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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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 2—DEPARTMENT OF AGRICULTURE
Division 110—Office of the Director
Chapter 1—Missouri Qualified Fuel Ethanol Producer Incentive Program

PROPOSED AMENDMENT

2 CSR 110-1.010 Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Bonding, and Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Fuel Ethanol Producer Incentive Program. The director is amending sections (2), (3), (4), (6) and (7).

PURPOSE: This amendment requires that qualified fuel ethanol producers be at least fifty-one (51%) percent owned by agricultural producers actively engaged in agricultural production for commercial purposes, drops the requirement to submit grant applications fifteen (15) days before the first day of the month for which the grant is sought, extends the eligibility to receive grants beyond the original sixty (60)-month period, changes the grant period from calendar year to fiscal year, and changes the last month's allocation method if funding runs out in a fiscal year.

(2) Definitions.

(B) Missouri qualified fuel ethanol producer (MQFEP)—Any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri **and is at least fifty-one percent (51%) owned by agricultural producers actively engaged in agricultural production for commercial purposes,** and which has made formal application, posted a bond, and conformed to the requirements of this rule;

(D) Actively engaged in agricultural production for commercial purposes—Producing cereal grain or cereal grain by-products in quantities sufficient to meet the delivery obligations of the ethanol production facility;

[(D)] **(E)** Qualified fuel ethanol—Fuel ethanol produced by a MQFEP;

[(E)] **(F)** Missouri agricultural products—Cereal grain or cereal **grain** by-products produced in Missouri*[.]***;**

[(F)] **(G)** Department—The Missouri Department of Agriculture; and

[(G)] **(H)** Director—The director of the Missouri Department of Agriculture.

(3) Criteria for Classification as a Missouri Qualified **Fuel** Ethanol Producer. To be classified *[an]* **as a** MQFEP, a producer's principal place of business and facility for the fermentation and distillation of fuel ethanol must be located within the state of Missouri **and must be at least fifty-one percent (51%) owned by agricultural producers actively engaged in agricultural production for commercial purposes. In addition**, *[and]* the producer must—

(4) Procedures for Obtaining a Missouri Qualified Fuel Ethanol Producer License.

(B) The license application form must include:

1. The fuel ethanol producer's Bureau of Alcohol, Tobacco and Firearms Permit number;

2. The fuel ethanol producer's federal employer identification number or Social Security number;

3. If incorporated, a copy of the Certificate of Good Standing issued by the Missouri Secretary of State;

4. Complete name and address of the owner**(s)**, or the names and addresses of the partners if the MQFEP is a partnership or the names and addresses of the principal officers if the MQFEP is a corporation **or limited liability company**;

5. Certification by the MQFEP's board of directors that at least fifty-one percent (51%) of the owners produce cereal grain or cereal grain by-products in quantities sufficient to meet the delivery obligations of the ethanol production facility;

[5.] **6.** Diagram of the premises (location of the still, etc.);

[6.] **7.** Description of the stills, including their capacity;

[7.] **8.** The amount and source of the feedstocks to be used annually by the facility;

[8.] **9.** The maximum number of gallons of ethanol to be produced annually by the facility; and

[9.] **10.** The amount and source of funds invested in the facility.

(F) To assure renewal effective July 1, renewal license applications must be submitted and received by the department by *[April]* **May** 30.

(6) Grant Application Procedures.

[(C) The completed grant application form must be received by the department fifteen (15) days before the first day of the month for which the grant is sought. Any information or documents submitted by an MQFEP to the department will be considered received by the department on the—

1. Postal mark date for items delivered by the United States Postal Service;

2. Actual date received for items delivered by any other carrier service; or

3. Actual date received for information received by facsimile within the Jefferson City, Missouri central office of the department.]

[(D)] (C) The grant application form must include the:

1. Complete name and address of the owner**(s)**, or names and addresses of the partners if the MQFEP is a partnership, or the names and addresses of the principal officers if the MQFEP is a corporation **or limited liability company**;

2. Address and location of all fuel ethanol plants owned by the MQFEP. Each MQFEP must include all Missouri plants and plants outside Missouri;

3. Production capacity of each fuel ethanol plant;

4. Estimated number of employees needed to reach the production capacity of each fuel ethanol plant;

5. Number of bushels of Missouri agricultural products used by the MQFEP in the production of fuel ethanol during the preceding quarter;

6. Total number of employees and the number of Missouri citizens employed by the MQFEP during the preceding quarter;

7. Number of bushels of Missouri agricultural products to be used by the MQFEP in the production of fuel ethanol during the month for which the grant is applied;

8. Number of gallons of qualified fuel ethanol the MQFEP expects to manufacture during the month for which the grant is applied;

9. Estimated production of fuel ethanol the MQFEP expects to manufacture during the current fiscal year (July 1 through June 30);

10. A copy of the qualified fuel ethanol producer license; and

11. Name and address of the surety company, the bond number and the amount of the bond posted under this rule.

(7) Grant Disbursement Procedures.

(B) A MQFEP shall be eligible for a monthly grant from the Missouri Qualified Fuel Ethanol Producer Incentive Fund, except that a MQFEP shall be eligible for the grant for a total of sixty (60) months **unless such producer during those sixty (60) months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four (24) additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty (60)-month time period**.

(C) The amount of each monthly grant is determined by calculating the estimated gallons of qualified fuel ethanol to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department, and multiplying such figure by the per gallon credit established in section 142.028, RSMo and this rule. Each MQFEP shall be eligible for a total grant in any *[calendar]* **fiscal** year equal to twenty cents (20¢) per gallon for the first twelve and one-half (12.5) million gallons of qualified fuel ethanol produced from Missouri agricultural products in the *[calendar]* **fiscal** year, plus five cents (5¢) per gallon for the next twelve and one-half (12.5) million gallons of qualified fuel ethanol produced from Missouri agricultural products in the *[calendar]* **fiscal** year. All such qualified fuel ethanol produced by a MQFEP in excess of twenty-five (25) million gallons shall not be applied to the computation of a grant.

(D) Should available monies be insufficient to pay all MQFEPs the maximum monthly grant allowed by law, available monies will be apportioned so that each MQFEP shall receive a share of monies proportionate to *[the total amount requested by]* **recent production levels of** all MQFEPs *[for that month]*.

*AUTHORITY: section 142.028, RSMo [Supp. 1999] **2000**. Original rule filed June 14, 1995, effective Dec. 30, 1995. Amended: Filed June 13, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2002, effective Aug. 28, 2002, expires Feb. 23, 2003. Amended: Filed Aug. 14, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Ethanol Producer Incentive Program, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-6.505 Black Bass. The commission proposes to amend subsections (1)(A) and (D).

PURPOSE: This amendment clarifies the daily limit on black bass on the Meramec, Big and Bourbeuse rivers and their tributaries.

(1) Daily Limit: Six (6) in the aggregate, including smallmouth bass, largemouth bass, spotted bass and all black bass hybrids, except:

(A) The daily limit may include no more than one (1) smallmouth bass on the Big Piney River from Slabtown Access to Ross Access, *[the Big River from the Highway 21 bridge (near Washington State Park) to its confluence with the Meramec River,]* the Eleven Point River from Thomasville Access to the Arkansas line, the Gasconade River from the Highway Y bridge (Pulaski County) to the Highway D bridge (Phelps County), the Jacks Fork River from the Highway 17 bridge to the Highway 106 bridge, the James River from the Hooten Town bridge (Stone County Road A-90) to the Highway 13 bridge, *[the Meramec River from Scott's Ford to the railroad crossing at Bird's Nest, Mineral Fork from the Highway F bridge (Washington County) to its confluence with the Big River,]* Osage Fork of the Gasconade River and from the Skyline Drive bridge (near Orla in Laclede County) to its confluence with the Gasconade River and Tenmile Creek from the Highway B bridge (Carter County) to its confluence with Cane Creek.

(D) *[The daily limit for spotted (Kentucky) bass is twelve (12) in the Meramec, Big and Bourbeuse rivers and their tributaries.]* **On the Meramec, Big and Bourbeuse rivers and their tributaries, the daily and possession limit for black bass is twelve (12) in the aggregate and may include no more than six (6) largemouth bass and smallmouth bass in the aggregate, except that the daily limit may include no more than one (1) smallmouth bass on the Big River from the Highway 21 bridge (near Washington State Park) to its confluence with the Meramec River, the**

Meramec River from Scott's Ford to the railroad crossing at Bird's Nest, and Mineral Fork from the Highway F bridge (Washington County) to its confluence with the Big River.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders. The commission is proposing to amend section (3) of this rule.

PURPOSE: This amendment addresses current disease risks associated with the interstate and intrastate transport of cervids that potentially pose a threat to the health of captive cervids and Missouri's wild deer herd, and establishes monitoring standards for captive operations under permit.

(3) Any cervid entering a Class I wildlife breeder operation that has ever been held in a state or province having a documented chronic wasting disease case shall be required to come from a herd comprised of animals that have been certified, through a United States Department of Agriculture approved or state-sponsored program, to be chronic wasting disease free for a minimum of three (3) years. **All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a Class I wildlife breeder operation shall be tagged in a method allowing individual animal identification. All elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause, within a Class I wildlife breeder operation, shall be tested for chronic wasting disease at a federally approved laboratory. By March 31, 2003, all Class I wildlife breeder operations shall be enrolled in Missouri's chronic wasting disease monitoring program.** *[Proof of such certification and a]***A**ll permits issued by the state veterinarian's office allowing cervids to enter Missouri **and all chronic wasting disease test results** must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. **All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-10.755. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 9, 2002. Emergency amendment filed Aug. 14, 2002, effective Aug. 24, 2002, expires Feb. 10, 2003. Amended: Filed Aug. 14, 2002.*

PUBLIC COST: This proposed amendment may or may not cost the Department of Conservation more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment may or may 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.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Conservation	**Unknown: The laboratory fees are currently paid by federal funds. The department could incur a fee of $25 per sample if federal monies become unavailable.**

III. WORKSHEET

For each sample submitted for testing by permitted operators:

Lab fees = $25 x unknown quantity of samples.

IV. ASSUMPTIONS

The total costs may exceed $500 depending on the number of animals requiring chronic wasting disease testing.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule.	Classification by types of the business entities which likely be affected.	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
270 Class I Wildlife Breeders	**N/A**	**Unknown: Breeders would incur the cost of veterinary services at an assumed rate of $70 for any animal that dies.**

III. WORKSHEET

For one head of elk, elk-hybrid, mule deer or white-tailed deer that dies within a permitted facility:

Sample Collection	$70.00
Lab Fees	0.00
	$70.00 x unknown quantity of animals

IV. ASSUMPTIONS

The total costs may or may not exceed $500 depending on the number of animals requiring chronic wasting disease testing and the effort needed to tag individual animals for enrollment into Missouri's chronic wasting disease monitoring program.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges. The commission is proposing to amend subsection (1)(B) of this rule.

PURPOSE: This amendment addresses current disease risks associated with the interstate and intrastate transport of cervids that potentially pose a threat to the health of captive cervids and Missouri's wild deer herd, and establishes monitoring standards for captive operations under permit.

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve legally acquired pheasants, exotic partridges, quail and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(B) Big Game Hunting Preserve.

1. The hunting preserve for ungulates shall be a single body of land not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size, fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence height shall meet standards specified in 3 CSR 10-9.220.

2. Any cervid entering a big game hunting preserve operation that has ever been held in a state or province having a documented chronic wasting disease case shall be required to come from a herd comprised of animals that have been certified, through a United States Department of Agriculture approved or state-sponsored program, to be chronic wasting disease free for a minimum of three (3) years. **All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve operation shall be tagged in a method allowing individual animal identification. All elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause, within a big game hunting preserve breeding enclosure, shall be tested for chronic wasting disease at a federally approved laboratory. By March 31, 2003, all big game hunting preserve breeding enclosures shall be enrolled in Missouri's chronic wasting disease monitoring program. Effective March 31, 2003, any big game hunting preserve that has introduced elk, elk-hybrids, mule deer, and/or white-tailed deer into the hunting area within the previous twelve (12) months shall, for each species listed, test one-hundred percent (100) of animals harvested for chronic wasting disease at a federally approved laboratory, up to a total of ten (10) animals in the aggregate.** *[Proof of such certification and a]***A**ll permits issued by the state veterinarian's office allowing cervids to enter Missouri **and all chronic wasting disease test results** must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. **All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.**

3. The permittee may exercise privileges provided in 3 CSR 10-9.353 **only** for species held *[under the big game hunting preserve permit]* **within breeding enclosure(s) contained within the big game hunting preserve**. Any breeding enclosure(s) contained within the big game hunting preserve shall meet standards specified in 3 CSR 10-9.220.

4. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars ($10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Aug. 14, 2002, effective Aug. 24, 2002, expires Feb. 10, 2003. Amended: Filed Aug. 14, 2002.*

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

PRIVATE COST: This proposed amendment may or may 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.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	3 CSR 10-9.565 Licensed Hunting Preserve: Privileges
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Conservation	Unknown: The laboratory fees are currently paid by federal funds. The department could incur a fee of $25 per sample if federal monies become unavailable.

III. WORKSHEET

For each sample submitted for testing by permitted operators:

Lab fees = $25 x unknown quantity of samples.

IV. ASSUMPTIONS

The total costs may exceed $500 depending on the number of animals requiring chronic wasting disease testing.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	3 CSR 10-9.565 Licensed Hunting Preserve: Privileges
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule.	Classification by types of the business entities which likely be affected.	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
25 Big Game Hunting Preserves	**N/A**	**Unknown: Breeders would incur the cost of veterinary services at an assumed rate of $70 for any animal that dies, and for animals harvested from some herds.**

III. WORKSHEET

For one head of elk, elk-hybrid, mule deer or white-tailed deer that dies within a permitted facility:

Sample Collection	**$70.00**
Lab Fees	**0.00**
	$70.00 x unknown quantity of animals

For one head of elk, elk-hybrid, mule deer or white-tailed deer that is harvested from a qualifying herd:

Sample Collection	**$70.00**
Lab Fees	**0.00**
	$70.00 x unknown quantity of animals

IV. ASSUMPTIONS

The total costs may or may not exceed $500 depending on the number of animals requiring chronic wasting disease testing and the effort needed to tag individual animals for enrollment into Missouri's chronic wasting disease monitoring program.

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

PROPOSED AMENDMENT

3 CSR 10-11.180 Hunting, General Provisions and Seasons. The commission proposes to amend sections (4), (5) and (16).

PURPOSE: This amendment modifies hunting provisions on department areas.

(4) Hunting is prohibited on the following department areas:
[(PP) Hinkson Woods Conservation Area]
[(QQ)] **(PP)** Houston Forestry Office
[(RR)] **(QQ)** Hurley Radio Facility
[(SS)] **(RR)** Hurricane Deck Towersite
[(TT)] **(SS)** Jefferson City Radio Facility
[(UU)] **(TT)** Joplin Towersite
[(VV)] **(UU)** Juden Creek Conservation Area
[(WW)] **(VV)** LaPetite Gemme Prairie Conservation Area
[(XX)] **(WW)** Lebanon Forestry Office
[(YY)] **(XX)** Lebanon Towersite
[(ZZ)] **(YY)** Lichen Glade Conservation Area
[(AAA)] **(ZZ)** Limpp Community Lake
[(BBB)] **(AAA)** Lipton Conservation Area
[(CCC)] **(BBB)** Little Osage Prairie
[(DDD)] **(CCC)** Lower Taum Sauk Lake
[(EEE)] **(DDD)** Malta Bend Community Lake
[(FFF)] **(EEE)** Mansfield Shop
[(GGG)] **(FFF)** Maple Flats Access
[(HHH)] **(GGG)** Maple Woods Natural Area
[(III)] **(HHH)** Miller Community Lake
[(JJJ)] **(III)** Mint Spring Conservation Area
[(KKK)] **(JJJ)** Mount Vernon Prairie
*[(LLL)]***(KKK)** Neosho District Office
[(MMM)] **(LLL)** New Madrid Forestry Office
[(NNN)] **(MMM)** Niawathe Prairie Conservation Area
[(OOO)] **(NNN)** Northeast Regional Office
[(PPP)] **(OOO)** Northwest Regional Office
[(QQQ)] **(PPP)** Onyx Cave Conservation Area
[(RRR)] **(QQQ)** Ozark Regional Office
[(SSS)] **(RRR)** Parma Woods Range and Training Center (south portion)
[(TTT)] **(SSS)** Pawhuska Prairie
[UUU) Pawnee Prairie Conservation Area]
(TTT) Pelican Island Natural Area
[(VVV)] **(UUU)** Perry County Community Lake
[(WWW)] **(VVV)** Perryville District Headquarters
[(XXX)] **(WWW)** Pickle Springs Natural Area
[(YYY)] **(XXX)** Pilot Knob Towersite
[(ZZZ)] **(YYY)** Plad Towersite
[(AAAA)] **(ZZZ)** Port Hudson Lake Conservation Area
[(BBBB)] **(AAAA)** Powder Valley Conservation Nature Center
[(CCCC)] **(BBBB)** Ray County Community Lake
[(DDDD)] **(CCCC)** Riverwoods Conservation Area
[(EEEE)] **(DDDD)** Rockwoods Reservation
[(FFFF)] **(EEEE)** Rockwoods Towersite
[(GGGG)] **(FFFF)** Rush Creek Conservation Area
[(HHHH)] **(GGGG)** Saeger Woods Conservation Area
[(IIIII)] **(HHHH)** Salem Maintenance Center
[(JJJJJ)] **(IIIII)** Schnabel Woods
[(KKKK)] **(JJJJ)** F. O. and Leda J. Sears Memorial Wildlife Area
[(LLLL)] **(KKKK)** Sedalia Conservation Service Center
[(MMMM)] **(LLLL)** Shawnee Mac Lakes Conservation Area
[(NNNN)] **(MMMM)** Shepherd of the Hills Fish Hatchery
[(OOOO)] **(NNNN)** Sims Valley Community Lake
[(PPPP)] **(OOOO)** Southeast Regional Office
[(QQQQ)] **(PPPP)** Southwest Regional Office
[(RRRR)] **(QQQQ)** Springfield Conservation Nature Center
[(SSSS)] **(RRRR)** Julian Steyermark Woods Conservation Area
[(TTTT)] **(SSSS)** Thirtyfour Corner Blue Hole
[(UUUU)] **(TTTT)** Tower Rock Natural Area
[(VVVV)] **(UUUU)** Tri-City Community Lake
[(WWWW)] **(VVVV)** Twin Borrow Pits Conservation Area
[(XXXX)] **(WWWW)** Tywappity Community Lake
[(YYYY)] **(XXXX)** Ulman Towersite
[(ZZZZ)] **(YYYY)** Upper Mississippi Conservation Area (Clarksville Refuge)
[(AAAAA)] **(ZZZZ)** Vandalia Community Lake
[(BBBBB)] **(AAAAA)** Wah-Kon-Tah Prairie (portion south of Highway 82)
[(CCCCC)] **(BBBBB)** Wah-Sha-She Prairie
[(DDDDD)] **(CCCCC)** Walnut Woods Conservation Area
[(EEEEE)] **(DDDDD)** Warrenton Forestry Office
[(FFFFF)] **(EEEEE)** Warrenton Towersite
[(GGGGG)] **(FFFFF)** West Central Regional Office
[(HHHHH)] **(GGGGG)** White Alloe Creek Wildcat Conservation Area
[(IIIIII)] **(HHHHH)** Wildcat Glade Natural Area
[(JJJJJ)] **(IIIII)** Walter Woods Conservation Area
[(KKKKK)] **(JJJJJ)** Mark Youngdahl Urban Conservation Area

(5) Firearms firing single projectiles are prohibited on the following department areas:
(E) Gerhild and Graham Brown Memorial Wildlife Area
[(E)] **(F)** Catawissa Conservation Area
[(F)] **(G)** Charity Access
[(G)] **(H)** Crooked Creek Conservation Area
[(H)] **(I)** Cuivre Island Conservation Area (mainland portion)
[(I)] **(J)** Diamond Grove Prairie Conservation Area
[(J)] **(K)** Dorris Creek Prairie Conservation Area
[(K)] **(L)** Dorsett Hill Prairie Conservation Area
[(L)] **(M)** Arthur Dupree Memorial Conservation Area
[(M)] **(N)** Eagle Bluffs Conservation Area
[(N)] **(O)** Peter A. Eck Conservation Area
[(O)] **(P)** Earthquake Hollow Conservation Area
[(P)] **(Q)** Ferguson-Herold Conservation Area
[(Q)] **(R)** Fort Leonard Wood Tower Site
[(R)] **(S)** Larry R. Gale Access
[(S)] **(T)** Grand Bluffs Conservation Area
[(T)] **(U)** Horse Creek Prairie Conservation Area
[(U)] **(V)** Anthony and Beatrice Kendzora Conservation Area
[(V)] **(W)** Liberty Bend Conservation Area
[(W)] **(X)** Little Bean Marsh Conservation Area
[(X)] **(Y)** Little Dixie Lake Conservation Area
[(Y)] **(Z)** Little Prairie Conservation Area
[(Z)] **(AA)** Little River Conservation Area
[(AA)] **(BB)** Caroline Sheridan Logan Memorial Wildlife Area
[(BB)] **(CC)** Lone Jack Lake Conservation Area
[(CC)] **(DD)** Lost Valley Fish Hatchery
[(DD)] **(EE)** Alice Ahart Mansfield Memorial Conservation Area
[(EE)] **(FF)** Marais Temps Clair Conservation Area
[(FF)] **(GG)** Mo-No-I Prairie Conservation Area
[(GG)] **(HH)** Mon-Shon Prairie Conservation Area
[(HH)] **(II)** Pacific Palisades Conservation Area
[(III)] **(JJ)** Guy B. Park Conservation Area
[(JJ)] **(KK)** Parma Woods Range and Training Center (north portion)
[(KK)] **(LL)** Reform Conservation Area
[(LL)] **(MM)** Rocky Barrens Conservation Area
[(MM)] **(NN)** Dr. O. E. and Eloise Sloan Conservation Area
[(NN)] **(OO)** Sunbridge Hills Conservation Area
[(OO)] **(PP)** Tipton Ford Access
[(PP)] **(QQ)** Treaty Line Prairie Conservation Area

[(QQ)] **(RR)** Valley View Glades Natural Area
[(RR)] **(SS)** Archie and Gracie VanDerhoef Memorial State Forest
[*(SS)*] **(TT)** Victoria Glades Conservation Area
[(TT)] **(UU)** Vonaventure Memorial Forest and Wildlife Area
[(UU)] **(VV)** George O. White State Forest Nursery
[(VV)] **(WW)** Wolf Bayou Conservation Area
[(WW)] **(XX)** Young Conservation Area

(16) On August A. Busch Memorial Conservation Area:
(A) Rabbits may be hunted only with shotgun *[from sunrise to 4:30 p.m.,]* from January 1 through February 15. The daily limit is four (4) rabbits.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002. Amended: Filed July 31, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

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

PROPOSED AMENDMENT

3 CSR 10-11.182 Deer Hunting. The commission proposes to amend section (2) of this rule.

PURPOSE: This amendment will allow archery deer hunting only on Hinkson Woods Conservation Area.

