated over time;

[D.] **(IV)** "If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1989, notify the plumber who did the work and request that s/he replace the lead solder with lead-free solder. Lead solder looks dull gray and when scratched with a key looks shiny. In addition, notify the Public Drinking Water Program of the Missouri Department of Natural Resources at (800) 334-6946 about the violation;

[E.] **(V)** "Determine whether or not the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by either hiring a licensed plumber to inspect the line or by contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking the city's record of building permits which should be maintained in the files of the *(insert name of department that issues building permits)*. A licensed plumber at the same time can check to see if your home's plumbing contains lead solder, lead pipes or pipe fittings that contain lead. The public water system that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes more than *[fifteen (15)]* **15** ppb to drinking water, after our comprehensive treatment program is in place, we are required to replace the **portion of the** line **we own**. If the line is only partially controlled by the *(insert name of the city, county or water system that controls the line)*, we are required to provide *[you with information on how to replace your portion of the service line, and offer to replace that portion of the line at your expense and take a follow-up tap water sample within fourteen (14) days of the replacement]* **the owner of the privately-owned portion of the line with information on how to replace the privately-owned portion of the service line, and offer to replace that portion of the line at the owner's expense. If we replace only the portion of the line that we own, we also are required to notify you in advance and provide you with information on the steps you can take to minimize exposure to any temporary increase in lead levels that may result from the partial replacement, to take a follow-up sample at our expense from the line within 72 hours after the partial replacement, and to mail or otherwise provide you with the results of that sample within three business days of receiving the results.** Acceptable replacement alternatives include copper, steel, iron and plastic pipes; and

[F.] **(VI)** "Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. Do not attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

[3.] **C.** "The steps described *[in subparagraphs (1)(D)2.A.–F.]* **above** will reduce the lead concentrations in your drinking water. However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of *[fifteen (15)]* **15** ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures:

[A.] **(I)** "Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices, such as reverse osmosis systems or distillers, can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap; however, all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit; and

[B.] **(II)** "Purchase bottled water for drinking and cooking.

[4.] **D.** "You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include:

[A.] **(I)** "*(Insert the name of city or county department of public utilities)* at *(insert phone number)* can provide you with information about your community's water supply and a list of local laboratories that have been certified by DNR for testing water quality;

[B.] **(II)** "*(Insert the name of city or county department that issues building permits)* at *(insert phone number)* can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and

[C.] **(III)** "The Missouri Department of Health at (800) 392-7245 or the *(insert the name of the city or county health department)* at *(insert phone number)* can provide you with information about the health effects of lead and how you can have your child's blood tested.

[5.] **E.** "The following is a list of some state-approved laboratories in your area that you can call to have your water tested for lead: *(insert names and phone numbers of at least two (2) laboratories)*."

(B) Nontransient Noncommunity Water Systems. A nontransient noncommunity water system shall either include the text specified in subsection (1)(A) of this rule or shall include the following text in all of the printed materials it distributes through its lead public education program. Water systems may delete information pertaining to lead service lines upon approval by the department if no lead service lines exist anywhere in the water system service area. Any additional information presented by a system shall be consistent with the information below and be in plain English that can be understood by lay people.

1. Introduction. "The Missouri Department of Natural Resources (DNR) and *(insert name of water supplier)* are concerned about lead in your drinking water. Some drinking water samples taken from this facility have lead levels above the DNR action level of 15 parts per billion (ppb), or 0.015 milligrams of lead per liter of water (mg/l). We are required to have a program in place to minimize lead in your drinking water by *(insert date when corrosion control will be completed for your system)*. This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace the portion of each lead service line that we own if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation please give us a call at *(insert water system's phone number)*. This brochure explains the simple steps you can take to protect yourself by reducing your exposure to lead in drinking water."

2. Health effects of lead. "Lead is found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that won't hurt adults can slow down

normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination—like dirt and dust—that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths."

3. Lead in drinking water.

A. "Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead."

B. "Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome-plated brass faucets, and in some cases, pipes made of lead that connect houses and buildings to water mains (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2 percent lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0 percent.

C. "When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon if the water has not been used all day, can contain fairly high levels of lead."

4. Steps you can take to reduce exposure to lead in drinking water.

A. "Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than six hours. The longer water resides in plumbing the more lead it may contain. Flushing the tap means running the cold water faucet for about 15–30 seconds. Although toilet flushing or showering flushes water through a portion of the plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your health. It usually uses less than one gallon of water.

B. "Do not cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and then heat it.

C. "The steps described above will reduce the lead concentrations in your drinking water. However, if you are still concerned, you may wish to use bottled water for drinking and cooking.

D. "You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include: *(insert the name or title of facility official if appropriate)* at *(insert phone number)* can provide you with information about your facility's water supply."

(C) "The Missouri Department of Health at (800) 392-7245 or the *(insert the name of the city or county health department)* at *(insert phone number)* can provide you with information about the health effects of lead."

(2) Content of Broadcast Materials. A water system shall include the following information in all public service announcements submitted under its lead public education program to television and radio stations for broadcasting:

[(A)] "Why should everyone want to know the facts about lead and drinking water? Because unhealthy amounts of lead can enter drinking water through the plumbing in your home. That's why I urge you to do what I did. I had my water tested for *(insert free or $ per sample)*. You can contact the *(insert the name of the city or water system)* for information on testing and on simple ways to reduce your exposure to lead in drinking water*[; and]***.**

[(B)] To have your water tested for lead or to get more information about this public health concern please call *(insert the phone number of the city or water system)*."

(3) Delivery of a Public Education Program.

(B) A community water system that *[fails to meet]* **exceeds** the lead action level on the basis of tap water samples collected in accordance with 10 CSR 60-15.070, **and that is not already repeating public education tasks pursuant to subsection (3)(C), (3)(G) or (3)(H) of this rule** within sixty (60) days shall—

1. Insert notices in each customer's water utility bill containing the information in section (1) of this rule, along with the following alert on the water bill itself in large print: "SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION."*[;]* **A community water system having a billing cycle that does not include a billing within sixty (60) days of exceeding the action level, or that cannot insert information in the water utility bill without making major changes to its billing system, may use a separate mailing to deliver the information in subsection (1)(A) of this rule as long as the information is delivered to each customer within sixty (60) days of exceeding the action level. Such water systems shall also include the "alert" language specified in this paragraph.**

2. Submit the information in **sub**section (1)**(A)** of this rule to the editorial departments of the major daily and weekly newspapers circulated throughout the community;

3. Deliver pamphlets or brochures, or both, that contain the public education materials in *[subsections (1)(B) and (D)]* **paragraphs (1)(A)2. and 4.** of this rule to facilities and organizations, including the following:

A. Public schools or local school boards, or both;

B. City or county health department;

C. Women, Infants and Children (WIC), Head Start Program(s), or both, whenever available;

D. Public and private hospitals or clinics, or both;

E. Pediatricians;

F. Family planning clinics;

G. Local welfare agencies; and

4. Submit the public service announcement in section (2) of this rule to at least five (5) of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

(D) Within sixty (60) days after it exceeds the lead action level*[,]* **(unless it already is repeating public education tasks pursuant to subsection (3)(E) of this rule)** a nontransient noncommunity water system shall deliver the public education materials contained in subsections (1)(A)*[,]* **or** (B) *[and (D)]* of this rule as follows:

1. Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

2. Distribute informational pamphlets, brochures, or both, on lead in drinking water to each person served by the nontransient noncommunity water system. **The system may utilize electronic**

transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(G) A community water system may use the text specified in subsection (1)(B) of this rule instead of the text in subsection (1)(A) of this rule and may perform the tasks listed in subsections (3)(D) and (3)(E) of this rule instead of the tasks in subsections (3)(B) and (3)(C) of this rule if:

1. The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

2. The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(H) A community water system serving three thousand three hundred (3,300) or fewer people may omit the task contained in paragraph (3)(B)4. of this rule. As long as it distributes notices containing the information contained in paragraph (1)(A)1. of this rule to every household served by the system, such systems may further limit their public education programs as follows:

1. Systems serving five hundred (500) or fewer people may forego the task contained in paragraph (3)(B)2. of this rule. Such a system may limit the distribution of the public education materials required under paragraph (3)(B)3. of this rule to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children, unless it is notified by the department in writing that it must make a broader distribution. A community water system serving three thousand three hundred (3,300) or fewer people that delivers public education in accordance with this paragraph shall repeat the required public education tasks at least once during each calendar year in which the system exceeds the lead action level.

2. If approved by the department in writing, a system serving five hundred one to three thousand three hundred (501–3,300) people may omit the task in paragraph (3)(B)2. of this rule and/or limit the distribution of the public education materials required under paragraph (3)(B)3. of this rule to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

(I) A community water system serving three thousand three hundred (3,300) or fewer people that delivers public education in accordance with subsection (3)(H) of this rule shall repeat the required public education tasks at least once during each calendar year in which the system exceeds the action level.

*AUTHORITY: section 640.100, RSMo [Supp. 1989] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.070 Monitoring Requirements for Lead and Copper in Tap Water. The commission is amending sections (1)–(4) and adding sections (6) and (7).

*PURPOSE: This amendment adopts changes to the federal rule that were published in the January 12, 2000 **Federal Register**. These changes are required in order to maintain delegation of the federal program.*

(1) Sample Site Location. A water system shall use the information on lead, copper and galvanized steel that it is required to collect under this section when conducting a materials evaluation. When an evaluation of the information collected pursuant to this section is insufficient to locate the requisite number of lead and copper sampling sites that meet the targeting criteria in subsection (1)(A) of this rule, the water system shall review the sources of information listed in this rule in order to identify a sufficient number of sampling sites. In addition, the system shall seek to collect that information where possible in the course of its normal operations (for example, checking service line materials when reading water meters or performing maintenance activities); all plumbing codes, permits and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly- and privately-owned structures connected to the distribution system; all inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system; and all existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(E) Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with tier 3 sampling sites, consisting of single-family structures that contain copper pipes with lead solder installed before 1983. **A community water system with insufficient tier 1, tier 2, and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.**

(G) A nontransient noncommunity water system with insufficient tier 1 sites that meet the targeting criteria in subsection (1)(F) of this rule shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983.

[(H) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the department under 10 CSR 60-7.020(1)(B) why a review of the information listed in subsection (1)(B) of this rule was inadequate to locate a sufficient number of tier 1 sites. Any community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.] **A nontransient noncommunity water system with insufficient tier 1 sites that meet these targeting criteria shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed to complete the sampling pool, the nontransient**

noncommunity water system shall use representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

[(I)] **(H)** Any water system whose distribution system contains lead service lines shall draw fifty percent (50%) of the samples it collects during each monitoring period from sites that contain lead pipes or copper pipes with lead solder and fifty percent (50%) of those samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall*/ demonstrate in a letter submitted to the department under 10 CSR 60-7.020(1)(D) why the system was unable to locate a sufficient number of these sites. This water system shall/]* collect first-draw samples from all of the sites identified as being served by these lines.

(2) Sample Collection Methods.

(A) All tap samples for lead and copper collected in accordance with this rule, with the exception of lead service line samples collected under 10 CSR 60-15.050(3) **and samples collected under subsection (2)(E) of this rule**, shall be first-draw samples.

(B) Each first-draw tap sample for lead and copper shall be one **(1)** liter *[(1)]* in volume and have stood motionless in the plumbing system of each sampling site for at least six (6) hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be **one (1) liter in volume and shall be** collected at an interior tap from which water is typically drawn for consumption. **Non-first-draw samples collected in lieu of first-draw samples pursuant to subsection (2)(E) of this rule shall be one (1) liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption.** First-draw samples may be collected by the system or the system may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this section. To avoid problems of residents handling nitric acid, acidification of first-draw samples may be done *[in the laboratory]* up to fourteen (14) days after the sample is collected. *[If the sample is not acidified immediately after collection, then the sample must stand in the original container for at least twenty-eight (28) hours after acidification.]* **After acidification to resolubilize the metals, the sample must stand in the original container for the time specified in the approved United States Environmental Protection Agency (U.S. EPA) method before the sample can be analyzed.** If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(E) A nontransient noncommunity water system, or a community water system that meets the criteria of 10 CSR 60-15.060, that does not have enough taps that can supply first-draw samples as defined in 10 CSR 60-2.015 may, with department approval, apply substitute non-first-draw samples. Such systems shall collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites.

(3) **Number of Samples.** Water systems shall collect at least one (1) sample during each monitoring period specified in **sub**section (4)**(D) of this rule** from the number of sites listed in the *[first]* **second** column *[following (standard monitoring)]* **("Standard Monitoring") of Table 1**. A system conducting reduced monitoring under subsection (4)(D) **of this rule** *[may]* **shall** collect **at least** one (1) sample from the number of sites specified in the *[second]* **third** column **("Reduced Monitoring") of Table 1** during each monitoring period specified in subsection (4)(D) **of this rule. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. The department may specify sampling locations when a system is conducting reduced monitoring**.

Table 1.

System Size (# People Served)	*[#] Number* of */s/*Sites (Standard Monitoring)	*[#] Number* of */s/*Sites (Reduced Monitoring)
>100,000	100	50
10,001–100,000	60	30
3,301–10,000	40	20
501–3,300	20	10
101–500	10	5
≤100	5	5

(4) Timing of Monitoring.

(D) Reduced Monitoring.

1. A small- or medium-size water system that meets the lead and copper action levels during each of two (2) consecutive six (6)-month monitoring periods may reduce the number of samples in accordance with section (3) of this rule and reduce the frequency of sampling to once per year.

2. Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified *[by the state]* under 10 CSR 60-15.030*[(6)]***(7)** during each of two (2) consecutive six (6)-month monitoring periods may *[request that the department allow the system to reduce the frequency of monitoring to once per year and to]* reduce the number of lead and copper samples in accordance with section (3) of this rule. The department shall review *[the]* **monitoring, treatment and other relevant** information submitted by the water system **in accordance with 10 CSR 60-7.020,** and shall *[make its decision in writing, setting forth the basis for its determination.]* **notify the system in writing when it determines the system is eligible to commence reduced monitoring.** The department shall review and, where appropriate, revise its determination when the system submits new monitoring or treatment data or when other data relevant to the number and frequency of tap sampling becomes available.

3. A small- or medium-size water system that meets the lead and copper action levels during three (3) consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three (3) years. Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(6) during three (3) consecutive years of monitoring may *[request that the department allow the system to]* reduce the frequency of monitoring from annually to once every three (3) years **if it receives written approval from the department**. The department shall review *[the]* **monitoring, treatment, and other relevant** information submitted by the water system **in accordance with 10 CSR 60-7.020** and shall *[make its decision]* **notify the system** in writing*[, setting forth the basis for its determination]* **when it determines the system is eligible to reduce the frequency of monitoring to once every three (3) years**. The department shall review and, where appropriate, revise its determination when the system submits new monitoring or treatment data or when other data relevant to the number and frequency of tap sampling becomes available.

4. A water system that reduces the number and frequency of sampling shall collect these samples from **representative** sites included in the pool of targeted sampling sites identified in section (1) of this rule. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of

June, July, August or September **unless the department has approved a different sampling period**.

A. The department, at its discretion, may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four (4) consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a nontransient noncommunity water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the department shall designate a period that represents a time of normal operation for the system.

B. Systems monitoring annually, that have been collecting samples during the months of June through September and that receive department approval to alter their sample collection period, must collect their next round of samples during a time period that ends no later than twenty-one (21) months after the previous round of sampling. Systems monitoring triennially that have been collecting samples during the months of June through September and receive department approval to alter the sampling collection period, must collect their next round of samples during a time period that ends no later than forty-five (45) months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially, as required by this section. Small systems with waivers, granted pursuant to section (6) of this rule, that have been collecting samples during the months of June through September and receive department approval to alter their sample collection period must collect their next round of samples before the end of the nine (9)-year period.

5. A small- or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with subsection (4)(C) of this rule and collect the number of samples specified for standard monitoring under section (3) of this rule. This system also shall conduct water quality parameter monitoring in accordance with 10 CSR 60-15.080*[(2),]*(3) or (4) (as appropriate) during the monitoring period in which it exceeded the action level. *[Any water system subject to reduced monitoring frequency that fails to operate within the range of values for the water quality control parameters specified by the department under 10 CSR 60-15.030(6) shall resume tap water sampling in accordance with subsection (4)(C) of this rule and collect the number of samples specified for standard monitoring under section (3) of this rule.]* **Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in section (3) of this rule after it has completed two (2) subsequent consecutive six (6)-month rounds of monitoring that meet the criteria of paragraph (4)(D)1. of this rule and/or may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (4)(D)3. or (4)(D)5. of this rule.**

6. Any water system that demonstrates for two (2) consecutive six (6)-month monitoring periods that the tap water lead level computed under 10 CSR 60-15.010(3)(C) is less than or equal to 0.005 mg/l and the tap water copper level computed under 10 CSR 60-15.010(3)(C) is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with section (3) of this rule and reduce the frequency of sampling to once every three (3) calendar years.

7. Any water system subject to the reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the department under 10 CSR 60-15.030(6) for more than nine (9) days in any six (6)-month period specified in 10 CSR 60-15.080(4) shall conduct tap water sampling for lead and copper at the frequency specified in subsection (4)(C) of this rule, collect the number of samples specified for standard monitoring under section (3) of this rule, and shall resume monitoring for water quality parameters within the distribution system in accordance with 10 CSR 60-15.030(4). Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

A. The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in section (3) of this rule after it has completed two (2) subsequent six (6)-month rounds of monitoring that meet the criteria of paragraph (4)(D)2. of this rule and the system has received written approval from the department that it is appropriate to resume reduced monitoring on an annual frequency;

B. The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (4)(D)3. or (4)(D)5. of this rule and the system has received written approval from the department that it is appropriate to resume triennial monitoring; and

C. The system may reduce the number of water quality parameter tap water samples required in accordance with 10 CSR 60-15.080(5)(A) and the frequency with which it collects such samples in accordance with 10 CSR 60-15.080(5)(B). Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates, in accordance with the requirements of 10 CSR 60-15.080(5)(B)2., that it has requalified for triennial monitoring.

8. Any water system subject to a reduced monitoring frequency under subsection (4)(D) of this rule that either adds a new source of water or changes any water treatment shall inform the department in writing in accordance with 10 CSR 60-7.020(1)(C). The department may require the system to resume sampling in accordance with subsection (4)(C) of this rule and collect the number of samples specified for standard monitoring in Table 1 of section (3) of this rule or take other appropriate steps such as increased water quality parameter monitoring or reevaluation of its corrosion control treatment given the potentially different water quality considerations.

(6) Invalidation of Lead or Copper Tap Water Samples. A sample invalidated under this section does not count toward determining lead or copper ninetieth percentile levels under 10 CSR 60-15.010(3)(C) or toward meeting the minimum monitoring requirements of Table 1 in section (3) of this rule.

(A) The department may invalidate a lead or copper tap water sample if one (1) of the following conditions is met:

1. The laboratory establishes that improper sample analysis caused erroneous results;

2. The department determines that the sample was taken from a site that did not meet the site selection criteria of this rule;

3. The sample container was damaged in transit; or

4. There is substantial reason to believe that the sample was subject to tampering.

(B) The system must report the results of all samples to the department and all supporting documentation for samples the system believes should be invalidated.

(C) To invalidate a sample under subsection (6)(A) of this rule, the decision and the rationale for the decision must be documented in writing. The department shall not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(D) The water system must collect replacement samples for any samples invalidated under this section if, after the invalidation of one (1) or more samples, the system has too few samples to meet the minimum requirements of section (3) of this

rule. Any such replacement samples must be taken as soon as possible, but no later than twenty (20) days after the date the department invalidates the sample or by the end of the applicable monitoring period, whichever occurs later. Replacement samples taken after the end of the applicable monitoring period shall not also be used to meet the monitoring requirements of a subsequent monitoring period. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(7) Monitoring Waivers for Small Systems. Any small system that meets the criteria of this section may apply to the department to reduce the frequency of monitoring for lead and copper under this section to once every nine (9) years (that is, a "full waiver") if it meets all of the materials criteria specified in subsection (7)(A) of this rule and all of the monitoring criteria specified in subsection (7)(B) of this rule. Any small system that meets the criteria in subsection (7)(A) and (B) of this rule only for lead, or only for copper, may apply to the department for a waiver to reduce the frequency of tap water monitoring to once every nine (9) years for that contaminant only (that is, a "partial waiver").

(A) Materials Criteria. The system must demonstrate that its distribution system and service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials and/or copper-containing materials, as those terms are defined here, as follows:

1. Lead. To qualify for a full waiver, or a waiver of the tap water monitoring requirements for lead (that is, a "lead waiver"), the water system must provide certification and supporting documentation to the department that the system is free of all lead-containing materials, as follows:

A. It contains no plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers; and

B. It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to 42 U.S.C. 300g–6(e) (SDWA section 1417(e)).

2. Copper. To qualify for a full waiver, or a waiver of the tap water monitoring requirements for copper (that is, a "copper waiver"), the water system must provide certification and supporting documentation to the department that the system contains no copper pipes or copper service lines.

(B) Monitoring Criteria for Waiver Issuance. The system must have completed at least one (1) six (6)-month round of standard tap water monitoring for lead and copper at sites approved by the department and from the number of sites required by Table 1 of section (3) of this rule and demonstrate that the ninetieth percentile levels for any and all rounds of monitoring conducted since the system became free of all lead-containing and/or copper-containing materials, as appropriate, meet the following criteria.

1. Lead levels. To qualify for a full waiver, or a lead waiver, the system must demonstrate that the ninetieth percentile lead level does not exceed 0.005 mg/l.

2. Copper levels. To qualify for a full waiver, or a copper waiver, the system must demonstrate that the ninetieth percentile copper level does not exceed 0.65 mg/l.

(C) Department Approval of Waiver Application. The department shall notify the system of its waiver determination, in writing, setting forth the basis of its decision and any condition of the waiver. As a condition of the waiver, the department may require the system to perform specific activities (e.g., limited monitoring, periodic outreach to customers to remind them to avoid installation of materials that might void the waiver) to avoid the risk of lead or copper concentration of concern in tap water. The small system must continue monitoring for lead and copper at the tap as required by subsections (4)(A)–(D) of this rule, as appropriate, until it receives written notification from the department that the waiver has been approved.

(D) Monitoring Frequency for Systems with Waivers.

1. A system with a full waiver must conduct tap water monitoring for lead and copper in accordance with paragraph (4)(D)4. of this rule at the reduced number of sampling sites identified in Table 1 of section (3) of this rule at least once every nine (9) years and provide the materials certification specified in subsection (7)(A) of this rule for both lead and copper to the department along with the monitoring results.

2. A system with a partial waiver must conduct tap water monitoring for the waived contaminant in accordance with paragraph (4)(D)4. of this rule at the reduced number of sampling sites specified in Table 1 of section (3) of this rule at least once every nine (9) years and provide the materials certification specified in subsection (7)(A) of this rule pertaining to the waived contaminant along with the monitoring results. Such a system also must continue to monitor for the non-waived contaminant in accordance with requirements of subsection (4)(A) through (4)(D) of this rule, as appropriate.

3. If a system with a full or partial waiver adds a new source of water or changes any water treatment, the system must notify the department in writing in accordance with 10 CSR 60-7.020(1)(C). The department may require the system to add or modify waiver conditions (e.g., require recertification that the system is free of lead-containing and/or copper-containing materials, require additional round(s) of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

4. If a system with a full or partial waiver becomes aware that it is no longer free of lead-containing or copper-containing materials (for example, as a result of new construction or repairs), the system shall notify the department in writing no later than sixty (60) days after becoming aware of such a change.

(E) Continued Eligibility. If the system continues to satisfy the requirements of subsection (7)(D) of this rule, the waiver will be renewed automatically, unless any of the conditions listed in paragraph (7)(E)1.–3. of this rule occurs. A system whose waiver has been revoked may reapply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of subsections (7)(A) and (7)(B) of this rule.

1. A system with a full waiver or a lead waiver no longer satisfies the materials criteria of paragraph (7)(A)1. of this rule or has a ninetieth percentile lead level greater than 0.005 mg/l.

2. A system with a full waiver or a copper waiver no longer satisfies the materials criteria of paragraph (7)(A)2. of this rule or has a ninetieth percentile copper level greater than 0.65 mg/l.

3. The department notifies the system, in writing, that the waiver has been revoked, setting forth the basis of its decision.

(F) Requirements Following Waiver Revocation. A system whose full or partial waiver has been revoked by the department is subject to the corrosion control treatment and lead and copper tap water monitoring requirements, as follows:

1. If the system exceeds the lead and/or copper action level, the system must implement corrosion control treatment in accordance with the deadlines specified in 10 CSR 60-15.010(5), and any other applicable requirements of this subpart.

2. If the system meets both the lead and the copper action level, the system must monitor for lead and copper at the tap no less frequently than once every three (3) years using the

reduced number of sample sites specified in Table 1 of section (3) of this rule.