(2) Deer may be hunted, under statewide seasons and limits, only by archery methods on the following department areas:
(SS) Hinkson Woods Conservation Area
[(SS)] **(TT)** Hite Prairie Conservation Area
[(TT)] **(UU)** Hornersville Swamp Conservation Area
[(UU)] **(VV)** Horse Creek Prairie Conservation Area
[(VV)] **(WW)** Howell Island Conservation Area
[(WW)] **(XX)** Hyer Woods Conservation Area
[(XX)] **(YY)** Indigo Prairie Conservation Area
[(YY)] **(ZZ)** Jamesport Community Lake
[(ZZ)] **(AAA)** Anthony and Beatrice Kendzora Conservation Area
[(AAA)] **(BBB)** Kessler Memorial Wildlife Area
[(BBB)] **(CCC)** Wilford V. and Anna C. Kneib Memorial Conservation Area
[(CCC)] **(DDD)** Lake Girardeau Conservation Area
[(DDD)] **(EEE)** B. K. Leach Memorial Conservation Area
[(EEE)] **(FFF)** Little Bean Marsh Conservation Area
[(FFF)] **(GGG)** Little Dixie Lake Conservation Area
[(GGG)] **(HHH)** Little Prairie Conservation Area
[(HHH)] **(III)** Little River Conservation Area
[(III)] **(JJJ)** Caroline Sheridan Logan Memorial Wildlife Area
[(JJJ)] **(KKK)** Lon Sanders Canyon Conservation Area
[(KKK)] **(LLL)** Lone Jack Lake Conservation Area
[(LLL)] **(MMM)** Lost Valley Fish Hatchery
[(MMM)] **(NNN)** Alice Ahart Mansfield Conservation Area
[(NNN)] **(OOO)** Merrill Horse Access
[(OOO)] **(PPP)** Mockingbird Hill Access
[(PPP)] **(QQQ)** Monegaw Prairie Conservation Area
[(QQQ)] **(RRR)** Mo-No-I Prairie Conservation Area
[(RRR)] **(SSS)** Mon-Shon Prairie Conservation Area
[(SSS)] **(TTT)** Montrose Conservation Area
[(TTT)] **(UUU)** Mound View Access
[(UUU)] **(VVV)** Nodaway Valley Conservation Area
[(VVV)] **(WWW)** Old Town Access
[(WWW)] **(XXX)** Pacific Palisades Conservation Area
[(XXX)] **(YYY)** Guy B. Park Conservation Area
[(YYY)] **(ZZZ)** Parma Woods Range and Training Center (north portion)
[(ZZZ)] **(AAAA)** Pilot Knob Conservation Area
[(AAAA)] **(BBBB)** Platte Falls Conservation Area
[(BBBB)] **(CCCC)** Prairie Slough Conservation Area
[(CCCC)] **(DDDD)** J. Thad Ray Memorial Wildlife Area
[(DDDD)] **(EEEE)** Redwing Prairie Conservation Area
[(EEEE)] **(FFFF)** Reform Conservation Area
[(FFFF)] **(GGGG)** Rocky Barrens Conservation Area
[(GGGG)] **(HHHH)** Rocky Mount Towersite
[(HHHH)] **(IIII)** Schell-Osage Conservation Area
[(IIII)] **(JJJJ)** Ted Shanks Conservation Area
[(JJJJ)] **(KKKK)** Sky Prairie Conservation Area
[(KKKK)] **(LLLL)** Dr. O.E. and Eloise Sloan Conservation Area
[(LLLL)] **(MMMM)** Sni-A-Bar Conservation Area
[(MMMM)] **(NNNN)** Sterling Price Community Lake
[(NNNN)] **(OOOO)** Sunbridge Hills Conservation Area
[(OOOO)] **(PPPP)** Swift Ditch Access
[(PPPP)] **(QQQQ)** Ten Mile Pond Conservation Area
[(QQQQ)] **(RRRR)** Tipton Ford Access
[(RRRR)] **(SSSS)** Treaty Line Prairie Conservation Area
[(SSSS)] **(TTTT)** Upper Mississippi Conservation Area (Bay Island Unit)
[(TTTT)] **(UUUU)** Upper Mississippi Conservation Area (Dresser Island Unit)
[(UUUU)] **(VVVV)** Valley View Glades Natural Area
[(VVVV)] **(WWWW)** Archie and Gracie Vanderhoef Memorial State Forest
[(WWWW)] **(XXXX)** Victoria Glades Conservation Area
[(XXXX)] **(YYYY)** Vonaventure Memorial Forest and Wildlife Area
[(YYYY)] **(ZZZZ)** Warbler Woods Conservation Area
[(ZZZZ)] **(AAAAA)** Henry Jackson Waters and C. B. Moss Memorial Wildlife Area
[(AAAAA)] **(BBBBB)** George O. White State Forest Nursery
[(BBBBB)] **(CCCCC)** Wolf Bayou Conservation Area
[(CCCCC)] **(DDDDD)** Yellow Creek Conservation Area
[(DDDDD)] **(EEEEE)** Young Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002. Amended: Filed July 31, 2002.

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

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

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

*Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

PROPOSED AMENDMENT

3 CSR 10-12.135 Fishing, Methods. The department proposes to amend section (7) and add a new section (8) and renumber the remaining sections.

PURPOSE: This amendment changes the fishing methods allowed on certain St. Louis City and St. Louis County lakes.

(7) Only flies, artificial lures and soft plastic baits (unscented) may be used from November 1 through January 31 on **the following lakes:**

(A) Kirkwood (Walker Lake)*[,]*
(B) Overland (Wild Acres Park Lake)*[,]*
(C) St. Louis City (Jefferson Lake) *[and]*
(D) St. Louis County (Tilles Park Lake)*[.]*

(8) From November 1 through January 31, not more than one (1) pole and line may be used by one (1) person at any time and the use of natural or scented baits as chum is prohibited on the following lakes:

(A) Ballwin (Vlasis Park Lake)
(B) Ferguson (January-Wabash Park Lake)
(C) Kirkwood (Walker Lake)
(D) Overland (Wild Acres Park Lake)
(E) St. Louis City (Boathouse Lake, Jefferson Lake, O'Fallon Park Lake)
(F) St. Louis County (Suson Park Lakes No. 1, 2, 3, Tilles Park Lake)

[(8)] **(9)** On Mingo National Wildlife Refuge, other fish as designated in 3 CSR 10-6.550 may be taken for personal use by nets and seines from March 15 through September 30. All gear shall be plainly labeled on a durable material with the name and address of the person using the equipment.

[(9)] **(10)** Netting or trapping live bait is prohibited, except that on Concordia (Edwin A. Pape Lake), and Jackson County (Lake Jacomo, Prairie Lee Lake) gizzard shad may be taken with dip net or throw net.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002. Amended: Filed July 31, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

PROPOSED AMENDMENT

3 CSR 10-12.140 Fishing, Daily and Possession Limits. The commission proposes to add two sections (3) and (14) and renumber the remaining sections.

PURPOSE: This increases the daily limit on black bass at Lincoln Lake in Cuivre River State Park and establishes special trout fishing regulations on certain St. Louis City and St. Louis County lakes.

(3) The daily and possession limit for black bass is twelve (12) in the aggregate on Cuivre River State Park (Lincoln Lake).

[(3)] **(4)** The daily limit for bullhead catfish is ten (10) on the following lakes:

(A) Ballwin (New Ballwin Lake, Vlasis Park Lake)
(B) Ferguson (January-Wabash Lake)
(C) St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)
(D) St. Louis County (Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

[(4)] **(5)** The daily limit for carp is four (4) on the following lakes:

(A) Ballwin (New Ballwin Lake, Vlasis Park Lake)
(B) Ferguson (January-Wabash Lake)
(C) St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)
(D) St. Louis County (Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

[(5)] **(6)** The daily limit for channel catfish, blue catfish and flathead catfish in the aggregate is four (4).

[(6)] **(7)** The daily limit for crappie is fifteen (15) on the following lakes:

(A) Ballwin (New Ballwin Lake, Vlasis Park Lake)
(B) Ferguson (January-Wabash Lake)
(C) Kirksville (Hazel Creek Lake)
(D) St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)
(E) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
(F) Springfield City Utilities (Fellows Lake)

[(7)] **(8)** The daily limit for white bass, striped bass and their hybrids in the aggregate is four (4) on Cameron (Reservoir No. 3) and St. Louis County (Creve Coeur Lake).

[(8)] **(9)** The daily limit for gizzard shad for bait on Jackson County (Lake Jacomo, Prairie Lee Lake) and Concordia (Edwin A. Pape Lake) is one hundred fifty (150).

[(9)] **(10)** The daily limit for bluegill is five (5) on University of Missouri (McCredie Lake).

[(10)] **(11)** The daily limit for bluegill is ten (10) on Columbia (Stephens Lake).

[(11)] **(12)** The daily limit for other fish as designated in 3 CSR 10-6.550 is twenty (20) in the aggregate, except on the following lakes where the daily limit in the aggregate is ten (10), and except for those fish included in (3), (4), (8), (9) and (10) of this rule:

(A) Ballwin (New Ballwin Lake, Vlasis Park Lake)
(B) Bridgeton (Kiwanis Lake)
(C) Ferguson (January-Wabash Lake)
(D) Kirkwood (Walker Lake)
(E) Mineral Area College (Quarry Pond)
(F) Overland (Wild Acres Park Lake)
(G) Potosi (Roger Bilderback Lake)
(H) St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)
(I) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
(J) Wentzville (Community Club Lake)

[(12)] **(13)** Trout must be returned to the water unharmed immediately after being caught from November 1 through January 31 on Kirkwood (Walker Lake), Overland (Wild Acres Park Lake), St. Louis City (Jefferson Lake) and St. Louis County (Tilles Park Lake). Trout may not be possessed on these waters during this season.

(14) No person shall continue to fish for any species after having five (5) trout in possession from November 1 through January 31 on the following lakes:

(A) Ballwin (Vlasis Park Lake)
(B) Ferguson (January-Wabash Park Lake)
(C) St. Louis City (Boathouse Lake and O'Fallon Park Lake)
(D) St. Louis City (Suson Park Lakes No. 1, 2, and 3)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002. Amended: Filed July 31, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

PROPOSED AMENDMENT

3 CSR 10-12.145 Fishing, Length Limits. The commission proposes to add subsection (2)(F).

PURPOSE: This amendment liberalizes black bass fishing on Cuivre River State Park.

(2) Black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught, except as follows:

(F) There is no length limit on black bass on Cuivre River State Park (Lincoln Lake).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002. Amended: Filed July 31, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 10—Division of Employment Security
Chapter 3—Unemployment Insurance

PROPOSED AMENDMENT

8 CSR 10-3.010 Registration and Claims in General. The division adds new sections (3) and (4), renumbers and revises section (5), and renumbers the remaining sections.

PURPOSE: This proposed amendment provides clarity to the filing of claims for unemployment benefits under section 288.040, RSMo.

(3) A valid initial, renewed, reopened or weekly claim for benefits for purposes of section 288.040, RSMo, is one filed with the division in the prescribed manner from an originating point within the geographical area of a state or contiguous country participating under the Interstate Benefit Payment Plan.

(4) A valid initial or weekly claim for benefits for purposes of section 288.040, RSMo, may include a claim filed under a Social Security number not assigned by the Social Security Administration to the claimant providing the claimant's failure to file under his/her correct number was not a willful misrepresentation or willful failure to disclose his/her correct number.

[(3)] **(5)** A valid claim for benefits, for purposes of section 288.040, RSMo, *[is one filed with the division in the prescribed manner, which]* may include electronic methods, properly completed, signed by the claimant if necessary, filed within twenty-eight (28) calendar days after the last day of the most recent week claimed or the last day of the week in which an initial, renewed or reopened claim was filed and for which all reporting requirements have been met.

[(4)] **(6)** In order to claim waiting week credit or benefits for a week the claimant must file an otherwise valid claim within twenty-eight (28) calendar days after the end of the week being claimed. The twenty-eight (28)*[-]*calendar day period may be extended for good cause. If good cause is not found, the claimant's claim for that week shall not constitute a valid claim for benefits under section 288.040, RSMo.

[(5)] **(7)** If during a benefit year a claimant does not file a claim for benefits, within twenty-eight (28) calendar days after the end of the last week claimed (or the end of the last week in which an initial, renewed or reopened claim was filed), the claimant must file a renewed claim if the claimant has had intervening employment or a reopened claim if the claimant has not. The twenty-eight (28)*[-]*calendar day period may be extended for good cause. If good cause is not found, the claimant's claims for benefits for the period from the most recent week claimed (prior to the renewing/reopening of the claim) through the week ending just prior to the renewing or reopening of the claim shall not constitute valid claims for benefits under section 288.040, RSMo.

[(6)] **(8)** A benefit week under this rule begins on Sunday and ends on Saturday, except that a claimant who has been filing claims under 8 CSR 10-3.020 or 8 CSR 10-3.040 shall use the same type of weekly period for further claims in the same series.

[(7)] **(9)** A week of unemployment beginning in a benefit year shall be treated as having occurred wholly in that benefit year.

[(8)] **(10)** A claimant must report to an employment office as defined under section 288.030(16), RSMo, unless the claimant is ill or employed, or for good cause shown.

[(9)] **(11)** A claimant shall be held ineligible to receive benefits if the claimant fails to comply with this regulation and will remain ineligible until the noncompliance has ceased.