(G) Pre-existing Waivers. Small system waivers approved by the department in writing prior to April 11, 2000 shall remain in effect under the following conditions:

1. If the system has demonstrated that it is both free of lead-containing and copper-containing materials, as required by subsection (7)(A) of this rule and that its ninetieth percentile lead levels and ninetieth percentile copper levels meet the criteria of subsection (7)(B) of this rule, the waiver remains in effect so long as the system continues to meet the waiver eligibility criteria of subsection (7)(E) of this rule. The first round of tap water monitoring conducted pursuant to subsection (7)(D) of this rule shall be completed no later than nine (9) years after the last time the system has monitored for lead and copper at the tap.

2. ***Reserved.***

*AUTHORITY: section 640.100, RSMo [1994] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 14, 2001.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.080 Monitoring Requirements for Water Quality Parameters. The commission is amending sections (1) and (3)–(6).

*PURPOSE: This amendment adopts changes to the federal rule published in the January 12, 2000 and June 30, 1994 **Federal Registers**. These changes are required in order to maintain delegation of the federal program.*

(1) General Requirements. All large (serving more than fifty thousand (>50,000) persons) water systems*[,]* and all small- (serving less than or equal to three thousand three hundred (≤3,300) persons) and medium-size (serving three thousand three hundred one to fifty thousand (3,301–50,000) persons) systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this rule. The requirements of this rule are summarized in the table at the end of this rule.

(B) Number of Samples.

1. Systems shall collect two (2) tap samples for applicable water quality parameters during each monitoring period specified under sections (2)–(5) of this rule from the following number of sites:

System Size (# People Served)	Sites for Water Quality Parameters (Number)
>100,000	25
10,001–100,000	10
3,301–10,000	3
501–3,300	2
101–500	1
≤100	1

2. **Except as provided in subsection (3)(C) of this rule,** *[S]*systems shall collect two (2) samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in section (2) of this rule. During each monitoring period specified in sections (3)–(5) of this rule, systems shall collect one (1) sample for each applicable water quality parameter at each entry point to the distribution system.

(3) Monitoring After Installation of Corrosion Control. Any large system which installs optimal corrosion control treatment pursuant to 10 CSR 60-15.020(1)(A)4. shall measure the water quality parameters at the locations and frequencies specified in this section during each six (6)-month monitoring period specified in 10 CSR 60-15.070(4)(B)1. Any small or medium-size system which installs optimal corrosion control treatment shall conduct monitoring during each six (6)-month monitoring period as specified in 10 CSR 60-15.070(4)(B)2. in which the system exceeds the lead or copper action level.

(B) **Except as provided in subsection (3)(C) of this rule,** *[A]***at** each entry point to the distribution system, **at least** one (1) sample **no less frequently than** every two (2) weeks (bi-weekly)—

1. For pH;

2. When alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity and the alkalinity concentration; and

3. When a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used and the concentration of orthophosphate or silica (whichever is applicable).

(C) Any groundwater system can limit entry point sampling described in subsection (3)(B) of this rule to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated groundwater sources mixes with water from treated groundwater sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and representative entry points receiving no treatment. Prior to the start of any monitoring under this subsection, the system shall provide to the department written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(4) Monitoring After Department Specifies Water Quality Parameter Values For Optimal Corrosion Control. After the department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under 10 CSR 60-15.030*[(6)]***(7)**, all large (serving more than fifty thousand (>50,000) persons) systems shall measure the applicable water quality parameters in accordance with section (3) of this rule *[during each monitoring period specified in 10 CSR 60-15.070(4)(C)]* **and determine compliance with the requirements of 10 CSR 60-15.030(8) every six (6) months with the**

first six (6)-month period to begin on the date the department specifies the optimal values under 10 CSR 60-15.030(7). Any small (serving less than three thousand three hundred (<3,300) persons) or medium-size (serving three thousand three hundred one to fifty thousand (3,301–50,000) persons) system shall conduct **such** monitoring during each *[monitoring]* **six (6)-month** period specified in 10 CSR 60-15.070(4)(C) in which the system exceeds the lead or copper action level. *[The system may take a confirmation sample for any water quality parameter value no later than three (3) days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under 10 CSR 60-15.030(7). The department has the discretion to delete results of obvious sampling errors from this calculation.]* **For any such small- and medium-size system that is subject to a reduced monitoring frequency pursuant to 10 CSR 60-15.070(4)(D) at the time of the action level exceedance, the end of the applicable six (6)-month period under this section shall coincide with the end of the applicable monitoring period under 10 CSR 60-15.070(4)(D). Compliance with department-designated optimal water quality parameter values shall be determined as specified under 10 CSR 60-15.030(8).**

(5) Reduced Monitoring.

(A) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two (2) consecutive six (6)-month monitoring periods under section (4) of this rule shall continue monitoring at the entry point(s) to the distribution system as specified in subsection (3)(B) of this rule. That system may collect two (2) tap samples for applicable water quality parameters from the following reduced number of sites during each six (6)-month monitoring period.

[Sites for Water] **System Size** **(# People Served)**	*Sites for* ***Water*** **Quality Parameters** ***(*****Reduced Number*****)***
>100,000	10
10,001–100,000	7
3,301–10,000	3
501–3,300	2
101–500	1
≤100	1

(B) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(6) during three (3) consecutive years of annual monitoring under this subsection may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in subsection (5)(A) of this rule from annually to every three (3) years. **A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in subsection (5)(A) of this rule to every three (3) years if it demonstrates during two (2) consecutive monitoring periods that its tap water lead level at the ninetieth percentile is less than or equal to the PQL for lead specified in 10 CSR 60-5.010(5)(H), that its tap water copper level at the ninetieth percentile is less than or equal to 0.65 mg/l for copper, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(7).**

(D) *[Any water system subject to reduced monitoring frequency that fails to operate within the range of values for the water quality parameters specified by the department under 10 CSR 60-15.030(6) shall resume tap water sampling in accordance with the number and frequency requirements in section (3) of this rule.]* **Any water system subject to the reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the department in 10 CSR 60-15.030(7) for more than nine (9) days in any six (6)-month period specified in 10 CSR 60-15.030(8) shall resume distribution system tap water sampling in accordance with the number and frequency requirements in section (4) of this rule. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites specified in subsection (5)(A) of this rule after it has completed two (2) subsequent consecutive six (6)-month rounds of monitoring that meet the criteria of that paragraph and/or may resume triennial monitoring for water quality parameters at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (5)(B)1. or (5)(B)2. of this rule.**

(6) Additional Monitoring by Systems. The results of any monitoring conducted in addition to the minimum requirements of this rule shall be considered by the system and the department in making any determinations (that is, determining concentrations of water quality parameters) under this rule or 10 CSR 60-15.030.

Summary of Monitoring Requirements for Water Quality Parameters[1]

Monitoring Period	Parameters[2]	Location	Frequency
Initial monitoring	pH, alkalinity, orthophosphate or silica[3], calcium, conductivity, temperature	Taps and at entry point(s) to the distribution **system**	Every six (6) months *[system]*
After installation of corrosion control	pH, alkalinity, orthophosphate or silica[3], calcium[4]	Taps	Every six (6) months
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual[5]	Entry point(s) to distribution system[6]	*[Biweekly]* **No less frequently than every two (2) weeks**
After department specifies parameter values for optimal corrosion control	pH, alkalinity, orthophosphate or silica[3], calcium[4]	Taps	Every six (6) months
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual[5]	Entry point(s) to the distribution system[6]	*[Biweekly]* **No less frequently then every two (2) weeks**
Reduced Monitoring	pH, alkalinity, orthophosphate or silica[3], calcium[4]	Taps	Every six (6) months**, annually[7] or every three (3) years[8],** at a reduced number of sites
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual[5]	Entry point(s) to the distribution system[6]	*[Biweekly]* **No less frequently than every two (2) weeks**

[1]Table is for illustrative purposes; consult the text of this *[section]* **rule** for precise regulatory requirements.

[2]Small- and medium-size systems have to monitor for water quality parameters only during monitoring periods in which the system exceeds the lead or copper action level.

[3]Orthophosphate must be measured only when an inhibitor containing a phosphate compound is used. Silica must be measured only when an inhibitor containing silicate compound is used.

[4]Calcium must be measured only when calcium carbonate stabilization is used as part of corrosion control.

[5]Inhibitor dosage rates and inhibitor residual concentrations (orthophosphate or silica) must be measured only when an inhibitor is used.

[6]Groundwater systems may limit monitoring to representative locations throughout the system.

[7]Water systems may reduce frequency of monitoring for water quality parameters at the tap from every six (6) months to annually if they have maintained the range of values for water quality parameters reflecting optimal corrosion control during three (3) consecutive years of monitoring.

[8]Water systems may further reduce the frequency of monitoring for water quality parameters at the tap from annually to once every three (3) years if they have maintained the range of values from water quality parameters reflecting optimal corrosion control during three (3) consecutive years of annual monitoring. Water systems may accelerate to triennial monitoring for quality parameters at the tap if they have maintained ninetieth percentile lead levels less than or equal to 0.005 mg/l, ninetieth percentile copper levels less than or equal to 0.65 mg/l, and the range of water quality parameters designated by the department under 10 CSR 60-15.030(7) as representing optimal corrosion control during two (2) consecutive six (6)-month monitoring periods.

*AUTHORITY: section 640.100, RSMo [1994] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 14, 2001.*

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

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

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.090 Monitoring Requirements for Lead and Copper in Source Water. The commission is amending sections (1), (4) and (5).

*PURPOSE: This amendment proposes to adopt changes to the federal rule that were published in the January 12, 2000 **Federal Register**. These changes are required in order to maintain delegation of the federal program.*

(1) Sample Location, Collection Methods and Number of Samples.

(A) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with 10 CSR 60-15.070 shall collect lead and copper source water samples in accordance with the **following** requirements regarding sample location, number of samples and collection methods *[specified in 10 CSR 60-4.030 (inorganic chemical sampling).]*:

1. Groundwater systems shall take a minimum of one (1) sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). The system shall take one (1) sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant;

2. Surface water systems shall take a minimum of one (1) sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point). The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant (Note: For the purposes of this requirement, surface water systems include systems with a combination of surface and ground sources);

3. If a system draws water from more than one (1) source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (that is, when water is representative of all sources being used); and

4. The department may reduce the total number of samples which must be analyzed by allowing the use of compositing. Compositing of samples must be done by certified laboratory personnel. Composite samples from a maximum of five (5) samples are allowed, provided that if the lead concentration in the composite sample is greater than or equal to 0.001 mg/l or the copper concentration is greater than or equal to 0.160 mg/l, then either:

A. A follow-up sample shall be taken and analyzed within fourteen (14) days at each sampling point included in the composite; or

B. If duplicates of or sufficient quantities from the original samples from each sampling point used in the composite are available, the system may use these instead of resampling.

(B) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under 10 CSR 60-5.040(2)*[(D)]***(C)**, the department may require that one (1) additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two (2) weeks) at the same sampling point. If the department-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with maximum permissible levels. Any sample value below the detection limit shall be considered to be zero (0). Any value above the detection limit but below the practical quantification level (PQL) shall be as the measured value or be considered one-half (1/2) PQL.

(4) Monitoring Frequency *[A]***a**fter the Department Specifies Maximum Permissible Source Water Levels or Determines *[T]***t**hat Source Water Treatment *[is]* **Is** Not Needed.

(A) A system shall monitor at the following specified frequency in cases where the department specifies maximum permissible source water levels under 10 CSR 60-15.040(2)*[(D)]***(C)** or determines that the system is not required to install source water treatment under 10 CSR 60-15.040(2)*[(B)]***(A)**:

1. A water system using only groundwater shall collect samples once during the three (3)-year compliance period in effect when the applicable department determination under subsection (4)(A) of this rule is made. Those systems shall collect samples once during each subsequent compliance period; and

2. A water system using surface water (or a combination of surface and ground water) shall collect samples once during each year, the first annual monitoring period to begin on the date on which the applicable department determination is made under subsection (4)(A) of this rule.

(5) Reduced Monitoring Frequency.