[(10)] **(12)** For the purpose of 8 CSR 10-3, good cause shall be only those circumstances which are beyond the reasonable control of the claimant and then only if the claimant acts as soon as practical.

*AUTHORITY: sections 288.040, 288.070, 288.220.5, RSMo [Supp. 1997] **2000**. For intervening history, please consult the **Code of State Regulations**. Amended: Filed July 16, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Employment Security, Attn: Gracia Y. Backer, Director, PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance Abuse Programs

PROPOSED AMENDMENT

9 CSR 10-7.020 Rights, Responsibilities, and Grievances. The department proposes to add a new section (9).

PURPOSE: This amendment updates and clarifies the requirements for reporting the death of a client.

(9) All certified agencies must report to the Department of Mental Health (DMH) within twenty-four (24) hours the death of any client receiving services. DMH report form 9719 shall be completed and faxed to the appropriate division director.

AUTHORITY: sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed Dec. 12, 2001, effective June 30, 2002. Amended: Filed July 29, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 3—Alcohol and Drug Abuse Programs

PROPOSED AMENDMENT

9 CSR 30-3.100 Service Delivery Process and Documentation. The department proposes to add a new section (8), and renumber remaining sections accordingly.

PURPOSE: This amendment provides exclusionary criteria for those programs certified under 9 CSR 30-3.120 through 9 CSR 30-3.199.

(8) Exclusionary Criteria. In order to be eligible for substance abuse treatment services, a person must not have a condition or behaviors that are beyond the capacity of the program to safely and effectively manage.

(A) Acute physical illness, uncontrolled psychiatric disorders, severe cognitive impairment, and physical aggression are examples of conditions that may disqualify persons from admission if such conditions preclude active participation in treatment or threaten the safety of staff and other persons in treatment.

(B) However, a person shall not be denied admission solely because of taking psychotropic medications as prescribed or ordered, including methadone and other opioid agonists.

(C) Persons who are denied admission must be given information about treatment options that are appropriate for their conditions.

[(8)] **(9)** Transportation and Supports. Transportation shall be provided or arranged by the program to promote participation in treatment and rehabilitation services and to access other resources and supports in the community. Supports that are funded by the department (such as housing or child care) shall meet contractual and other applicable regulatory requirements.

[(9)] **(10)** Program Schedule. A current schedule of groups and other structured program activities shall be maintained.

(A) Each person shall actively participate in the program schedule, with individualized scheduling and services based on the person's treatment goals, level of care, and physical, mental, and emotional status.

(B) Group sessions shall address therapeutic issues relevant to the needs of persons served. Some of these scheduled group sessions may not be applicable to or appropriate for all persons and should be attended by each individual on a designated or selective basis. Examples of designated or selective groups may include parenting, budgeting, anger management, domestic violence, co-occurring disorders, relapse intervention track, etc.

[(10)] **(11)** Therapeutic Setting. Services shall be provided in a therapeutic, alcohol- and drug-free setting.

(A) Productive, meaningful, age-appropriate alternatives to substance use shall be encouraged for each individual.

(B) Any incident of client use of alcohol or drugs shall be documented in the client's record.

(C) An incident of possession or use of alcohol or drugs may result in termination from the program, particularly in residential settings.

(D) Repeated incidents of possession or use shall result in termination from the program.

(E) The program shall not allow gambling or wagering on its premises or as part of its activities.

[(11)] **(12)** Drug Testing. The program should conduct tests to determine and detect a client's use of alcohol and drugs. The program shall identify its goals, policies and procedures regarding drug testing.

(A) The program shall implement written policies and procedures regarding the collection and handling of specimens. Urine or other specimens shall be collected in a manner that communicates respect for persons served while taking reasonable steps to prevent falsification of samples.

(B) A laboratory which analyzes specimens shall meet all applicable state and federal laws and regulations.

(C) The program shall implement written policies and procedures outlining the interpretation of results and actions to be taken when the presence of alcohol and/or drugs has been determined.

(D) Test results shall be addressed with persons served once the results are available, in order to intervene with substance use behavior. Test results and actions taken shall be documented in the client's record.

[(12)] **(13)** A qualified diagnostician as defined under section (7) of this rule shall approve the treatment plan.

[(13)] **(14)** Reviewing Treatment Goals and Outcomes. The individual treatment plan shall be reviewed on a periodic basis and shall accurately reflect the person's needs and goals. Persons who receive services funded by the department or through a service network authorized by the department shall participate in continuing reviews of their progress and outcomes and updates of their plans within the following time frames:

(A) Ten (10) days for residential treatment and community-based primary treatment;

(B) Thirty (30) days for intensive outpatient rehabilitation;

(C) Ninety (90) days for other levels of care.

[(14)] **(15)** Clinical Utilization Review. Services are subject to clinical utilization review when funded by the department or provided through a service network authorized by the department. Clinical utilization review shall promote the delivery of services that are necessary, appropriate, likely to benefit the client, and provided in accordance with admission criteria and service definitions.

(A) The department shall have authority in all matters subject to clinical utilization review including client eligibility and service definition, authorization, and limitations.

(B) Any service matrix or package that is developed by the department or its authorized representative shall include input from service providers.

(C) Clinical utilization review shall include, but is not limited to, the following situations regarding an individual client:

1. Length of stay beyond any specified maximum time period;

2. Service authorization beyond any specified maximum amount or cost;

3. Admission of adolescents into adult programs; and

4. Unusual patterns of service or utilization, based on periodic data analysis and norms compiled by the division.

(D) Clinical utilization review may be required of any client's situation and needs prior to initial or continued service authorization.

(E) The need for clinical utilization review may be identified and initiated by a provider, an individual client, or by the department.

(F) Clinical utilization review may include, but is not limited to, the following situations regarding a program:

1. Unusual patterns of service or utilization, based on periodic data analysis and norms compiled by the division regarding the utilization of particular services and total service costs; and

2. Compliance issues related to certification standards or contract requirements that can reasonably be monitored through clinical review.

[(15)] **(16)** Credentialed Staff. Clinical utilization review shall be conducted by credentialed staff with relevant professional experience.

[(16)] **(17)** Procedures for Clinical Utilization Review. Procedures shall be made available to all affected programs and services.

(A) Reviews shall be completed in a timely manner not to exceed three (3) working days from the time a request is received.

(B) To the extent feasible, a review request from a provider shall be made prior to the delivery of services.

1. No request made more than ninety (90) days after service provision shall be accepted or authorized by the department.

2. The provider is fully responsible for sending all pertinent information and documentation related to a clinical utilization review request.

(C) It is the responsibility of the provider to request a review regarding the appropriateness of admission and treatment services, if a provider considers a client to meet some but not all admission criteria or if any reasonable question may exist or be raised about client eligibility for services.

(D) The department may require or initiate clinical utilization review of any situation related to client eligibility.

(E) Service authorization for a client may be continued, increased, reduced, or discontinued in accordance with a clinical utilization review decision.

(F) When a review determines that services have been inappropriate, unnecessary, or delivered to a client who does not meet eligibility and admission criteria, all service authorization for the client may be discontinued and any other necessary action may be taken.

(G) The department shall establish procedures for the review and appeal of an adverse clinical utilization review action. The provider may deliver services to the client during a review or appeal period, with the understanding that such services may not be authorized or funded. A provider or client may—

1. Request further review of an adverse action. The request must be in writing, identify the clinical factors warranting further

review, and be received or postmarked within fifteen (15) days of the initial clinical utilization review action; and

2. Appeal any clinical utilization review decision to discontinue all service authorization for the client.

A. The appeal must be in writing, identify the reason for the appeal, and be received or postmarked within thirty (30) days of receiving notice that service authorization has been discontinued.

B. The department shall designate an Appeal Panel to make a final determination in the matter. The panel shall include one (1) or more representatives who are not staff members of the department and shall include at least one (1) member who is a substance abuse treatment provider.

C. Unless otherwise determined by the panel, its final decision shall be based on information available at the time of the initial clinical utilization review action.

AUTHORITY: sections 630.050, 630.655 and 631.010, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed July 29, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 3—Alcohol and Drug Abuse Programs

PROPOSED AMENDMENT

9 CSR 30-3.130 Outpatient Treatment. The department proposes to amend subsection (4)(C), paragraph (4)(C)1., add a new paragraph (4)(C)2., and renumber remaining paragraphs accordingly.

PURPOSE: This amendment reduces the number of required hours of participation at the community-based treatment level of care.

(4) Community-Based Primary Treatment. This level of care is the most structured, intensive, and short-term service delivery option. Structured services shall be offered at least five (5) days per week and should approximate the service intensity of residential treatment.

(C) The program shall offer *[at least forty (40) hours of service per]* **an intensive array of services each** week.

1. Each person shall *[be expected to]* participate in at least *[forty (40)]* **twenty-five (25)** hours of service per week, unless contraindicated by the individual's medical, emotional, legal, and/or family circumstances**, and unless residential support is provided**.

2. Where residential support is provided, each person shall be offered additional structured therapeutic activities in accordance with residential treatment standards.

[2.] **3.** Each person shall participate in at least one (1) hour per week of individual counseling. Additional individual counseling shall be provided, in accordance with the individual's needs.

[3.] **4.** For community-based primary treatment that is funded by the department or provided through a service network authorized by the department, day treatment may be specified as the applicable service for this level of care.

AUTHORITY: sections 630.050, 630.655 and 631.010, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed July 29, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 3—Alcohol and Drug Abuse Program

PROPOSED AMENDMENT

9 CSR 30-3.192 Specialized Program for Adolescents. The department proposes to amend section (12).

PURPOSE: This amendment is to ensure gender-appropriate staffing patterns in adolescent residential support facilities.

(12) If the adolescent residential support facility serves a coed population, the staffing pattern shall include at least one (1) female and one (1) male staff member *[at]* any time residents are present. **If residential support is provided for girls only, a female staff member must be present at all times. If residential support is provided for boys only, a male staff member must be present at all times.**

AUTHORITY: sections 630.050, 630.655 and 631.010, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2002. Amended: Filed July 29, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, 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 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.010 Definitions. The department proposes to amend subsection (2)(G).

PURPOSE: This amendment will require physicians to be board certified or board eligible in psychiatry, and will recognize experience in substance abuse treatment as qualifying for a psychiatric nurse, and will allow a master's degree in psychiatric nursing to substitute for experience.

(2) Unless the context clearly requires otherwise, the following terms as used in this chapter shall mean—

(G) Mental health professionals, one (1) of the following:

1. A professional counselor licensed under Missouri state law to practice counseling;

2. An individual possessing a master's or doctorate degree in counseling, psychology, family therapy or related field, with one (1) year's experience, under supervision, in treating problems related to mental illness;

3. A pastoral counselor with a degree equivalent to the Master of Science Degree in Divinity from an accredited program with specialized training in mental health services. One (1) year of experience, under supervision, in treating problems related to mental illness may be substituted for specialized training;

[4. A physician licensed under Missouri state law to practice medicine or osteopathy and with specialized training in mental health services. One (1) year of experience, under supervision, in treating problems related to mental illness may be substituted for specialized training;]

[5.] **4.** A *[psychiatrist that is a licensed physician, who in addition,]* **licensed physician who is board certified or board eligible in psychiatry** has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

[6.] **5.** A psychologist licensed under Missouri state law to practice psychology;

[7.] **6.** A psychiatric nurse *[that is a registered professional nurse who is licensed]***, a registered professional nurse licensed** under Chapter 335, RSMo *[and who has had]* **with** at least two (2) years of experience *[as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders]* **in a psychiatric or substance abuse treatment setting, or a master's degree in psychiatric nursing;** and

[8.] **7.** A social worker with a master's degree in social work from an accredited program and with specialized training in mental health services. One (1) year of experience, under supervision, may be substituted for training;

AUTHORITY: sections 630.050 and 630.655, RSMo 2000. Original rule filed June 14, 1985, effective Dec. 1, 1985. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.030 Certification Standards Definitions. The department proposes to amend subsections (2)(C) and (HH).

PURPOSE: This amendment will require physicians to be board certified or board eligible in psychiatry, and will recognized experience in substance abuse treatment as qualifying for a psychiatric nurse, and will allow a master's degree in psychiatric nursing to substitute for experience. The amendment will also require an advanced practice nurse to have specialized training in mental health.

(2) As used in 9 CSR 30-4.031–9 CSR 30-4.047, unless the context clearly indicates otherwise, the following terms shall mean:

(C) Advance practice nurse—as set forth in section 335.011, RSMo, a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing*[;]* **and has specialized training in mental health;**

(HH) Mental health professional—any of the following:

[1. A physician licensed under Missouri law to practice medicine or osteopathy and with training in mental health services or one (1) year of experience, under supervision, in treating problems related to mental illness or specialized training;]

[2.] **1.** A *[psychiatrist, a physician licensed under Missouri law who has]* **licensed physician who is board certified or board eligible in psychiatry** successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program identified as equivalent by the department;

[3.] **2.** A psychologist licensed under Missouri law to practice psychology with specialized training in mental health services;

[4.] **3.** A professional counselor licensed under Missouri law to practice counseling and with specialized training in mental health services;

[5.] **4.** A clinical social worker licensed under Missouri law with a master's degree in social work from an accredited program and with specialized training in mental health services;

[6.] **5.** A psychiatric nurse, a registered professional nurse licensed under Chapter 335, RSMo with at least two (2) years of experience in a psychiatric **or substance abuse treatment** setting or a master's degree in psychiatric nursing;

[7.] **6.** An individual possessing a master's or doctorate degree in counseling and guidance, rehabilitation counseling and guidance, rehabilitation counseling, vocational counseling, psychology, pastoral counseling or family therapy or related field who has successfully completed a practicum or has one (1) year of experience under the supervision of a mental health professional;

[8.] **7.** An occupational therapist certified by the American Occupational Therapy Certification Board, registered in Missouri, has a bachelor's degree and has completed a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting, or has a master's degree and has completed either a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting;

[9.] **8.** An advanced practice nurse—as set forth in section 335.011, RSMo, a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty **in mental health**, or who meets criteria for advanced practice nurses established by the board of nursing*[;]* and **has specialized training in mental health; and**

[10.] **9.** A psychiatric pharmacist as defined in 9 CSR 30-4.030;

AUTHORITY: sections 630.050, 630.055 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.034 Personnel and Staff Development. The department proposes to amend section (2).

PURPOSE: This amendment requires a psychiatrist rather than a physician to perform evaluations, consultations and to sign the treatment plan. The amendment also allows an advanced practice nurse to substitute for a psychiatrist in certain situations, finally, the amendment allows experience in psychiatric and substance abuse treatment to be substituted as equivalent experience.

(2) Only qualified professionals shall provide community psychiatric rehabilitation (CPR) services. Qualified professionals for each service shall include:

(A) For intake/annual evaluations, an evaluation team consisting of, at least, a *[physician]* **psychiatrist**, one (1) other mental health professional, as defined in 9 CSR 30-4.030, and including, for the annual evaluation, the community support worker assigned to each client*[;]*. **Advanced practice nurse may substitute for the psychiatrist if that individual is providing medication management services to the client;**

(B) For brief evaluation, an evaluation team consisting of at least, a *[physician]* **psychiatrist** and one (1) other mental health professional, as defined in 9 CSR 30-4.030;

(C) For treatment planning, a team consisting of at least a *[physician]* **psychiatrist**, one (1) other mental health professional as defined in 9 CSR 30-4.030 and the client's community support worker;

(E) For medication services, a *[physician,]* psychiatrist, psychiatric pharmacist or advanced practice nurse as defined in 9 CSR 30-4.030;

(H) For community support:

1. A mental health professional or an individual with a bachelor's degree in social work, psychology, nursing or a related field, supervised by a psychologist, professional counselor, clinical social worker, psychiatric nurse or individual with an equivalent degree as defined in 9 CSR 30-4.030. Equivalent experience **in psychiatric and/or substance abuse treatment** may be substituted on the basis of one (1) year of experience for each year of required educational training; or

2. A community support assistant with a high school diploma or equivalent and applicable training required by the department, supervised by a qualified mental health professional as defined in 9 CSR 30-4.030. A community support assistant may receive assignments and direction from a community support worker; and

(I) For consultation services, a *[physician]* **psychiatrist**, a psychiatric pharmacist or advanced practice nurse as defined in 9 CSR 30-4.030.

AUTHORITY: sections 630.050, 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.035 Client Records of a Community Psychiatric Rehabilitation Program. The department proposes to amend sections (3), (5), and (14).

PURPOSE: This amendment requires a psychiatrist rather than a physician to perform consultations and to sign the treatment plan. The amendment also allows an advanced practice nurse to perform consultations under special circumstances.

(3) At intake, each CPR provider shall compile in a format acceptable to the department, and file in the client record an evaluation which shall include:

(J) Consultation between a *[physician]* **psychiatrist** and the psychologist or other mental health professional(s) conducting the psychosocial/clinical evaluation addressing the client's need and the appropriateness of outpatient rehabilitation. Consultation may be performed by an advanced practice nurse if that individual is providing medication management services to the client; and

(5) A *[physician]* **psychiatrist** shall approve the treatment plan. A licensed psychologist may approve the treatment plan only in instances when the client is currently receiving no prescribed medications and the clinical recommendations do not include a need for prescribed medications. An advanced practice nurse may approve the treatment plan if that individual is providing medication management services to the client.

(14) CPR program staff shall conduct or arrange for periodic evaluations for each client. Clients in the rehabilitation and intensive levels of care shall have annual evaluations completed. The evaluation shall be in a format approved by the department and shall include:

(K) Consultation between a *[physician]* **psychiatrist** and/or psychologist and the mental health professional(s) conducting the psychosocial/clinical evaluation addressing the client's need and appropriateness for continued outpatient rehabilitation. **Consultation may be performed by an advanced practice nurse if that individual is providing medication management services to the client.**

AUTHORITY: section 630.655, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.039 Service Provision. The department proposes to amend section (2).

PURPOSE: This amendment requires a psychiatrist rather than a physician to provide medication services.

(2) The CPR provider shall provide a community psychiatric rehabilitation program, either directly or through contractual agreement, to include, at a minimum, the following core services: intake/annual evaluation, as designated, crisis intervention and resolution, medication services, medication administration, community support and psychosocial rehabilitation.

(A) The CPR provider shall provide a timely access to and reasonable level of services for those clients found to be eligible for treatment, according to the admission criteria set forth in 9 CSR 30-4.042.

1. Intake/annual evaluation—CPR provider staff shall complete, or arrange to have completed, all annual evaluations within thirty (30) days following the anniversary date of the client's intake evaluation or last annual evaluation.

2. Crisis intervention and resolution—shall be available upon demand on a twenty-four (24)-hour basis.

3. Medication services—*[a physician,]* psychiatrist or an advanced practice nurse shall see all clients requiring medication within ten (10) working days or sooner if clinically indicated of request for service.

4. Community support—the CPR provider shall assign all clients requiring community support services to a community support worker's caseload no later than ten (10) working days, or sooner if clinically indicated, of eligibility determination. The worker shall conduct an initial face-to-face contact as clinically appropriate but no later than five (5) working days of receiving the assignment.

5. Psychosocial rehabilitation—the CPR provider shall admit all clients requiring psychosocial rehabilitation services to a psychosocial rehabilitation program if adequate program capacity allows, within twenty (20) working days or sooner if clinically indicated of eligibility determination.

6. Transportation—the CPR provider shall provide or arrange for transportation for clients as deemed clinically and programmatically necessary to attend the psychosocial rehabilitation program and to receive medication services.

AUTHORITY: sections 630.050, 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.041 Medication Procedures at Community Psychiatric Rehabilitation Programs. The department proposes to amend sections (3) and (5) and make a section (6) out of material that was formerly in section (5).

PURPOSE: This amendment requires a psychiatrist rather than a physician to review and evaluate medications and corrects a reference to incorporated by reference material.

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

(3) A *[physician]* **psychiatrist** shall review and evaluate medications at least every six (6) months, except as specified in the client's individualized treatment plan. Face-to-face contact with the client and review of relevant documentation in the client record, such as progress notes and treatment plan reviews, shall constitute the review and evaluation.

(5) The following *[publications and]* forms are included herein:

[(A) United States Pharmacopeia Standards;]

[(B)] **(A)** Form number MO 650-6250; and

[(C)] **(B)** Form number MO 650-1485.

(6) The following publication is incorporated by reference:

(A) *United States Pharmacopeia* Standards.

AUTHORITY: section 630.655, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. Amended: Filed Dec. 13, 1994, effective July 30, 1995. Amended: Filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed July 31, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.042 Admission Criteria. The department proposes to amend section (4).

PURPOSE: This amendment requires a psychiatrist rather than a physician to certify diagnoses.

(4) The criteria for admission to community psychiatric rehabilitation program services shall include:

(B) Diagnosis. A *[physician]* **psychiatrist** or licensed psychologist shall certify a primary *Diagnostic and Statistical Manual* (DSM) diagnosis or *International Classification of Diseases, Ninth Revision with Clinical Modification* (ICD-9-CM), using the current edition of the manual. This diagnosis may coexist with other psychiatric diagnoses in Axis I or other areas.

1. Schizophrenia.
   A. Disorganized.
      (I) DSM IV code: 295.1X
      (II) ICD-9-CM code: 295.1X
   B. Catatonic.
      (I) DSM IV code: 295.2X
      (II) ICD-9-CM code: 295.2X
   C. Paranoid.
      (I) DSM IV code: 295.3X
      (II) ICD-9-CM code: 295.3X
   D. Schizophreniform.
      (I) DSM IV code: 295.4X
      (II) ICD-9-CM code: 295.4X
   E. Residual.
      (I) DSM IV code: 295.6X
      (II) ICD-9-CM code: 295.6X
   F. Schizoaffective.
      (I) DSM IV code: 295.7X
      (II) ICD-9-CM code: 295.7X
   G. Undifferentiated.
      (I) DSM IV code: 295.9X
      (II) ICD-9-CM code: 295.9X
2. Delusional disorder.
   A. DSM IV code: 297.1X
   B. ICD-9-CM code: 297.1X
3. Bipolar I disorders.
   A. Single manic episode.
      (I) DSM IV code: 296.0X
      (II) ICD-9-CM code: 296.0X
   B. Most recent episode manic.
      (I) DSM IV code: 296.4X
      (II) ICD-9-CM code: 296.4X
   C. Most recent episode depressed.
      (I) DSM IV code: 296.5X
      (II) ICD-9-CM code: 296.5X
   D. Most recent episode mixed.
      (I) DSM IV code: 296.6X
      (II) ICD-9-CM code: 296.6X
4. Bipolar II disorders.
   A. DSM IV code: 296.89
   B. ICD-9-CM code: 296.89
5. Psychotic disorders NOS.
   A. DSM IV code: 298.9
   B. ICD-9-CM code: 298.9
6. Major depressive disorder-recur.
   A. DSM IV code: 296.3X
   B. ICD-9-CM code: 296.3X
7. Obsessive-Compulsive Disorder.
   A. DSM IV code: 300.30
   B. ICD-9-CM code: 300.3
8. Post Traumatic Stress Disorder.
   A. DSM IV code: 309.81
   B. ICD-9-CM code: 309.81
9. Borderline Personality Disorder.
   A. DSM IV code: 301.83
   B. ICD-9-CM code: 301.83
10. Anxiety Disorders.
   A. Generalized Anxiety Disorder.
      (I) DSM IV code: 300.02
      (II) ICD-9-CM code: 300.02
   B. Panic Disorder with Agoraphobia.
      (I) DSM IV code: 300.21
      (II) ICD-9-CM code: 300.21
   C. Panic Disorder without Agoraphobia.
      (I) DSM IV code: 300.01
      (II) ICD-9-CM code: 300.01
   D. Agoraphobia without Panic Disorder.
      (I) DSM IV code: 300.22
      (II) ICD-9-CM code: 300.22
   E. Social Phobia.
      (I) DSM IV code: 300.23
      (II) ICD-9-CM code: 300.23

*AUTHORITY: sections 630.050, 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the **Code of State Regulations**. Amended: Filed July 31, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.043 Treatment Provided by Community Psychiatric Rehabilitation Programs. The department proposes to amend subsection (2)(C).

PURPOSE: This amendment requires a psychiatrist rather than a physician to provide consultation services.