(A) A water system using only groundwater *[which demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead or copper concentrations, or both, specified by the department during at least three (3) consecutive compliance periods under paragraph (4)(A)1. of this rule]* may reduce the monitoring frequency for lead*[,]* **and** copper*[, or both,]* **in source water** to once during each nine (9)-year compliance cycle*[.]* if the system meets any one (1) of the following criteria:

1. The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified in 10 CSR 60-15.040(2)(C) during at least three (3) consecutive compliance periods under subsection (4)(A) of this rule; or

2. The department has determined that source water treatment is not needed and the system demonstrates that,

during at least three (3) consecutive compliance periods in which sampling was conducted under subsection (4)(A) of this rule, the concentration of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(B) A water system using surface water (or a combination of surface and ground waters) *[which demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the department for at least three (3) consecutive years]* may reduce the monitoring frequency in paragraph (4)(A)2. of this rule to once during each nine (9)-year compliance cycle*[.]* **if the system meets one (1) of the following criteria:**

1. The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified in 10 CSR 60-15.040(2)(C) for at least three (3) consecutive years; or

2. The department has determined that source water treatment is not needed and the system demonstrates that, during at least three (3) consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

*AUTHORITY: section 640.100, RSMo [Supp. 1994] **2000**. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: An information meeting and public hearing will be held October 17, 2001 at 10:00 a.m. at the DNR Conference Center, 1738 Elm Street, Jefferson City, Missouri. In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments must be postmarked or received by November 15, 2001. Comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Director's Office
Chapter 7—Driver and Vehicle Equipment Regulations

PROPOSED RESCISSION

11 CSR 30-7.010 Motor Vehicle Window Tinting Permits. This rule established procedures for the issuance of motor vehicle window tinting permits as authorized by section 307.173, RSMo.

PURPOSE: This rule is being rescinded in its entirety because of legislative changes to section 307.173 that were recently enacted.

AUTHORITY: section 307.173, RSMo 1994. Original rule filed Sept. 8, 1987, effective Dec. 12, 1987. Amended: Filed Aug. 18, 1989, effective Nov. 26, 1989. Emergency amendment filed Aug. 26, 1994, effective Sept. 5, 1994, expired Jan. 2, 1995. Emergency amendment filed Jan. 3, 1995, effective Jan. 13, 1995, expired March 29, 1995. Amended: Filed Aug. 26, 1994, effective March 30, 1995. Rescinded: Filed Aug. 15, 2001.

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 Department of Public Safety, Attention: Charles R. Jackson, Director, PO Box 749, Jefferson City, MO 65102-0749. 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division

PROPOSED AMENDMENT

11 CSR 50-2.020 Minimum Inspection Station Requirements. The division proposes to amend subsection (2)(A) by adding a new paragraph 11.

PURPOSE: This amendment is being made to require inspection stations to have a device capable of checking the light transmission of tinted windows as required by section 307.173.

(2) Equipment.

(A) All inspection stations, except Class C, must have the following equipment which must be arranged and located at or near the inside inspection area:

1. Brake performance. Some method of testing the service brake performance will be required. The use of a decelerometer, brake testing machine, dynamometer or drive and stop test will be recognized;

2. Brake lining gauge. A gauge will be required to determine the remaining thickness in fractions of an inch of both bonded and riveted linings;

3. Brake pad gauge. Some type of gauging device to accurately measure the remaining thickness of the brake pad in fractions of an inch while the pad is within the caliper assembly;

4. Ball joint gauge. A ball joint gauge to accurately measure any looseness in the load-carrying ball joint. The gauge must be adapted to measure vertical (up and down) and horizontal (side-to-side) movement;

5. Lift or jack. A lift or jack, capable of hoisting a vehicle properly to check ball joints, suspension linkage and wheel play. If a lift is used, it must be the type which allows the front wheels to be suspended by lifting under the outer extremity of a motor vehicle's lower control arm, cross member or frame;

6. Scraper. A scraper to remove old stickers;

7. Measuring device. Yardstick or steel tape preferred;

8. Punch. An open face paper punch with a round die to validate inspection stickers and decals;

9. A tire tread depth gauge which is graduated into one-thirty-second inch (1/32") increments must be part of the equipment at inspection stations that inspect school buses; *[and]*

10. A one-eighth inch (1/8") drawstring over thirty inches (30") in length with a one-half inch (1/2") hex nut attached to one (1) end to check handrails is required if the station will be inspecting school buses*[.]***; and**

11. A device which is capable of measuring or comparing the light transmission of all tinted windows.

*AUTHORITY: section 307.360, RSMo [1994] **2000**. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 15, 2001, effective Aug. 28, 2001, expires Feb. 28, 2002. Amended: Filed Aug. 15, 2001.*

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 Public Safety, Missouri State Highway Patrol, PO Box 568, Jefferson City, MO 65102-0568. 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division

PROPOSED AMENDMENT

11 CSR 50-2.120 MVI-2 Form. The division proposes to amend subsection (4)(B).

PURPOSE: This amendment would require inspection stations to maintain their inspection records for two (2) years instead of one (1) since inspections are now done biennially.

(4) Inspection Station Record.

(B) Twenty (20) pink copies, which are filed by consecutive issue of sticker or decal number, shall be filed between the front and back cover of the used sticker or decal book which contained corresponding sticker or decal numbers. These pink copies and used covers will be kept by the inspection station for *[twelve (12)]* **twenty-four (24)** months from the date the inspection sticker or decal number was issued, at which time they may be destroyed.

*AUTHORITY: section 307.360, RSMo [1994] **2000**. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 15, 2001.*

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 Public Safety, Missouri State Highway Patrol, PO Box 568, Jefferson City, MO 65102-0568. 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division

PROPOSED AMENDMENT

11 CSR 50-2.270 Glazing (Glass). The division proposes to amend subsection (5)(C) and paragraph (5)(C)1.

PURPOSE: This amendment is being made to establish procedures for inspection stations to follow when inspecting vehicles with after-market tinted windows.

(5) Reject vehicle if:

(C) *[Any manufactured vision reducing material is applied to any portion of the motor vehicle's windshield, side wings or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle, except any label, sticker, decalcomania, or informational sign required by law, ordinance or regulation may be affixed as directed. (Do not reject vehicle for tinting material applied to the uppermost portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.)]* **After-market vision reducing material is applied to the vehicle's side and/or rear windows which allows less than 35% ± 3% light transmission.**

1. *[Do not reject a motor vehicle for which the current vehicle owner submits a window tinting permit SHP-524B, issued by the Missouri State Highway Patrol. Record the number of the window tinting permit on the MVI-2 form (see 11 CSR 50-2.120) in the space entitled "Defective Parts" by entering the following statement: Tinting Permit #_____;]* **Inspector/mechanics will determine whether tinted glass is factory installed or an after-market application. All tinted windows, except those with factory installed tinted glass, will be inspected for light transmission by use of window tint comparison strips or other device capable of measuring light transmission. Once a comparison or reading is taken, the results will be recorded on the MVI-2 form in the space entitled "Defective Parts" identifying the window(s) measured and the results of the comparison or readings;**

*AUTHORITY: section 307.360, RSMo [1994] **2000**. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 15, 2001, effective Aug. 28, 2001, expires Feb. 28, 2002. Amended: Filed Aug. 15, 2001.*

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 more than five hundred dollars ($500) in the aggregate. The cost to a single vehicle owner may range from no cost (if the owner elects to remove the tint themselves) or up to three hundred dollars ($300) (if the tint is removed professionally). It is virtually impossible to predict how many of over 6 million vehicles are operating with a tint in excess of that allowed by statute and so an estimate of costs cannot be provided.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, PO Box 568, Jefferson City, MO 65102-0568. 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 COST

I. RULE NUMBER

Rule Number and Name:	11 CSR 50-2.270 Glazing (Glass)
Type of Rulemaking:	Proposed Amendment

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:
ONE	VEHICLE OWNER	0-$300

III. WORKSHEET

V. ASSUMPTIONS

The cost to a single vehicle owner may range from no cost (if the owner elects to remove the tint themselves) or up to $300 (if the tint is removed professionally). It is virtually impossible to predict how many of the over 6 million vehicles registered in the state are operating with a tint in excess of that allowed by statute and so an estimate of costs can not be provided.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending subsection (3)(N), adding paragraph (10)(A)10. and subparagraphs (10)(A)10.A., B., and C., amending item (13)(B)10.A.(IV) and adding paragraph (13)(B)11. and subparagraph (13)(B)11.A.

PURPOSE: This proposed amendment eliminates the average private pay cap, outlines the exceptions to the annual cost report filing requirement including providers with short period cost reports that have less than one thousand (1,000) Medicaid days due to a change of ownership, termination or being newly Medicaid certified, expands the criteria for providers which qualify for the high volume adjustment and establishes a minimum Medicaid per-diem rate of eighty-five dollars ($85) for nursing facility services.

(3) General Principles.

(N) *[The average Medicaid reimbursement rate paid shall not exceed the average private pay rate for the same period covered by the facility's Medicaid cost report. Any amount in excess will be subject to repayment and/or recoupment. The comparison of the average Medicaid reimbursement rate paid to the average private pay rate paid will not result in a repayment and/or recoupment until a facility has filed a cost report with a fiscal year ending after January 1, 2002. For example, a nursing facility with a December 31, 2001, year-end cost report would not be used in the private pay rate comparison while a cost report ending on January 31, 2002, would be used in this comparison. This comparison will not be performed for any nursing facility licensed under Chapter 198, RSMo and operated by a district, city or county and receives local tax revenues.]* **A nursing facility's Medicaid reimbursement rate shall not be limited by its average private pay rate.**

(10) Provider Reporting and Record Keeping Requirements.

(A) Annual Cost Report.

1. Each provider shall adopt the same twelve (12)-month fiscal period for completing its cost report as is used for federal income tax reporting.

2. Each provider is required to complete and submit to the division an annual cost report, including all worksheets, attachments, schedules and requests for additional information from the division. The cost report shall be submitted on forms provided by the division for that purpose. Any substitute or computer generated cost report must have prior approval by the division.

3. All cost reports shall be completed in accordance with the requirements of this regulation and the cost report instructions. Financial reporting shall adhere to GAAP, except as otherwise specifically indicated in this regulation.

4. The cost report submitted must be based on the accrual basis of accounting. Governmental institutions operating on a cash or modified cash basis of accounting may continue to report on that basis, provided appropriate treatment for capital expenditures is made under GAAP.

5. Cost reports shall be submitted by the first day of the sixth month following the close of the fiscal period.

6. If a cost report is more than ten (10) days past due, payment shall be withheld from the facility until the cost report is submitted. Upon receipt of a cost report prepared in accordance with this regulation, the payments that were withheld will be released to the provider. For cost reports which are more than ninety (90) days past due, the department may terminate the provider's Medicaid participation agreement and if terminated retain all payments which have been withheld pursuant to this provision.

7. Copies of signed agreements and other significant documents related to the provider's operation and provision of care to Medicaid recipients must be attached (unless otherwise noted) to the cost report at the time of filing unless current and accurate copies have already been filed with the division. Material which must be submitted or available upon request includes, but is not limited to, the following:

A. Audit prepared by an independent accountant, including disclosure statements and management letter or SEC Form 10-K;

B. Contracts or agreements involving the purchase of facilities or equipment during the last seven (7) years if requested by the division, the department or its agents;

C. Contracts or agreements with owners or related parties;

D. Contracts with consultants;

E. Documentation of expenditures, by line item, made under all restricted and unrestricted grants;

F. Federal and state income tax returns for the fiscal year, if requested by the division, the department or its agents;

G. Leases and/or rental agreements related to the activities of the provider if requested by the division, the department or its agents;

H. Management contracts;

I. Medicare cost report, if applicable;

J. Review and compilation statement;

K. Statement verifying the restrictions as specified by the donor, prior to donation, for all restricted grants;

L. Working trial balance actually used to prepare the cost report with line number tracing notations or similar identifications; and

M. Schedule of capital assets with corresponding debt.

8. Cost reports must be fully, clearly and accurately completed. All required attachments must be submitted before a cost report is considered complete. If any additional information, documentation or clarification requested by the division or its authorized agent is not provided within fourteen (14) days of the date of receipt of the division's request, payments may be withheld from the facility until the information is submitted.

9. Under no circumstances will the division accept amended cost reports for rate determination or rate adjustment after the date of the division's notification of the final determination of the rate.