(2) The CPR provider shall provide the following community psychiatric rehabilitation services to eligible clients, as prescribed by individualized treatment plans:

(C) Consultation services, a service provided by a *[physician]* **psychiatrist**, an advanced practice nurse, or a psychiatric pharmacist and consisting of a review of a client's current medical situation either through consultation with one (1) staff person or in team discussions related to the specific client. The intent is to provide direction to treatment. This is an optional service which may not substitute for supervision nor for face-to-face intervention with clients;

AUTHORITY: sections 630.050, 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 31, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Attn: Julie Carel, Division of Comprehensive Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

PROPOSED AMENDMENT

10 CSR 10-5.170 Control of Odors From Processing of Animal Matter. The commission proposes to amend section (4). If the commission adopts this rule action, it will be the department's intention not to submit this rule action to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan because there is no equivalent federal rule.

PURPOSE: The purpose of this amendment is to eliminate confusion in the rule and allow its consistent enforcement. The evidence supporting this proposed rulemaking, per section 536.016, RSMo is the December 4, 2001 telephone record identifying the erroneous reference callout. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

(4) Enclosure of Building May Be Required. Whenever dust, fumes, gases, mist, odorous matter, vapors or any combination thereof escape from a building used for processing of animal matter in a manner and amount as to cause a violation of *[10 CSR 10-5.060]* **10 CSR 10-5.160**, the director may order that the building(s) in which processing, handling and storage are done be tightly closed and ventilated in a way that all air and gases and air or gas-borne material leaving the building are treated by incineration or other effective means for removal or destruction of odorous matter or other air contaminants before discharge into the open air.

*AUTHORITY: section 643.050, RSMo [1994] **2000**. Original rule filed March 14, 1967, effective March 24, 1967. Amended: Filed July 19, 2002.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m, October 24, 2002. The public hearing will be held at the Traveler's Inn Christian Bed and Breakfast, Ballroom, 301 W. Washington, Kirksville, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 31, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

PROPOSED AMENDMENT

10 CSR 10-6.065 Operating Permits. The commission proposes to amend subsections (1)(D), (6)(C), and (6)(E). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

PURPOSE: This amendment addresses deficiencies in Missouri's Title V program identified by the Sierra Club and the U.S. Environmental Protection Agency (EPA). Failure to adopt these amendments may cause the EPA to withdraw Missouri's Title V program. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is a ***Federal Register*** *Notice of Deficiency, the Sierra Club letter to the EPA dated March 9, 2001 and the Missouri Department of Natural Resources' letter to the EPA dated October 12, 2001. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.*

(1) Definitions.

(D) Part 70 installations are installations to which the Part 70 operating permit requirements of this rule apply, in accordance with the following criteria:

1. They emit or have the potential to emit, in the aggregate, ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, or twenty-five (25) tpy or more of any combination of these hazardous air pollutants or such lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not these units are in a contiguous area or under common control, to determine whether these units or stations are subject installations. For sources of radionuclides, the criteria shall be established by the administrator;

2. They emit or have the potential to emit one hundred (100) tpy or more of any air pollutant, including all fugitive air pollutants. The term "air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the staff director has identified such precursor(s) for the particular purpose for which the term "air pollutant" is used. The fugitive emissions of an installation shall not be considered unless the installation belongs to one of the source categories listed in 10 CSR 10-6.020(3)(B), Table 2;

3. *[They emit or have the potential to emit, in ozone nonattainment areas, one hundred (100) tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate, fifty (50) tpy or more in areas classified as serious, twenty-five (25) tpy or more in areas classified as severe, and ten (10) tpy or more in areas classified as extreme. The references in this paragraph to one hundred (100), fifty (50), twenty-five (25) and ten (10) tpy of nitrogen oxides shall not apply to any source the administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;]* **They are located in nonattainment areas or ozone transport regions.**

A. For ozone nonattainment areas, sources with the potential to emit one hundred (100) tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," fifty (50) tpy or more in areas classified as "serious," twenty-five (25) tpy or more in areas classified as "severe," and ten (10) tpy or more in areas classified as "extreme"; except that the references in this paragraph to one hundred (100), fifty (50), twenty-five (25) and ten (10) tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

B. For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit fifty (50) tpy or more of volatile organic compounds;

C. For carbon monoxide nonattainment areas that are classified as "serious," and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit fifty (50) tpy or more of carbon monoxide; and

D. For particulate matter less than ten (10) micrometers (PM_{10}) nonattainment areas classified as "serious," sources with the potential to emit seventy (70) tpy or more of PM_{10};

4. They are affected sources under Title IV of the 1990 Act;

5. They are solid waste incinerators subject to section 129(e) of the Act;

6. Any installation in a source category designated by the administrator as a Part 70 source pursuant to 40 CFR 70.3; and

7. Installations that would be Part 70 sources strictly due to the following criteria are not subject to Part 70 source requirements until the administrator subjects this installation to these requirements by rule:

A. They are subject to a standard, limitation or other requirement under section 111 of the Act, including area sources; or

B. They are subject to a standard or other requirement under section 112 of the Act, except that a source, including an area source, is not required to obtain a permit solely because it is subject to rules or requirements under section 112(r) of the Act.

(6) Part 70 Operating Permits.

(C) Permit Content.

1. Standard permit requirements. Every operating permit issued pursuant to this section (6) shall contain all requirements applicable to the installation at the time of issuance.

A. Emissions limitations and standards. The permit shall specify emissions limitations or standards applicable to the installation, and shall include those operational requirements or limitations as necessary to assure compliance with all applicable requirements.

(I) The permit shall specify and reference the origin of and authority for each term or condition and shall identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(II) The permit shall state that, where an applicable requirement is more stringent than an applicable requirement of rules promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

(III) If the implementation plan or other applicable requirement allows an installation to comply through an alternative emissions limit or means of compliance and the applicant requests that this alternative limit or means of compliance be specified in the permit, the permitting authority may include this alternative emissions limit or means of compliance in an installation's permit upon demonstrating that it is quantifiable, accountable, enforceable and based on replicable procedures.

B. Permit duration. The permitting authority shall issue permits for five (5) years. The permit term shall commence on the date of issuance or, when applicable, the date of validation.

C. Monitoring and related record keeping and reporting requirements.

(I) The permit shall contain the following requirements with respect to monitoring:

(a) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated by the administrator pursuant to sections 114(a)(3) or 504(b) of the Act;

(b) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), then periodic monitoring sufficient to yield reliable data for the relevant time period that are representative of the installation's compliance with the permit, as reported pursuant to part (6)(C)1.C.(III) of this rule. These monitoring requirements shall assure the use of terms, test methods, units, averaging periods and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of this paragraph; and

(c) As necessary, requirements concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods.

(II) With respect to record keeping, the permit shall incorporate all applicable record keeping requirements and require, where applicable, the following:

(a) Records of required monitoring information that include the following:

I. The date, place as defined in the permit, and time of sampling or measurements;

II. The date(s) analyses were performed;

III. The company or entity that performed the analyses;

IV. The analytical techniques or methods used;

V. The results of these analyses; and

VI. The operating conditions as existing at the time of sampling or measurement;

(b) Retention of records.

I. Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Support information includes all calibration and maintenance records and all original strip-chart recordings when used for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

II. Affected sources under Title IV of the Act will have a three (3)-year monitoring data record retention period as required in 40 CFR part 75.

(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(a) A permit issued under these rules shall require the permittee to submit a report of any required monitoring every six (6) months. To the extent possible, the schedule for submission of these reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification;

(b) Each report submitted under subpart (6)(C)1.C.(III)(a) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, record keeping and reporting requirements of the permit;

(c) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as indicated here. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken.

I. Notice of any deviation resulting from an emergency (or upset) condition as defined in paragraph (6)(C)7. of this rule shall be submitted to the permitting authority either verbally or in writing within two (2) working days after the date on which the emission limitation is exceeded due to the emergency, if the permittee wishes to assert an affirmative defense. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that indicate an emergency occurred and the permittee can identify the cause(s) of the emergency. The permitted facility must show that it was operated properly at the time and that during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or requirements in the permit. The notice must contain a description of the emergency, steps taken to mitigate emissions, and the corrective actions taken.

II. Any deviation that poses an imminent and substantial danger to public health, safety or the environment shall be reported as soon as practicable.

III. Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit;

(d) Every report submitted shall be certified by a responsible official, except that, if a report of a deviation must be submitted within ten (10) days after the deviation, the report may be submitted without a certification if the report is resubmitted with an appropriate certification within ten (10) days after that, together with any corrected or supplemental information required concerning the deviation; and

(e) A permittee may request confidential treatment of information submitted in any report of deviation.

D. Risk management plans. If the installation is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit is required to specify only that the permittee will verify that they have complied with the requirement to register such a plan. The contents of the risk management plan itself need not be incorporated as a permit term.

E. Emissions exceeding Title IV allowances. Where applicable, the permit shall prohibit emissions exceeding any allowances that the installation lawfully holds under Title IV of the Act or rules promulgated thereunder.

(I) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program if the increases do not require a permit revision under any other applicable requirement.

(II) No limit shall be placed on the number of allowances that may be held by an installation. The installation may not use these allowances, however, as a defense for noncompliance with any other applicable requirement.

(III) Any of these allowances shall be accounted for according to procedures established in rules promulgated under Title IV of the Act.

F. Severability clause. The permit shall include a severability clause to ensure the continued validity of uncontested permit conditions in the event of a successful challenge to any contested portion of the permit.

G. General requirements.

(I) The permittee must comply with all the terms and conditions of the permit. Any noncompliance with a permit condition constitutes a violation and is grounds for enforcement action, for permit termination, permit revocation and reissuance, permit modification or denial of a permit renewal application. Note: The grounds for termination of a permit under part (6)(C)1.G.(I) are the same as the grounds for revocation as stated in part (6)(E)8.A.(I).

(II) It shall not be a defense in an enforcement action that it would have been necessary for the permittee to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(III) The permit may be modified, revoked, reopened, reissued or terminated for cause. Except as provided for minor permit modifications, the filing of an application or request for a permit modification, revocation and reissuance, or termination, or the filing of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(IV) The permit does not convey any property rights of any sort, or grant any exclusive privilege.

(V) The permittee shall furnish to the permitting authority, upon receipt of a written request and within a reasonable time, any information that the permitting authority reasonably may require to determine whether cause exists for modifying, reopening, reissuing or revoking the permit or to determine compliance with the permit. Upon request, the permittee also shall furnish to the permitting authority copies of records required to be kept by the permittee. The permittee may make a claim of confidentiality for any information or records submitted under this paragraph (6)(C)1.

H. Incentive programs not requiring permit revisions. The permit shall include a provision stating that no permit revision will be required for any installation changes made under any approved economic incentive, marketable permit, emissions trading, or other similar programs or processes provided for in the permit.

I. Reasonably anticipated operating scenarios. The permit shall include terms and conditions for reasonably anticipated operating scenarios identified by the applicant and approved by the permitting authority. The permit shall authorize the permittee to make changes among alternative operating scenarios authorized in the permit without notice, but shall require the permittee, contemporaneous with changing from one (1) operating scenario to another, to record in a log at the permitted installation the scenario under which it is

operating. The permit shield shall apply to these terms and conditions.

J. Emissions trading. The permit shall include terms and conditions for the trading of emissions increases and decreases within the permitted installation to the extent that the applicable requirements provide for the trading of increases and decreases without case-by-case approval of each emissions trade. These terms and conditions shall include all those required to determine compliance (to include contemporaneous recording in a log of the details of the trade) and must meet all applicable requirements, and requirements of this rule. The permit shield shall apply to all terms and conditions that allow the trading of these increases and decreases in emissions.

2. Federally-enforceable conditions and state-only requirements.

A. Federally-enforceable conditions. Except as provided in subparagraph (6)(C)2.B. of this rule, all terms and conditions in a permit issued under this section, including any voluntary provisions designed to limit an installation's potential to emit, are enforceable by the permitting authority, by the administrator, and by citizens under section 304 of the Act.

B. State-only requirements. Notwithstanding subparagraph (6)(C)2.A. of this rule, the permitting authority shall expressly designate as not being federally-enforceable or enforceable under section 304 of the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and these terms and conditions shall not be enforceable by the administrator or by citizens under section 304 of the Act. Terms and conditions so designated shall not be subject to the requirements of 40 CFR sections 70.7 and 70.8. Terms and conditions expressly designated as state-only requirements under this paragraph may be included in an addendum to the installation's permit.