10. Exceptions—A cost report is not required for the following:

A. Out-of-state providers which provide less than one thousand (1,000) patient days of nursing facility services for Missouri Title XIX recipients, relative to their fiscal year;

B. Hospital based providers which provide less than one thousand (1,000) patient days of nursing facility services for Missouri Title XIX recipients, relative to their fiscal year; and

C. Providers which provide less than one thousand (1,000) patient days of nursing facility services for Missouri Title XIX recipients, relative to their fiscal year, and have less than a twelve (12)-month cost report due to a termination, change of ownership, or being newly Medicaid certified.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(B) Special Per-Diem Rate Adjustments. Special per-diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after January 1, 1995, shall receive a per-diem adjustment equal to ten percent (10%) of the facility's allowable patient care per diem subject to a maximum of one hundred thirty percent

(130%) of the patient care median when added to the patient care per diem as determined in subsection (11)(A). This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Ancillary incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets one (1) of the following criteria shall receive a per-diem adjustment:

A. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is below ninety percent (90%) of the ancillary median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) and ninety percent (90%) of the ancillary median. The following is an illustration of how the ancillary per-diem adjustment is calculated:

120% of median	$6.62
90% of median	$4.97
Difference	$1.65
1/2 the difference	2
Per-diem adjustment	$ .83

B. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is between ninety percent (90%) and one hundred twenty percent (120%) of the median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) of the median and the facility's allowable ancillary per diem. The following is an illustration of how the ancillary per-diem adjustment is calculated:

90% of median	$4.97
120% of median	$6.62
Ancillary per diem	$5.21
Difference	$1.41
1/2 the difference	2
Per-diem adjustment	$ .71

3. Multiple component incentive. Each facility with a prospective rate on or after January 1, 1995, and meets the following criteria shall receive a per-diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (B), is greater than or equal to sixty percent (60%) but less than or equal to eighty percent (80%), rounded to four (4) decimal places (.5985 or .8015 would not receive the adjustment), of the facility's total per diem, the adjustment is as follows:

Percent of Total Per-Diem

Rate	Incentive
< 60%	$0.00
> or = 60% but < 65%	$1.15
> or = 65% but < 70%	$1.30
> or = 70% but < 75%	$1.45
> or = 75% but < or 80% =	$1.60

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (13)(B)3.A. and the following calculation is greater than seventy-five percent (75%), rounded to four (4) decimal places (.7485 would not receive the adjustment): Medicaid days divided by the licensed nursing facility patient days from the facility's desk audited and/or field audited 1992 cost report. The adjustment is as follows:

Calculated Percentage	Incentive
< 75%	$0.00
> or = 75% but < 80%	$0.15
> or = 80% but < 85%	$0.30
> or = 85% but < 90%	$0.45
> or = 90% but < 95%	$0.60
> or = 95%	$0.75

4. 1967 *Life Safety Code* (LSC). Currently certified nursing facilities that must comply with a recent interpretation of paragraph 10-133 of the 1967 LSC which requires corridor walls to extend to the roof deck or achieve equivalency under the Fire Safety Evaluation System (FSES) will be reimbursed the reasonable and necessary cost to meet those standards required for compliance through their reimbursement rate. The reimbursement shall not be effective until the Division of Aging has confirmed that the corrective action to comply with the 1967 LSC or FSES is operational and has reviewed the cost for compliance. Fire sprinkler systems shall be reimbursed over a depreciation life of twenty-five (25) years, and other alternative corrective action will be reimbursed over a depreciable life of fifteen (15) years. The division will use a desk audited and/or field audited cost report with the latest period ending in calendar year 1992 which is on file with the division as of December 31, 1993. This adjustment will be computed based on the documented cost submitted to the division as follows:

A. Depreciation. The cost incurred for the approved corrective action to continue in compliance divided by the depreciable useful life;

B. Interest. The interest cost incurred to finance this project shall be documented by a statement from the lending institution detailing the total interest cost of the loan period. The total interest cost will be divided by the loan period on a straight line basis; and

C. The total of subparagraph (13)(B)4.A. and B. will be divided by twelve (12) and then multiplied by the number of months covered by the 1992 cost report. This amount will be divided by the greater of actual patient days from the 1992 cost report or eighty-five percent (85%) of the licensed bed days from the 1992 cost report.

5. Any facility that had a 1967 LSC adjustment included in their December 31, 1994 reimbursement rate shall have that adjustment added to their January 1, 1995 reimbursement rate.

6. Replacement beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for replacement beds that resulted in the same number of beds being delicensed with the Division of Aging or the Department of Health. The facility shall provide documentation from the Division of Aging or the Department of Health that verifies the number of beds used for replacement have been delicensed from that facility. The rate adjustment will be calculated as the difference between the capital component per diem (fair rental value (FRV)) prior to the replacement beds being placed in service and the capital component per diem (FRV) including the replacement beds placed in service as calculated in subsection (11)(D) including the replacement beds placed in service. The capital component is calculated for the replacement beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the replacement beds are placed in service.

7. Additional beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for additional beds. The facility must obtain an approved certificate of need or applicable waiver for the additional beds. The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the additional beds being placed in service and the capital component per diem (FRV) including the additional beds as calculated in subsection (11)(D) including the additional beds placed in service. The capital component is calculated for the additional beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the additional beds are placed in service.

8. Extraordinary circumstances. A participating facility which has a prospective rate may request an adjustment to its prospective rate due to extraordinary circumstances. This request

must be submitted in writing to the division within one (1) year of the occurrence of the extraordinary circumstance. The request must clearly and specifically identify the conditions for which the rate adjustment is sought. The dollar amount of the requested rate adjustment must be supported by complete, accurate and documented records satisfactory to the division. If the division makes a written request for additional information and the facility does not comply within ninety (90) days of the request for additional information, the division shall consider the request withdrawn. Requests for rate adjustments that have been withdrawn by the facility or are considered withdrawn because of failure to supply requested information may be resubmitted once for the requested rate adjustment. In the case of a rate adjustment request that has been withdrawn and then resubmitted, the effective date shall be the first day of the month in which the resubmitted request was made providing that it was made prior to the tenth day of the month. If the resubmitted request is not filed by the tenth of the month, rate adjustments shall be effective the first day of the following month. Conditions for an extraordinary circumstance are as follows:

A. When the provider can show that it incurred higher costs due to circumstances beyond its control, the circumstances were not experienced by the nursing home industry in general and the costs have a substantial cost effect;

B. Extraordinary circumstances include:

(I) Natural disasters such as fire, earthquakes and flood that are not covered by insurance and that occur in a federally declared disaster area; and

(II) Vandalism and/or civil disorder that are not covered by insurance; and

C. The rate increase shall be calculated as follows:

(I) The one (1)-time costs, (costs that will not be incurred in future fiscal years):

(a) To determine what portion of the incurred costs will be paid, the division will use the patient occupancy days from latest available quarterly occupancy survey from the Division of Aging for the time period preceding when the extraordinary circumstances occurred; and

(b) The costs directly associated with the extraordinary circumstances will be multiplied by the above percent. This amount will be divided by the paid days for the month the rate adjustment becomes effective per paragraph (13)(B)8. This calculation will equal the amount to be added to the prospective rate for only one (1) month, which will be the month the rate adjustment becomes effective. For this one (1) month only, the ceiling will be waived.

(II) For ongoing costs (costs that will be incurred in future fiscal years): Ongoing annual costs will be divided by the greater of: annualized (calculated for a twelve (12)-month period) total patient days from the latest cost report on file or eighty-five percent (85%) of annualized total bed days. This calculation will equal the amount to be added to the respective cost center, not to exceed the cost component ceiling. The rate adjustment, subject to ceiling limits will be added to the prospective rate.

(III) For capitalized costs, a capital component per diem (FRV) will be calculated as determined in subsection (11)(D). The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the extraordinary circumstances and the capital component per diem (FRV) including the extraordinary circumstances.

9. Quality Assurance Incentive.

A. Each nursing facility with an interim or prospective rate on or after July 1, 2000, shall receive a per-diem adjustment of $3.20. The Quality Assurance Incentive adjustment will be added to the facility's current rate.

B. The Quality Assurance Incentive per-diem increase shall be used to increase the expenditures to a nursing facility's direct patient care costs. Direct patient care costs include all expenses in the patient care cost component (i.e., lines 46 through 69 of Schedule B in the Title XIX Cost Report). Any increases in wages and benefits already codified in a collective bargaining agreement in effect as of July 1, 2000, will not be counted towards the expenditure requirements of the Quality Assurance Incentive as stated above. Nursing facilities with collective bargaining agreements shall provide such agreements to the division.

10. High Volume Adjustment. Effective for dates of service July 1, 2000, a high volume adjustment shall be granted to qualifying providers. A provider must qualify each July 1, the beginning of each state fiscal year (SFY), for the high volume adjustment and the adjustment will be effective for services rendered during the SFY, July 1 through June 30. For a provider who has a high volume adjustment on June 30, but does not qualify for the high volume adjustment on July 1 of the subsequent SFY, that provider's prospective rate will be reduced by the amount of the high volume adjustment included in the facility's prospective rate in effect June 30.

A. Each facility with a prospective rate on or after July 1, 2000, and which meets all of the following criteria shall receive a per-diem adjustment:

(I) Have on file at the division a full twelve (12)-month cost report ending in the third calender year prior to the state fiscal year in which the adjustment is being determined (i.e., for SFY 2001, the third prior year would be 1998, for SFY 2002, the third prior year would be 1999, etc.);

(II) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds eighty-five percent (85%) of the total patient days for all nursing facility licensed beds;

(III) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care, ancillary and administration cost components, as set forth in paragraphs (11)(A)1., (11)(B)1. and (11)(C)1., exceeds the per-diem ceiling for each cost component in effect at the end of the cost report period; and

(IV) *[Government]* **State** owned or operated facilities shall not be eligible for this adjustment.

B. The adjustment will be equal to ten percent (10%) of the sum of the per-diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year.

C. The division may reconstruct and redefine the qualifying criteria and payment methodology for the high volume adjustment.

11. Minimum Rate Adjustment. A minimum rate adjustment shall be granted to qualifying providers, as follows:

A. Effective for dates of service beginning July 1, 2001, the minimum Medicaid reimbursement rate for nursing facility services shall be eighty-five dollars ($85).

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo [1994] 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Aug. 2, 2001.*

PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions approximately $2,311,925 annually.

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 Division of Medical Services, PO Box 6500, Jefferson City, MO 65102-6500. 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, MO. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 13 – Department of Social Services

Division: 70 – Division of Medical Services

Chapter: 10 – Nursing Home Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services

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	Annual Estimated Cost = $2,310,037

III. WORKSHEET

Section	Description	Annual Impact
1. (3)(N)	Elimination of average private pay cap	none
2. (10)(A)10.A.,B.,C.	Annual cost report filing exceptions, including short period cost reports with less than 1,000 days due to change of ownerships, terminations and newly Medicaid certified facilities	none
3. (13)(B)10.A.(IV)	High Volume Adjustment	
	One additional facility qualifies for the high volume adjustment due to the proposed amendment	
	Estimated SFY 02 days	58,830
	Add-on rate	$7.18
	Estimated SFY 02 impact	$422,399
4. (13)(B)11.A.	Minimum Rate Adjustment	
	Thirty-seven facilities qualify for the minimum rate adjustment	
	Estimated SFY 02 days	642,696
	Average rate increase	$2.94
	Estimated SFY 02 impact	$1,889,526
Total Impact of Proposed Regulation		$2,311,925
State Share 38.95%		$900,495
Federal Share 61.05%		$1,411,430

IV. ASSUMPTIONS

Estimated Medicaid days for SFY 02 assumes a 2% growth over actual SFY 01 paid days, allocated to each facility in proportion to its SFY 01 paid days.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 4—Postcard Voter Application and Forms

PROPOSED RESCISSION

15 CSR 30-4.010 Postcard Voter Application and Forms. This rule established the requirements for printing, distribution and acceptance of postcard voter application forms.

PURPOSE: This rule is being rescinded and readopted to reflect changes to the format of the postcard voter registration application.

AUTHORITY: sections 115.155.5 and 115.159, RSMo Supp. 1999. Emergency rule filed Nov. 10, 1993, effective Nov. 20, 1993, expired March 19, 1994. Emergency rule filed Feb. 23, 1994, effective March 20, 1994, expired May 8, 1994. Original rule filed Nov. 10, 1993, effective May 9, 1994. Amended: Filed Aug. 27, 1999, effective Feb. 29, 2000. Emergency amendment filed Sept. 26, 2000, effective Oct. 6, 2000, expired April 3, 2001. Amended: Filed Sept. 26, 2000, effective April 30, 2001. Rescinded: Filed Aug. 8, 2001.

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 4—Postcard Voter Application and Forms

PROPOSED RULE

15 CSR 30-4.010 Postcard Voter Application and Forms

PURPOSE: This rule establishes requirements for the printing, distribution and acceptance of postcard voter application forms.

(1) A postcard voter application form titled Missouri Voter Registration Application shall be printed. All Missouri election authorities shall accept a completed and signed postcard voter application form as a valid application to register in their jurisdiction. In addition to the Missouri Voter Registration Application, each election authority may print and accept its own postcard voter application form which shall be substantially in the same form as the Missouri Voter Registration Application.

(2) Postcard Application Form Format and Content—

(A) The postcard application form shall be printed on white index one hundred ten (110) pound paper cut to ten inches by eight inches (10" × 8"), perforated into two (2) sections measuring five inches by eight inches (5" × 8");

(B) The format of the bottom section of the postcard voter application form shall substantially follow the guidelines provided in subsections (2)(C)–(D) of this rule;

(C) The questions asked on the postcard application form shall be identical to those questions listed below:

1. New Registration, Address Change or Name Change;
2. Male or Female;
3. Last Name;
4. First Name;
5. Middle Name;
6. Jr., Sr., II, III, or IV;
7. Address where you live (House No., Street, Apt. No. or Rural Route and Box);
8. City;
9. County;
10. Zip Code;
11. Address where you get your mail (if different from above);
12. Date of Birth;
13. Last Four Digits of Social Security Number;
14. Daytime Phone (if available);
15. Former Name (if applicable);
16. Name and Address on Last Voter Registration;
17. Rural Voters (complete this section if you have a rural route address) I live _____ miles N E S W of _____;
18. Voter Declaration (read, sign and date below) I hereby certify that I am a citizen of the United States and a resident of the state of Missouri. I am at least seventeen and one-half years of age. I have not been adjudged incapacitated by any court of law. If I have been convicted of a felony or a misdemeanor connected with the right of suffrage, I have had the voting disabilities from such conviction removed pursuant to law. I swear under penalty of perjury that all statements made on this card are true to the best of my knowledge and belief;
19. Date; and
20. Signature;

(D) The format and questions and the statement "Warning: Conviction of making a false statement may result in imprisonment for up to five years and/or a fine up to $10,000" shall be printed in black ink, except that the statement, "YOUR APPLICATION WILL BE CONFIRMED BY MAIL WITHIN SEVEN (7) BUSINESS DAYS OF ITS RECEIPT BY THE ELECTION AUTHORITY. PLEASE CONTACT THE ELECTION AUTHORITY IF YOU DO NOT RECEIVE NOTIFICATION," shall be printed in red ink not smaller that ten (10) point in size;

(E) The format of the top section of the postcard voter application form may include information as determined by the secretary of state to facilitate orderly elections, and shall substantially follow the guidelines provided in subsection (2)(F) of this rule; and

(F) The format and statements contained in the top section of the postcard voter application form shall be printed in black ink, except that the following statements shall be printed in red ink not smaller than ten (10) point in size:

1. "YOUR APPLICATION WILL BE CONFIRMED BY MAIL WITHIN SEVEN (7) BUSINESS DAYS OF ITS RECEIPT BY THE ELECTION AUTHORITY. PLEASE CONTACT YOUR LOCAL ELECTION AUTHORITY IF YOU DO NOT RECEIVE NOTIFICATION."
2. "Voter Copy—Not Proof of Registration."

(3) Distribution of Postcard Application Forms—

(A) The postcard application form may be printed and distributed by election authorities and the secretary of state. Any private individual, group, corporation or other entity desiring to print the postcard application form as it is set out in this rule may do so upon approval of the format by the secretary of state;

(B) To allow individual or group registration, any individual or group may request and shall receive from any election authority a sufficient number of Missouri Voter Registration Applications. The distributed postcard application forms shall contain a unique

identifier. The above referenced identifier shall be printed on both sections of the card as described in subsection (2)(A) of this rule; and

(C) The secretary of state shall design a request form to be completed by any person requesting voter registration applications from the secretary of state or election authorities. Such request form shall include the requester's name, address and telephone number.

(4) Acceptance of Postcard Application Forms—

(A) The completed and signed postcard application form(s) shall be delivered to the appropriate election authority representing the area in which the applicant resides;

(B) The completed and signed postcard application form(s) may be delivered to the appropriate election authority either in person, by mail or by delivery by a third party;

(C) Upon receipt of a completed and signed postcard application form, the election authority shall process the application as required by section 115.159, RSMo; and

(D) Nothing in this rule shall be construed to authorize the rejection of any voter registration card approved by federal law.

AUTHORITY: sections 115.155.5 and 115.159, RSMo 2000. Emergency rule filed Nov. 10, 1993, effective Nov. 20, 1993, expired March 19, 1994. Emergency rule filed Feb. 23, 1994, effective March 20, 1994, expired May 8, 1994. Original rule filed Nov. 10, 1993, effective May 9, 1994. Amended: Filed Aug. 27, 1999, effective Feb. 29, 2000. Emergency amendment filed Sept. 26, 2000, effective Oct. 6, 2000, expired April 3, 2001. Amended: Filed Sept. 26, 2000, effective April 30, 2001. Rescinded and readopted: Filed Aug. 8, 2001.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions thirty-nine thousand four hundred dollars ($39,400) during the first fiscal year, subsequent non-election fiscal years will incur a cost of twelve thousand dollars ($12,000) and subsequent election fiscal years will incur a cost of twenty-nine thousand five hundred dollars ($29,500).

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	**15 CSR 30-4.010 Postcard Voter Application and Forms**
Type of Rulemaking:	**Proposed Rule**

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Secretary of State	**FY 2002 - $39,400; Subsequent non-election fiscal years - $12,000; Subsequent election fiscal years - $29,500**

III. WORKSHEET

Initial Reprint --
200,000 Code 02 = $7,300
200,000 Code 03 = $7,300
200,000 Code 04 = $7,300
500,000 Code PC = $17,500
TOTAL = $39,400

Non-election Fiscal Years – 250,000 Code PC cards = $12,000

Election Fiscal Years – 750,000 Code PC cards = $29,500

IV. ASSUMPTIONS

Assumes that trends in voter registration applications will remain constant, however, recognizes that under the proposed rule more counties will be requesting cards from the Secretary of State due to printing requirements.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 9—Uniform Counting Standards

PROPOSED RULE

15 CSR 30-9.010 Uniform Counting Standards—Punch Card Voting Systems

PURPOSE: This rule provides for standards to be used by election authorities when counting ballots cast using punch card voting systems.

(1) The election authority shall be responsible for insuring that the standards provided for in this rule are followed when counting ballots cast using punch card voting systems.

(2) Prior to tabulating ballots, all ballot cards shall be inspected by the election authority for hanging chad and/or damaged ballots.

(3) Inspection of ballot cards shall be conducted using the following guidelines:

(A) The election authority shall appoint a bipartisan team to inspect all ballots where a question exists about the condition of a ballot or existence of hanging chad;

(B) All ballot card inspections conducted pursuant to this section shall be conducted by examining the ballot card from the back of the card;

(C) If a ballot is determined to be damaged, the bipartisan team shall spoil the original ballot and duplicate the voter's intent on the new ballot, provided that there is an undisputed method of matching the duplicate card with its original after it has been placed with the remainder of the ballot cards from that precinct; and

(D) If a chad is determined to be hanging by two (2) or less corners, it shall be removed prior to being tabulated.

(4) In jurisdictions using punch card systems, a valid vote for a write-in candidate must include the following:

(A) A distinguishing mark in the square immediately preceding the name of the candidate;

(B) The name of the candidate. If the name of the candidate, as written by the voter, is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(C) The name of the office for which the candidate is to be elected.

(5) Whenever a hand recount of votes is ordered of punch card ballots, the provisions of this section shall be used to determine voter intent.

AUTHORITY: section 115.225, RSMo 2000. Original rule filed Aug. 8, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivision 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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 9—Uniform Counting Standards

PROPOSED RULE

15 CSR 30-9.020 Uniform Counting Standards—Optical Scan Voting Systems

PURPOSE: This rule provides for standards to be used by election authorities when counting ballots cast using optical scan voting systems.

(1) The election authority shall be responsible for insuring that the standards provided for in this rule are followed when counting ballots cast using optical scan voting systems.

(2) Prior to tabulating ballots all machines shall be programmed to reject blank ballots where no votes are recorded on every race, or where an overvote is registered in any race.

(A) In jurisdictions using precinct-based tabulators, the voter who cast the ballot shall review the ballot if rejected, to determine if he/she wishes to make any changes to the ballot or if he/she would like to spoil their ballot and receive another ballot.

(B) In jurisdictions using centrally based tabulators, if a ballot is so rejected, it shall be reviewed by a bipartisan team using the following criteria:

1. If a ballot is determined to be damaged, the bipartisan team shall spoil the original ballot and duplicate the voter's intent on the new ballot, provided that there is an undisputed method of matching the duplicate card with its original after it has been placed with the remainder of the ballot cards from that precinct; and

2. Voter intent shall be determined using the following criteria:

A. There is a distinguishing mark in the printed oval adjacent to the name of the candidate, or issue preference;

B. There is a distinguishing mark adjacent to the name of the candidate, or issue preference; or

C. The name of the candidate or issue preference is circled.

(3) In jurisdictions using optical scan systems, a valid vote for a write-in candidate must include the following:

(A) A distinguishing mark in the square immediately preceding the name of the candidate;

(B) The name of the candidate. If the name of the candidate, as written by the voter, is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(C) The name of the office for which the candidate is to be elected.

(4) Whenever a hand recount of votes of optical scan ballots is ordered, the provisions of this section shall be used to determine voter intent.

AUTHORITY: section 115.225, RSMo 2000. Original rule filed Aug. 8, 2001.

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

Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 9—Uniform Counting Standards

PROPOSED RULE

15 CSR 30-9.030 Uniform Counting Standards—Paper Ballots

PURPOSE: This rule provides for standards to be used by election authorities when counting ballots cast using paper ballots.

(1) The election authority shall be responsible for insuring that the standards provided for in this rule are followed when counting ballots cast using paper ballots.

(2) Voter intent shall be determined using the following criteria:
(A) There is a distinguishing mark in the square adjacent to the name of the candidate, or issue preference;
(B) There is a distinguishing mark adjacent to the name of the candidate, or issue preference; or
(C) The name of the candidate or issue preference is circled.

(3) In jurisdictions using paper ballots, a valid vote for a write-in candidate must include the following:
(A) A distinguishing mark in the square immediately preceding the name of the candidate;
(B) The name of the candidate. If the name of the candidate, as written by the voter, is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and
(C) The name of the office for which the candidate is to be elected.

(4) Whenever a hand recount of votes of paper ballots is ordered, the provisions of this section shall be used to determine voter intent.

AUTHORITY: section 115.225, RSMo 2000. Original rule filed Aug. 8, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivision 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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

PROPOSED RESCISSION

15 CSR 30-10.020 Certification Statements for New or Modified Electronic Voting Systems. This rule provided that voting machine manufacturers were to file an initial affidavit stating that the voting machines complied with all applicable rules and laws and a second affidavit stating that when any changes were made in the system the voting machines ability to continue to comply with the applicable rules and laws would not be affected.

PURPOSE: This rule is being rescinded and readopted to reflect changes in the certification procedures and documents.

AUTHORITY: section 115.225, RSMo 1986. Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed April 7, 1978, effective July 13, 1978. Emergency amendment filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Amended: Filed Oct. 5, 1982, effective Feb. 11, 1983. Amended: Filed Dec. 15, 1986, effective Feb. 28, 1987. Rescinded: Filed Aug. 8, 2001.

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

PROPOSED RULE

15 CSR 30-10.020 Certification Statements for New or Modified Electronic Voting Systems

PURPOSE: This rule provides that voting machine manufacturers file an initial affidavit stating that the voting machine complies with all applicable rules and laws and a second affidavit stating that when any changes are made in the system the voting machine's ability to continue to comply with the applicable rules and laws will not be affected.

(1) As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall have completed and submitted to the secretary of state a certification statement in substantially the same form as contained in section (3), and shall have received certification from an independent testing authority approved by the secretary of state.

(2) If any modification, deletion or improvement to approved voting or tabulating equipment, procedures or systems is made, the manufacturer, programmer or supplier shall notify the secretary of state and a certification amendment statement shall be submitted.
(A) No certification need be submitted if one (1) of the following conditions are met:
1. The equipment is not a device which—
A. Converts the intent of the voter into a data string, as an example, a card reader or scanner;
B. Changes, interprets, converts, modifies or records the data string being transmitted from the ballot counter; or
C. Manipulates data or the results of any data conversion into a report exclusive of the printer; or
2. The software only monitors system operation.

(B) Certificates from the software supplier or programmer shall always be submitted in the following cases when the additions could be used during the tabulating process:

1. Installation of a new release of system software, utilities software, or both;

2. Installation of new or expanded central processing units;

3. Installation of additional random access or read only memory (RAM or ROM); and

4. Installation of additional magnetic, electronic or optical data storage units.

(C) All systems installed as of January 1, 1987 are approved in the configuration that existed as of that date.