3. Compliance requirements. Permits issued under this section (6) shall contain the elements listed here with respect to compliance.

A. General requirements, including certification. Consistent with the monitoring and related record keeping and reporting requirements of this paragraph, the operating permit must include compliance certification, testing, monitoring, reporting and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required to be submitted under this rule shall contain a certification signed by a responsible official as to the results of the required monitoring.

B. Inspection and entry. The permit must include requirements providing that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the permitting authority to perform the following (subject to the permittee's right to seek confidential treatment of information submitted to, or obtained by, the permitting authority under this subsection):

(I) Enter upon the permittee's premises where a permitted installation is located or an emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(II) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(III) Inspect, at reasonable times and using reasonable safety practices, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(IV) As authorized by the Missouri Air Conservation Law Chapter 643, RSMo or the Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

C. Schedule of compliance. The permit must include a schedule of compliance, to the extent required.

D. Progress reports. To the extent required under an applicable schedule of compliance, the permit must require progress reports to be submitted semiannually, or more frequently if specified in the applicable requirement or by the permitting authority. These progress reports shall contain the following:

(I) Dates for achieving the activities, milestones or compliance required in the schedule of compliance, and dates when these activities, milestones or compliance were achieved; and

(II) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

E. Compliance certification. The permit must include requirements for certification of compliance with terms and conditions contained in the permit that are federally enforceable, including emissions limitations, standards or work practices. The permit shall specify—

(I) The frequency (which shall be annually unless the applicable requirement specifies submission more frequently) of compliance certifications;

(II) The means for monitoring compliance with emissions limitations, standards and work practices contained in applicable requirements;

(III) A requirement that the compliance certification include the following:

(a) The identification of each term or condition of the permit that is the basis of the certification;

(b) The permittee's current compliance status, as shown by monitoring data and other information reasonably available to the permittee;

(c) Whether compliance was continuous or intermittent;

(d) The method(s) used for determining the compliance status of the installation, currently and over the reporting period; and

(e) Such other facts as the permitting authority may require to determine the compliance status of the source;

(IV) A requirement that all compliance certifications be submitted to the administrator as well as to the permitting authority;

(V) Additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and

(VI) Any other provisions as the permitting authority may require.

4. General permits. Installations may apply to operate under any general permit.

A. Issuance of general permits. General permits covering similar part 70 installations may be issued by the permitting authority after notice and opportunity for public participation under subsection (6)(F) and section (7). The general permit shall indicate a reasonable time after which an installation that has submitted an application for authorization will be deemed to be authorized to operate under the general permit. A general permit shall identify criteria by which installations may be authorized to operate under the general permit. This criteria must include the following:

(I) Categories of sources covered by the general permit must be homogeneous in terms of operations, processes and emissions;

(II) Sources may not be subject to case-by-case standards or requirements; and

(III) Sources must be subject to substantially similar requirements governing operations, emissions, monitoring, reporting and record keeping.

B. Applications. The permitting authority shall provide application forms for coverage under a general permit. General permit applications may deviate from individual part 70 permit applications but shall include all information necessary to determine qualification for, and to assure compliance with, the general permit. The permitting authority shall authorize coverage by the conditions and terms of a general permit to all installations that apply for and qualify under the specified general permit criteria. Installations applying for coverage under a general permit must comply with all the requirements of this rule, except public participation requirements. General permits shall not be authorized for affected sources under the acid rain

program unless otherwise provided in rule promulgated under Title IV of the Act.

C. Public participation. Although public participation under section (7) of this rule is necessary for the issuance of a general permit, the permitting authority may authorize an installation to operate under general permit terms and conditions without repeating the public participation procedures. However, this authorization shall not be a final permit action of purposes for judicial review.

D. Enforcement. Notwithstanding the permit shield provisions of paragraph (6)(C)6. of this rule, an installation authorized to operate under a general permit is subject to enforcement for operating without an individual part 70 operating permit if the installation is determined not to be qualified for the general permit.

5. Portable installations. An installation may apply for a single permit authorizing emissions from similar operations by the same installation owner or operator at multiple temporary locations.

A. Qualification criteria. To qualify for a permit under this paragraph (6)(C)5. the applicant's operation must be temporary and involve at least one (1) change of location during the permit term. Affected sources shall not be authorized as temporary installations under the acid rain program unless otherwise provided in rules promulgated under Title IV of the Act.

B. Compliance at each location. The permittee must comply with all applicable requirements at each authorized location.

C. Notice of location change. The owner or operator of the installation must notify the permitting authority at least ten (10) days in advance of each change of location.

6. Permit shield.

A. Express permit statement required. Part 70 operating permits shall include express provisions stating that compliance with the conditions of the permit shall be deemed compliance with all applicable requirements as of the date of permit issuance, provided that—

(I) The applicable requirements are included and specifically identified in the permit; or

(II) The permitting authority, in acting on the permit revision or permit application, determines in writing that other requirements, as specifically identified in the permit, are not applicable to the installation and the permit expressly includes that determination or a concise summary of it.

B. Exceptions to permit protection. The permit shield does not affect the following:

(I) The provisions of section 303 of the Act or section 643.090, RSMo concerning emergency orders;

(II) Liability for any violation of an applicable requirement which occurred prior to, or was existing at, the time of permit issuance;

(III) The applicable requirements of the acid rain program;

(IV) The administrator's authority to obtain information; or

(V) Any other permit or extra-permit provisions, terms or conditions expressly excluded from the permit shield provisions of this rule.

7. Emergency provisions.

A. Definition. For the purposes of a part 70 operating permit, an emergency or upset means any condition arising from sudden and not reasonably foreseeable events beyond the control of the permittee, including acts of God, which require immediate corrective action to restore normal operation and that causes the installation to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency or upset. An emergency or upset shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

B. Affirmative defense requirements. The permitting authority shall include in each permit a provision stating that an emergency or upset constitutes an affirmative defense to an enforcement action brought for noncompliance with technology-based emissions limitations. To establish an emergency- or upset-based defense, the permittee must demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, the following:

(I) An emergency or upset occurred and the permittee can identify the source of the emergency or upset;

(II) The installation was being operated properly;

(III) The permittee took all reasonable steps to minimize emissions that exceeded technology-based emissions limitations or the requirements in the permit; and

(IV) The permittee submitted notice of the emergency to the permitting authority within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

8. Operational flexibility (installation changes not requiring permit revisions). An installation that has been issued a part 70 operating permit under this rule is not required to apply for or obtain a permit revision in order to make any of the changes to the permitted installation described in subparagraph/s/ (6)(C)8.A. of this rule if the changes are not Title I modification/s/ and the changes do not cause emissions to exceed emissions allowable under the permit, and the changes do not result in the emission of any air contaminant not previously emitted. The installation shall notify the permitting authority and the administrator at least seven (7) days in advance of these changes, except as allowed for emergency or upset conditions. Emissions allowable under the permit means a federally-enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

A. Section 502(b)(10) changes. Changes that, under section 502(b)(10) of the Act, contravene an express permit term may be made without a permit revision, except for changes that would violate applicable requirements of the Act or contravene federally-enforceable monitoring (including test methods), record keeping, reporting or compliance requirements of the permit.

(I) Before making a change under this provision, the permittee shall provide advance written notice to the permitting authority and to the administrator, describing the change to be made, the date on which the change will occur, any changes in emissions, and any permit terms and conditions that are affected. The permittee shall maintain a copy of the notice with the permit, and the permitting authority shall place a copy with the permit in the public file. Written notice shall be provided to the administrator and the permitting authority at least seven (7) days before the change is to be made. If less than seven (7) days' notice is provided because of a need to respond more quickly to these unanticipated conditions, the permittee shall provide notice to the administrator and the permitting authority as soon as possible after learning of the need to make the change.

(II) The permit shield shall not apply to these changes.

B. SIP-based emissions trading changes. Changes associated with trading emissions increases and decreases within a permitted installation may be made without a permit revision if the SIP provides for these trades. The permit shall contain terms and conditions governing the trading of emissions.

(I) For these changes, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trade and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements with which the source will comply through emissions trading and any other information as may be required by the applicable requirement authorizing the emissions trade.

(II) The permit shield shall not apply to these changes. Compliance will be assessed according to the terms of the implementation plan authorizing the trade.

C. Emissions cap-based changes. Changes associated with the trading of emissions increases and decreases within a permitted

installation may be made without a permit revision if this trading is solely for the purpose of complying with the federally-enforceable emissions cap that was established in the permit at the applicant's request, independent of otherwise applicable requirements. For these changes, the advance written notice provided by the permittee shall identify the underlying authority authorizing the emissions trade and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements with which the source will comply through emissions trading, and any other information as may be required by the applicable requirement authorizing the emissions trade. The permit shield does apply to these changes.

9. Off-permit changes. Except as provided in subparagraph (6)(C)9.A. in this rule, a part 70 permitted installation may make any change in its permitted installation's operations, activities or emissions that is not addressed in, constrained by or prohibited by the permit without obtaining a permit revision. Insignificant activities listed in the permit, but not otherwise addressed in or prohibited by the permit, shall not be considered to be constrained by the permit for purposes of the off-permit provisions of this section. Off-permit changes shall be subject to the following requirements and restrictions:

A. Compliance with applicable requirements. The change must meet all applicable requirements of the Act and may not violate any existing permit term or condition; no permittee may change a permitted installation without a permit revision, even if the change is not addressed in or constrained by, the permit, if this change is subject to any requirements under Title IV of the Act or is a Title I modification;

B. Contemporaneous notice, except insignificant activities. The permittee must provide **contemporaneous** written notice of the change to the permitting authority and to the administrator *[no later than the next annual emissions report]*. This notice shall not be required for changes that are insignificant activities under paragraph (6)(B)3. of this rule. This written notice shall describe each change, including the date, any change in emissions, pollutants emitted and any applicable requirement that would apply as a result of the change.

C. Record of changes. The permittee shall keep a record describing all changes made at the installation that result in emissions of a regulated air pollutant subject to an applicable requirement and the emissions resulting from these changes; and

D. Permit shield not applicable. The permit shield shall not apply to these changes.

(E) Permit Issuance, Renewal, Reopenings and Revisions.

1. Action on application.

A. General requirements. A part 70 operating permit, permit modification or permit renewal may be issued only if all of the following conditions have been met:

(I) Except for a general permit authorization, the permitting authority has received a complete application for a permit, permit modification or permit renewal;

(II) Except for permit modifications qualifying for minor permit modification procedures, the permitting authority has complied with the requirements for public participation;

(III) The permitting authority has complied with the requirements for notifying and responding to affected states;

(IV) The permitting authority finds that the conditions of the permit provide for compliance with all applicable requirements and the requirements of the Act and the requirements of this rule; and

(V) The administrator has received a copy of the draft permit and any notices required, and has not objected to issuance of the permit under 40 CFR 70.8(c) within the time specified therein.

B. Completeness determination. After receipt of an application, the permitting authority promptly shall provide notice to the applicant of whether the application is complete. Unless the permitting authority notifies the applicant that the application is not complete within sixty (60) days after receipt, the application shall be deemed complete.

(I) The permitting authority shall make available to applicants all the necessary application forms, together with a checklist of items required for a complete application package. An application will be deemed complete in the first instance if the applicant submits a completed application form, together with the other items on the checklist.

(II) No completeness determination shall be required for applications for minor permit modifications.

C. Drafts for public comment. Following review of an application, the permitting authority shall issue a draft permit, draft permit modification or draft permit renewal for public comment, in accordance with section (7). The draft shall be accompanied by a statement setting forth the legal and factual basis for the draft permit conditions (including references to applicable statutory or regulatory provisions). The permitting authority shall send this statement to the administrator, to affected states and to the applicant and shall place a copy in the public file.

D. Proposals for review. Following the end of the public comment period, the permitting authority shall prepare and submit to the administrator a draft permit, permit modification or permit renewal.

(I) The draft permit, modification or renewal shall be issued no later than forty-five (45) days preceding the deadline for final action under this section and shall contain all applicable requirements that have been promulgated and made applicable to the installation as of the date of issuance of the draft permit.