(3) Manufacturer's certification statement shall be completed substantially as the example which follows:

MANUFACTURER'S CERTIFICATION STATEMENT

I, _____, president of _____
(*electronic voting systems company*)
do hereby certify to _____, Secretary of State of Missouri that the _____ electronic voting system
(name of equipment)
will permit in accordance with section 115.225, RSMo:

1. Voting in absolute secrecy;

2. Each elector to vote at any election for all persons and offices for whom and for which s/he is lawfully entitled to vote;

3. The automatic tabulating equipment to be set to reject all votes for any office or on any measure except write-in votes when the number of votes exceeds the number the voter is entitled to cast;

4. Each elector to vote for as many persons for an office as s/he is entitled to vote for;

5. Each elector to vote for or against any questions upon which s/he is entitled to vote; and to vote, by means of a single device, where applicable, for all candidates of one (1) party or to vote a split ticket as s/he desires;

6. Each elector, at presidential elections, by one (1) punch or mark, to vote for the candidate of that party for president, vice-president and their presidential electors; and

7. The _____ electronic voting system complies with all other requirements of the election laws of the state of Missouri where they are applicable.

(Briefly describe the type of electronic voting system provided by _____, the means by which it meets the requirements of provisions 1.–6. and list the areas in which the system is in use.)

I do hereby certify that the above information is true and accurate this _____ day of _____ , 20 _____.

_____
(President)

_____
(Name of Company)

The above signator appeared before this _____ day of _____, 20 _____, and did personally sign this affidavit.

_____
(Notary)

My commission expires _____

(4) Compliance with this certification statement will assist this office when approval is requested for use of electronic voting systems in this state. After receiving this information, the secretary of state will schedule a meeting with the election official making the request to use electronic equipment and representatives of the voting equipment company to discuss approval of its use in Missouri.

(5) The certification amendment statement shall be completed substantially as the example which follows:

AMENDMENT TO CERTIFICATION STATEMENT

I, _____
(Name)
_____, of
(Office)
_____, do hereby certify
(Company)
to _____, Secretary of State of Missouri, that the change outlined here will not affect the accuracy or legal operational requirements as outlined in section 115.225, RSMo of _____.
(Product Name and Version)

_____
(Briefly describe the change.)

_____
(Signature)

The above signator appeared before me this _____ day of _____, 20 _____and did personally sign this affidavit;

_____
(Name)

_____
(Name of Company)

_____
(Notary)

My commission expires _____

(6) No change in system software, utilities software, or both, may be made within thirty (30) days prior to an election in which the automated tabulating equipment will be used for the tabulating of ballots. In the event that system software, utilities software, or both, is to be changed within thirty (30) days after any election in which the automated tabulating equipment is used for the tabulating of ballots, the election authority shall have copies made of the original system software, utilities software, or both, and those copies shall be stored in the same manner as the ballots counted in that election.

AUTHORITY: section 115.225, RSMo 2000. Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed April 7, 1978, effective July 13, 1978. Emergency amendment filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Amended: Filed Oct. 5, 1982, effective Feb. 11, 1983. Amended: Filed Dec. 15, 1986, effective Feb. 28, 1987. Rescinded and readopted: Filed Aug. 8, 2001.

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

Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

PROPOSED RESCISSION

15 CSR 30-10.040 Electronic Ballot Tabulation—Counting Preparation. This rule provided for procedures in connection with the preparation for vote recording and tabulation including appointment of judges, equipment and program preparation and pre-election testing.

PURPOSE: This rule is being rescinded and readopted to reflect changes in the procedures to be used in connection with the preparation for vote recording and tabulation including appointment of judges, equipment and program preparation and pre-election testing.

AUTHORITY: section 115.225, RSMo 1986. Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed April 7, 1978, effective July 13, 1978.[Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982.] Emergency ***rescission and*** *rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission and [readoption]* ***rule*** *filed May 12, 1986, effective Aug. 1, 1986, expired Nov. 7, 1986. Emergency rescission and [readoption]* ***rule*** *filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded and readopted: Filed April 17, 1987, effective June 25, 1987. Rescinded: Filed Aug. 8, 2001.*

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

PROPOSED RULE

15 CSR 30-10.040 Electronic Ballot Tabulation—Counting Preparation

PURPOSE: This rule provides for procedures in connection with the preparation for vote recording and tabulation including appointment of judges, equipment and program preparation and pre-election testing.

(1) The election authority shall be responsible for insuring that the electronic tabulating system s/he chooses to use accurately records, and/or counts, all proper votes cast and complies with all applicable state statutes and rules.

(2) The election authority shall be responsible that all steps have been taken to insure that the electronic tabulating equipment operates properly at the time of the pre-election public logic and accuracy test and during the tabulation of ballots on election night.

(3) The election authority shall be responsible for making necessary arrangements for a backup ballot tabulating system.

(4) The election authority shall be responsible for providing a duplicate of the counting program for the computer system on which the ballot tabulation is to be done, regardless of the backup counting system used.

(5) Prior to each election day, the election authority shall be responsible for appointing one (1) or more bipartisan teams composed of equal numbers of members from the two (2) major parties to carry out the functions of—certifying the accuracy of the electronic tabulating equipment, receiving election materials from the polls, duplicating damaged or defective ballots, processing ballots through the electronic tabulating system and preparing election materials for final storage. Each person so appointed shall have the qualifications of and take the oath of office prescribed for election judges in section 115.091, RSMo. These persons will be selected from lists compiled as outlined in section (6) except where an election authority is a board of election commissioners, the election authority may designate persons of its own choosing.

(6) Beginning in 1987, not less than sixty (60) days prior to the first election date of each calendar year, each election authority, except as noted in section (5), shall notify by mail, the chairpersons of the two (2) major political parties within their jurisdiction of the number of persons from their parties needed for the bipartisan teams used in processing and counting ballots. Each chairperson shall have thirty (30) days to provide a list to the election authority, in writing, of twice as many persons meeting the qualifications of section 115.091, RSMo, as the election authority has indicated are necessary. If the chairpersons cannot respond in that thirty (30)-day period with the list of names or enough persons to fill all positions, the election authority shall select persons from that party to fulfill those functions. Nothing contained in this rule shall prohibit an election authority from requesting a new list of names for the bipartisan teams for each election provided that the lists are requested sixty (60) days prior to the election and that the chairpersons have thirty (30) days for response. For elections in 1986, the election authority shall select members of the bipartisan teams in a manner consistent with the way in which s/he has previously selected these personnel. If the election authority has not previously utilized automated tabulating equipment, it shall follow the same schedule as will be used in succeeding years except that the chairpersons shall be notified not later than sixty (60) days prior to the August primary.

(7) Prior to election day the election authority shall supervise a public logic and accuracy test of the electronic tabulating equipment conducted by the accuracy certification team.

(A) The logic and accuracy test shall be open to any member of the public; and the election authority, by some appropriate method, shall notify the public of the time and date of the test.

(B) Persons, other than candidates and other individuals required to be notified under section 115.233, RSMo, wishing to participate in the testing process shall file a written request with the election authority at least twenty-four (24) hours prior to the publicized beginning of the logic and accuracy test.

(C) The election authority shall prepare an appropriate logic and accuracy test deck which will include the following conditions:

1. Each ballot position must be tested;

2. No two (2) candidates for the same office may receive the same number of votes, but each candidate must receive one (1) vote;

3. No ballot question may receive the same number of votes for and against;

4. In situations where a voter can legally vote for more than one (1) person for an office, at least one (1) card shall be voted for the maximum number of allowable candidates;

5. One (1) card shall be marked to have one (1) more vote for each candidate or question than is allowable;

6. One (1) card shall have no votes recorded on it;

7. In general partisan elections, each party shall receive at least one (1) straight party vote. Additionally each party shall receive at least one (1) straight party vote where a candidate of another party receives a vote on the ballot;

8. Cards should be punched or marked to test all name rotations, if used; and

9. One (1) card (if possible) shall contain a vote for a candidate for whom persons using that ballot format are not entitled to vote.

(D) The accuracy certification team may run the test deck as provided by the election authority again, making as many additions, subtractions or changes in the ballot cards as they desire.

(E) The public logic and accuracy team shall compare the results of the electronic test to those from a manual count of the test ballots. If the results are incorrect, then changes and/or corrections will be made until an errorless count is made. An electronic ballot tabulation machine shall not be used on election day until an errorless count is made on that machine.

(F) After the team is satisfied that the equipment is tabulating the ballots properly, each candidate on the ballot or any representative of a group which has notified the election authority pursuant to subsection (7)(B) may inspect and manually recount the test deck.

(G) If the results match with the manual count, the team shall certify that the system is accurate and properly counting ballots. All logic and accuracy test materials including the deck shall be sealed in a tamperproof container and sealed with a numbered seal. All team members shall verify, by signature or initials, the seal number on a certificate placed on the outside of the container.

(H) The election authority shall have custody of the logic and accuracy test materials including the program until called for by the accuracy certification team.

AUTHORITY: section 115.225, RSMo 2000. Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed April 7, 1978, effective July 13, 1978. [Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982.] Emergency ***rescission and*** *rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission and [readoption]* ***rule*** *filed May 12, 1986, effective Aug. 1, 1986, expired Nov. 7, 1986. Emergency rescission and [readoption]* ***rule*** *filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded and readopted: Filed April 17, 1987, effective June 25, 1987. Rescinded and readopted: Filed Aug. 8, 2001.*

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

PROPOSED RESCISSION

15 CSR 30-10.060 Electronic Ballot Tabulation—Election Procedures. This rule provided for procedures to be used by election authorities using electronic tabulating equipment to count voted ballots.

PURPOSE: This rule is being rescinded and readopted to reflect changes in the procedures to be used by election authorities using electronic tabulating equipment to count voted ballots.

AUTHORITY: section 115.225, RSMo 1986. Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed Sept. 15, 1972, effective Sept. 25, 1972. Amended: Filed Nov. 18, 1976, effective March 11, 1977. Emergency amendment filed Oct. 8, 1976, effective Oct. 18, 1976, expired Feb. 15, 1977. Amended: Filed April 7, 1978, effective July 13, 1978. [Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982.] Emergency ***rescission and*** *rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission and [readoption]* ***rule*** *filed May 12, 1986, effective Aug. 1, 1986, expired Nov. 7, 1986. Emergency rescission and [readoption]* ***rule*** *filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded and readopted: Filed April 17, 1987, effective June 25, 1987. Rescinded: Filed Aug. 8, 2001.*

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

PROPOSED RULE

15 CSR 30-10.060 Electronic Ballot Tabulation—Election Procedures

PURPOSE: This rule provides for procedures to be used by election authorities using electronic tabulating equipment to count voted ballots.

(1) Voted and unvoted ballots shall be processed using the following rules:

(A) Voted ballots shall always be handled or moved either by a bipartisan team or in the direct view of a bipartisan team;

(B) In those cases where the election authority determines it is more efficient to move voted ballots by use of a single person, those items shall be placed into a tamperproof container and sealed with a numbered seal. Members of a bipartisan team shall witness the sealing and verify the number of the seal by their signatures on a certificate placed on the exterior of the container. The container shall only be opened in the presence of a bipartisan team which shall verify the accuracy of the seal number before the seal is broken;

(C) The election authority shall be responsible for insuring that sufficient certificates are made on each transfer of ballot responsibility to accurately recreate each movement of the ballot from one (1) team to the next. Each transfer shall include a statement that no election material was added, subtracted or altered except as provided by statute or rule and that no irregularities were noticed unless otherwise noted; and

(D) The election authority or his/her representative shall be on hand at all times in the counting center when ballots are unsealed.

(2) Ballot counting shall be conducted as follows:

(A) The election authority shall have the authority to limit access by persons, other than those previously appointed to bipartisan teams, in those areas where ballots are unsealed or are being counted;

(B) Ballot duplication for damaged ballots shall be done by bipartisan teams using whatever method is selected by the election authority provided that—

1. The system provides an exact duplicate of the voter's intent, pursuant to 15 CSR 30-9.010, 15 CSR 30-9.020 and 15 CSR 30-9.030;

2. Both members of the team participate in the process;

3. Both members can review the other's work;

4. There is an undisputed method to match the duplicate card with its original after it has been placed with the remainder of the ballot cards from that precinct; and

5. Allowances are made for watchers appointed pursuant to section 115.107, RSMo to perform their statutory duties;

(C) Any changes to the operating system, application programs, files or counters used in the ballot counting shall be documented by the election authority;

(D) The last transaction with the electronic tabulating system prior to counting ballots shall be the public logic and accuracy test; and

(E) The election authority may conduct other logic and accuracy tests as s/he deems necessary including the hand count of ballots.

(3) Prior to certification of the election results, the accuracy and certification team shall recount the test deck used prior to the start of ballot tabulation on each electronic tabulating machine as follows:

(A) In the event that the counts are not identical, the team shall not certify that the electronic tabulating system was operating properly;

(B) Necessary corrections shall be made to the tabulating program until the test deck is counted properly, and all ballots shall be recounted; and

(C) If the counts are identical, the team shall certify that the system is operating properly.

(4) After the accuracy certification team has approved the count and before the ballots are sealed for final storage, the team processing the ballots shall select one (1) precinct by mutual consent to be recounted. The results of that recount shall be reported on certificates supplied by the secretary of state. One (1) copy shall be filed with the secretary of state within four (4) weeks of the election date and one (1) copy shall be filed with the public records of the election.

(5) After the recount of the selected precinct, bipartisan teams shall place all ballots and other support materials into appropriate tamperproof containers which are sealed in such a way as to prevent any undisclosed entry. If numbered seals are used, those numbers shall appear on the exterior of the container and shall be witnessed by the signatures of the team members.

*AUTHORITY: section 115.225, RSMo [1986] **2000**. Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed Sept. 15, 1972, effective Sept. 25, 1972. Amended: Filed Nov. 18, 1976, effective March 11, 1977. Emergency amendment filed Oct. 8, 1976, effective Oct. 18, 1976, expired Feb. 15, 1977. Amended: Filed April 7, 1978, effective July 13, 1978. [Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982.] Emergency **rescission and** rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission and [readoption] **rule** filed May 12, 1986, effective Aug. 1, 1986, expired Nov. 7, 1986. Emergency rescission and [readoption] **rule** filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded and readopted: Filed April 17, 1987, effective June 25, 1987. Rescinded and readopted: Filed Aug. 8, 2001.*

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 Secretary of State, Division of Elections, Betsy Byers, Co-Director, PO Box 1767, 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 4—Membership and Creditable Service

PROPOSED AMENDMENT

16 CSR 10-4.012 Payment for Reinstatement and Credit Purchases. The board is amending section (2).

PURPOSE: This amendment sets forth the manner in which funds shall be paid to, credited and refunded by the retirement system for the reinstatement and purchase of membership service credit in the retirement system.

(2) Consistent with the *Internal Revenue Code*, the system will accept rollovers in payment for reinstatement and credit purchases provided the money is an "eligible rollover distribution" from one of the following:

(E) A 403(b) qualified plan;

(F) A state and local government 457(b) qualified plan;

[(E)] **(G)** Such other plans or accounts as may be authorized as a source of eligible rollover distributions to the system under the *Internal Revenue Code*, provided that the system shall not be obligated to accept any distribution from any such authorized plan or

account if the distribution would jeopardize the tax-qualified status of the system; or

[(F)] **(H)** The member, if the amount was distributed to the member from a qualified plan, is rolled over by the member to the system within sixty (60) days of that distribution, and the payment is accompanied by proof of rollover eligibility.

*AUTHORITY: section 169.020, RSMo [Supp. 1997] **2000**. Original rule filed June 23, 1998, effective Jan. 30, 1999. Amended: Filed Aug. 15, 2001.*

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 Public School and Non-Teacher School Employee Retirement Systems of Missouri, M. Steve Yoakum, Executive Director, PO Box 268, 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 5—Retirement, Options and Benefits

PROPOSED AMENDMENT

16 CSR 10-5.055 Cost-of-Living Adjustments. The board is amending section (3).

PURPOSE: This amendment provides for the implementation of cost-of-living adjustments to retirees and eligible beneficiaries as set forth in subsection 169.070.12, RSMo.

(3) When the board of trustees determines that *[an]* **a cost-of-living** increase shall be granted, the increase shall be added to the allowance*[s]* of *[all]* **any** person*[s]* receiving **a** service or disability retirement allowance*[s]*, or beneficiary allowance*[s under the provision of]* **pursuant to** section 169.070.3, RSMo. The initial increase in a retiree's allowance shall not be granted before January 1, 1977, or until the retiree has been retired four (4) January firsts*[,]***;** or in the case of any member retiring on or after July 1, 2000, *[and not for any member retiring before July 1, 2000,]* the initial increase in the retiree's allowance shall not be granted until the retiree has been retired three (3) January firsts*[.]***; or in the case of any member retiring on or after July 1, 2001, the initial increase in the retiree's allowance shall not be granted until the retiree has been retired two (2) January firsts.** A designated beneficiary of a deceased retiree who is receiving an allowance as provided in section 169.070.3, RSMo**,** will be eligible for an increase at the time the deceased retiree would have been eligible for an increase had he or she lived.

*AUTHORITY: section 169.020, RSMo [Supp. 1999] **2000**. Original rule filed Jan. 5, 1977, effective May 1, 1977. Amended: Filed June 10, 1980, effective Sept. 15, 1980. Amended: Filed Aug. 9, 1999, effective Feb. 29, 2000. Amended: Filed Aug. 21, 2000, effective Feb. 28, 2001. Amended: Filed Aug. 15, 2001.*

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 Public School and Non-Teacher School Employee Retirement Systems of Missouri, M. Steve Yoakum, Executive Director, PO Box 268, 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 5—Retirement, Options and Benefits

PROPOSED RULE

16 CSR 10-5.070 Qualified Governmental Excess Benefit Arrangement

*PURPOSE: This rule implements section 169.070.16, RSMo and section 415(m) of Title 26 of the **United States Code** and allows for the payment of benefits in excess of the limits imposed by section 415 of Title 26 of the **United States Code** and section 169.070.16, RSMo to which retirees and beneficiaries are otherwise entitled pursuant to Chapter 169, RSMo.*

(1) Definitions.

(A) "Maximum benefit" shall mean the benefit a retiree or beneficiary is entitled to receive from the retirement system in any month after giving effect to section 169.070.16, RSMo designed to conform to the annual benefit limit set forth in Section 415 of Title 26 of the *United States Code* as amended.

(B) "Retirement system" shall mean The Public School Retirement System of Missouri established pursuant to Chapter 169, RSMo.

(C) "Section 415(m) benefit participant" shall mean any retiree or beneficiary whose benefits otherwise payable pursuant to Chapter 169, RSMo without giving effect to the limitations of section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*, would exceed the maximum benefit permitted under section 415 of Title 26 of the *United States Code*. Eligibility as a section 415(m) benefit plan participant shall be determined by the retirement system at retirement and annually thereafter.

(D) "Section 415(m) benefit plan" shall mean the separate, unfunded qualified governmental excess benefit arrangement within the meaning of Section 415(m) of Title 26 of the *United States Code* and established pursuant to section 169.070.16, RSMo and this rule that is a separate portion of the retirement system.

(E) "Unrestricted benefit" shall mean the monthly benefit a retiree or beneficiary would have been entitled to receive from the retirement system under Chapter 169, RSMo without giving effect to the restrictions of section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*.

(2) A section 415(m) benefit participant receiving benefits from the retirement system pursuant to Chapter 169, RSMo is entitled to a monthly benefit under the section 415(m) benefit plan in an amount equal to the section 415(m) benefit participant's unrestricted benefit less the maximum benefit. In no event shall a retiree or beneficiary receive a total monthly benefit from the retirement system and the section 415(m) benefit plan in excess of the monthly benefit he or she would have been entitled to receive from the retirement system under Chapter 169, RSMo without giving effect to the restrictions of section 169.070.16, RSMo

designed to conform to section 415 of Title 26 of the *United States Code*.

(3) Any benefit to which a retiree or beneficiary is entitled pursuant to this rule shall be paid at the same time and in the same manner as the benefit would have been paid from the retirement system if the payment of the benefit from the retirement system had not been precluded by section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*.

(4) Contributions may not be accumulated under the section 415(m) benefit plan to pay future monthly benefits to retirees or beneficiaries. Instead, a portion of each payment of employer contributions that is made to the retirement system under section 169.030, RSMo shall be paid to the section 415(m) benefit plan in an amount necessary to satisfy the monthly obligation to pay section 415(m) benefit participants the amount calculated pursuant to (2) above, as those amounts become due, and may include amounts needed to pay reasonable expenses necessary to administer the section 415(m) benefit plan. Employer contributions made to provide section 415(m) benefits pursuant to this rule shall not be commingled with any other assets of the retirement system.

(5) The section 415(m) benefit plan is a separate portion of the retirement system plan qualified pursuant to section 401(a) of Title 26 of the *United States Code* and is maintained solely for the purpose of providing benefits to retirees and beneficiaries that would otherwise exceed the limits imposed by section 415 of Title 26 of the *United States Code*.

(6) A member, retiree, or beneficiary of the retirement system may not directly or indirectly elect to defer compensation or to otherwise purchase benefits pursuant to section 169.070.16, RSMo or this rule.

(7) The section 415(m) benefit plan shall be administered in the same manner as the retirement system pursuant to section 169.020, RSMo.

AUTHORITY: section 169.020, RSMo 2000. Original rule filed Aug. 15, 2001.

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 Public School and Non-Teacher School Employee Retirement Systems of Missouri, M. Steve Yoakum, Executive Director, PO Box 268, 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 6—The Non-Teacher School Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.045 Reinstatement and Credit Purchases. The board is amending subsection (1)(A).

PURPOSE: This amendment sets forth the manner in which funds shall be paid to, credited and refunded by the retirement system for the reinstatement and purchase of membership service credit in the retirement system.

(1) Payments to reinstate or to purchase credit must be by check, bank draft or any other negotiable instrument payable to the Non-*[t]***T**eacher School Employee Retirement System of Missouri at par.

(A) Consistent with the *Internal Revenue Code*, the system will accept rollovers in payment for reinstatement and credit purchases provided the money is an "eligible rollover distribution" from one of the following:

1. A 401(a) tax qualified plan (including a Keogh plan which meets additional requirements pertaining to owner-employees);
2. A 401(k) profit sharing plan;
3. A 403(a) qualified annuity plan;
4. A 408(a) individual retirement account (IRA) or a 408(b) individual retirement annuity, but only if the *[individual retirement account]* **IRA** is a conduit or "holding account" IRA or annuity containing amounts from a 401(a) qualified plan or a 403(a) annuity plan, and does not contain any other types of funds: therefore, an IRA which is established and/or funded with other monies is not an eligible rollover distribution; *[or]*

5. A 403(b) qualified plan;

6. A state and local government 457(b) qualified plan;

7. Such other plans or accounts as may be authorized as a source of eligible rollover distributions to the system under the *Internal Revenue Code*, provided that the system shall not be obligated to accept any distribution from any such authorized plan or account if the distribution would jeopardize the tax qualified status of the system; or

[5.] **8.** The member, if the amount was distributed to the member from a qualified plan, is rolled over by the member to the system within sixty (60) days of that distribution, and is accompanied by proof of rollover eligibility.

AUTHORITY: section 169.610, RSMo 2000. Original rule filed June 15, 1994, effective Nov. 30, 1994. Amended: Filed June 14, 1995, effective Dec. 30, 1995. Amended: Filed Aug. 15, 1996, effective Feb. 28, 1997. Amended: Filed Oct. 24, 1996, effective April 30, 1997. Amended: Filed Oct. 25, 1999, effective April 30, 2000. Amended: Filed Oct. 30, 2000, effective May 30, 2001. Amended: Filed Aug. 15, 2001.

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 Public School and Non-Teacher School Employee Retirement Systems of Missouri, M. Steve Yoakum, Executive Director, PO Box 268, 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 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.050 Certifying Service and Compensation. The board is amending section (1).

PURPOSE: This rule clarifies the process for certifying employment and salary figures upon separation from service for purposes of calculating retirement benefits in the future.

(1) Upon separation from service, a participant shall request that the county clerk complete a certification form on a form to be provided by the board or its designee which verifies the length of employment and the two (2) highest years of compensation received by the participant. The participant must provide documentation to support the compensation figures which must be attached to the certification including W-2 forms, 1099 forms, canceled checks and other supporting documentation reflecting compensation received. In determining average final compensation, County Employees' Retirement Fund (CERF) will use the cash receipts and disbursements method as defined by the ***Internal Revenue Code***. *[Lump sum payments]* **Any lump sum payment attributable to services for a prior year (including, but not limited to,** a payment of benefits, back pay, *[or compensation for]* unused vacation days or sick leave **attributable to services performed in a prior year)** will not be included in calculating average final compensation *[if the payments are attributable to a prior year or prior years than the year being claimed as a high year]*.

*AUTHORITY: section 50.1032, RSMo [Supp. 1999] **2000**. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed April 16, 1999, effective Sept. 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Aug. 13, 2001.*

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 County Employees' Retirement Fund, PO Box 2271, 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.*