(II) If new requirements are promulgated or otherwise become newly applicable to the installation following the issuance of the draft permit but before issuance of a final permit (or in the case of unified review, before validation of an issued permit), the permitting authority may elect to either—

(a) Extend or reopen the public comment period to solicit comment on additional draft permit provisions to implement the new requirements; or

(b) If the permitting authority determines that this extension or reopening of the public comment period would delay issuance of the permit unduly, the permitting authority may include in the permit a provision stating that the permit is reopened upon issuance or validation to incorporate the new requirements and stating that the new requirements are excluded from the protection of the permit shield. If the permitting authority elects to issue the permit without incorporating the new requirements, the permitting authority shall institute, within thirty (30) days after the new requirements become applicable to the source, proceedings pursuant to this section to reopen the permit to incorporate the new requirements. These reopening proceedings may be instituted, but need not be completed, before issuance of the final permit.

E. Action following the administrator's review.

(I) Upon receipt of notice that the administrator will not object to a permit, permit modification or permit renewal that has been submitted for the administrator's review pursuant to this section, the permitting authority shall issue the permit, permit modification or permit renewal forthwith, but in no event later than the fifth day following receipt of the notice from the administrator.

(II) Forty-five (45) days after receipt by the administrator of a draft permit, permit modification or permit renewal for the administrator's review, and if the administrator has not notified the permitting authority that s/he objects to the permit action, the permitting authority shall promptly issue the permit, permit modification or permit renewal, but in no event later than the fiftieth day following receipt by the administrator.

(III) If the administrator objects to the permit, modification or renewal, the permit shall not be issued and the permitting authority shall consult with the administrator and the applicant, and shall submit a revised proposal to the administrator within ninety (90) days after the date of the administrator's objection. If the permitting authority does not revise the permit, the permitting authority will

inform the administrator within ninety (90) days following the date of the objection and decline to make those revisions. If the administrator disagrees with the permitting authority, the administrator may issue the permit with the revisions incorporated.

F. Final actions.

(I) Noninitial applications. Except as provided in this subsection (6)(E), the permitting authority shall take final action on each application for a part 70 operating permit within eighteen (18) months after receiving a complete application. Final action on each application for a significant permit modification or permit renewal shall be taken within six (6) months after receipt of a complete application. For each application, the permitting authority shall submit a draft permit, modification or renewal to the administrator no later than forty-five (45) days before the deadline for final action established in this section. The permitting authority shall take action on any permit, permit modification or permit renewal issued in compliance with rules promulgated under Title IV or V of the Act for the permitting of affected installations under the acid rain program within the time specified in those regulations.

(II) Initial applications. Applications accepted under the registry system shall be acted upon according to that registry.

G. Order for acting on applications. To the extent feasible, applications shall be acted upon in the order received, except that—

(I) Priority shall be given to taking final action on applications for construction or permit modification under Title I, Parts C and D of the Act and to applications for general permits. To the extent feasible, final action on these applications shall be taken within six (6) months following receipt of a complete application;

(II) For processing purposes, the permitting authority may group together applications addressing similar installations; and

(III) The permitting authority may give expedited treatment to simple applications that do not require significant review (for example, permits incorporating few or no substantive regulatory requirements).

2. Application shield.

A. Protection for not having a permit. If an installation subject to the requirement to obtain a permit under this section submits a timely and complete application for permit issuance or renewal, that installation's failure to have an issued permit shall not be a violation of the requirement to have the permit until the permitting authority takes final action on the application. This application protection shall cease to apply if, subsequent to a completeness determination, the applicant fails to submit, by the deadline specified in writing by the permitting authority, any additional information identified as being reasonably required to process the application.

B. Loss of protection. If an applicant files a timely application that the permitting authority determines is not complete, or if the applicant loses the protection granted under this section as a result of the failure to provide additional information reasonably requested by the permitting authority within the time specified, the applicant is in violation of this section for failure to have an issued permit.

C. Construction permits not affected. The submittal of a complete part 70 operating permit application shall not affect the requirement, where applicable, that an installation have a construction permit.

3. Permit renewal and expiration.

A. Renewal application requirements. Applications for permit renewals shall be subject to the same procedural requirements, including public participation, affected state comment and the administrator review, that apply to initial permit issuance. The permitting authority, in issuing a permit or renewal permit, may identify those portions that are proposed to be revised, supplemented or deleted.

B. Timely application. An installation's right to operate shall terminate upon the expiration of the permit, unless a complete permit renewal application is submitted at least six (6) months before the date of expiration, or unless the permitting authority takes final action approving an application for a permit renewal by the expiration date.

C. Extension of expired permits. If a timely and complete application for a permit renewal is submitted, but the permitting authority fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, the previous permit shall not expire until the renewal permit is issued or denied. Any permit shield granted under the previous permit shall continue in effect during this period of time. However, the administrator may invoke its authority under section 505(e) of the Act to terminate or revoke and reissue the permit.

4. Administrative permit amendments.

A. Definition. An administrative permit amendment is a permit revision that—

(I) Corrects typographical errors;

(II) Identifies a change in the name, address or phone number of any person identified in the permit, or provides a similar minor administrative change at the installation;

(III) Requires more frequent monitoring or reporting by the permittee;

(IV) Allows for a change in ownership or operational control of an installation where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee must be submitted to the permitting authority;

(V) Incorporates in the part 70 operating permit the requirements of a unified construction permit issued by the permitting authority.

B. Acid rain provisions. For purposes of any acid rain portion of a part 70 operating permit, administrative permit amendments shall be governed by rules promulgated under Title IV of the Act.

C. Procedures. An administrative permit amendment shall be made by the permitting authority under the following procedures:

(I) The permitting authority shall take final action on a request for an administrative permit amendment within sixty (60) days after receipt of the request, and may incorporate the proposed changes in a permit without providing notice to the public or affected states, if any of the permit revisions are designated as having been made pursuant to this paragraph (6)(E)4.;

(II) The permitting authority shall transmit a copy of the amended permit to the administrator; and

(III) An installation may implement the changes addressed in a request for an administrative permit amendment immediately upon submittal of the request.

D. Permit shield applicable. The permitting authority, upon taking final action granting a request for an administrative permit amendment, shall allow coverage by the permit shield.

5. Permit modifications.

A. Definition. A permit modification is any revision to a part 70 operating permit which is not an administrative amendment **under paragraph (6)(E)4. of this rule**. **A permit modification for the purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.**

B. Minor permit modification.

(I) Criteria.

(a) Minor permit modifications involve changes to an installation that do not—

I. Violate any applicable requirement;

II. Involve significant changes to monitoring, reporting or record keeping requirements in the permit;

III. Require or change any case-by-case or source-specific determination contained in the permit, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

IV. Establish or change a permit term for which there is no corresponding underlying applicable requirement and which the source has assumed in order to avoid an applicable requirement to

which it would otherwise be subject, such as a federally-enforceable emissions cap voluntarily agreed to in order to avoid classification as a Title I modification or an alternative emissions limit approved pursuant to 112(i)(5) of the Act;

V. Constitute a Title I modification; and

VI. Constitute a significant permit modification.

(b) Notwithstanding subpart (6)(E)5.B.(I)(a) and subparagraph (6)(E)5.C. of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

(II) Procedures.

(a) The applicant should complete a minor permit modification form application which is consistent with the requirements of this section (6), and which includes at least the following information:

I. A description of the proposed change, the resulting emissions and any new applicable requirements;

II. The applicant's draft modified permit;

III. Certification *[consistent with this section]* **by a responsible official consistent with paragraph (6)(B)4. of this rule, that the proposed modification meets the criteria for use of minor permit modification procedures**; and

IV. Completed forms to enable the permitting authority to notify the administrator and affected states.

(b) The permitting authority will notify the administrator and affected states within five (5) days after receipt of the application.

(c) Public participation requirements are not applicable to minor permit modifications.

(d) Within thirty (30) days after receiving the minor permit modification application, the permitting authority will notify the applicant whether the application is deemed complete or if further information is needed to deem it so.

(e) Within ninety (90) days after receiving the minor permit modification application, or fifteen (15) days after the end of the administrator's forty-five (45)-day review period, whichever is later, the permitting authority shall—

I. Issue the permit modification as proposed;

II. Deny the permit modification;

III. Determine that the requested change is a significant permit modification that should be reviewed as such; or

IV. Revise the draft modified permit and notify the applicant and the administrator by providing a written copy of the proposed intended changes, a written statement of the factual and legal reasons for the changes, and notice of the rights of the applicant and the administrator to appeal or object to the changes, including any deadlines for this appeal or objection.

(f) An applicant for a minor permit modification may make the change proposed immediately after filing the application. After making the change, and until the permitting authority takes any of the actions specified in this section (6), the applicant must comply with both the applicable requirements governing the change and the proposed modified permit terms and conditions. During this time period, the installation need not comply with the existing permit terms and conditions the applicant is seeking to modify. However, if the applicant fails to comply with the proposed modified permit terms and conditions during this time period, the existing permit terms and conditions which the applicant is seeking to modify may be enforced against the installation.

(III) Permit shield not applicable. The permit shield does not apply to minor permit modifications.

(IV) Public notice. The permitting authority shall provide public notice of a change proposed in a minor permit modification application when it determines that the proposed change is of sufficient consequence that the public may have an interest in being informed. The procedures for the public notice shall be as follows:

(a) Notice shall be given by publication in a newspaper of general circulation in the area where the installation is located or in a state publication designed to give general public notice, and to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list;

(b) The notice shall identify: the installation; the name and address of the permittee; the name and address of the permitting authority; the activity(ies) involved in the permit action; any emissions change involved in the proposed minor permit modification; the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials and all other materials available to the permitting authority that are relevant to the permit decision; and

(c) The permitting authority shall provide public notice, as provided in this section, promptly upon receipt of the source's minor permit modification application; however, the timing and content of this notice shall not be grounds for a challenge to the permitting authority's final action.

C. Group processing of minor permit modifications. Pursuant to this paragraph (6)(E)5., the permitting authority may modify the procedures outlined in this section (6) to process groups of an installation's applications for certain modifications eligible for minor permit modification processing.

(I) Criteria. Group processing of proposed minor permit modifications may be used only for those which—

(a) Meet the criteria for minor permit modification procedures under this section; and

(b) Collectively are below the following threshold level: ten percent (10%) of the emissions allowed by the permit for the emissions unit for which the change is proposed; twenty percent (20%) of the applicable definition of a part 70 installation; or five (5) tons per year, whichever is least.

(II) Applications. An application requesting the use of group processing procedures shall meet the requirements of this subparagraph and shall include the following:

(a) A description of the change, the emissions resulting from the change and any new applicable requirements that will apply if the change occurs;

(b) The applicant's draft modified permit;

(c) Certification by a responsible official, consistent with this section, that the proposed modification meets the criteria for use of group processing procedures and a request that these procedures be used;

(d) A list of the installation's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold established under this section (6);

(e) Certification, consistent with this section (6), that the applicant has notified the administrator of the proposed modification. This notification need only contain a brief description of the proposed modification; and

(f) Completed forms for the permitting authority to use to notify the administrator and affected states.

(III) Administrator and affected state notification. On a quarterly basis or within five (5) business days after receipt of an application demonstrating that the aggregate of an installation's pending applications equals or exceeds the threshold level established under this section, whichever is earlier, the permitting authority promptly, in accordance with section (7) of this rule, shall notify the administrator and affected states of the proposed permit modifications. The permitting authority shall send any notice required to the administrator.

(IV) Timetable for issuance. The provisions of this section shall apply to modifications eligible for group processing, except that the permitting authority shall take one (1) of the actions specified in

this paragraph within one hundred *[and]* eighty (180) days after receipt of the application or fifteen (15) days after the end of the administrator's forty-five (45)-day review period, whichever is later.

(V) Installation's ability to make change. The provisions of this subpart (6)(E)5.B.(II)(f) shall apply to modifications eligible for group processing.

(VI) Permit shield not applicable. The provisions of part (6)(E)5.B.(III) shall apply to modifications eligible for group processing.

(VII) Public notice. The provisions of this part (6)(E)5.B.(IV) shall apply to modifications eligible for group processing.

D. Significant permit modifications.

(I) Definition. Any permit revision which is not a minor modification or administrative permit amendment is a significant permit modification. This revision includes, but is not limited to, significant changes in monitoring, reporting or record keeping permit terms and any change in the method of measuring compliance with existing permit requirements. Criteria for determining whether a proposed change is significant shall include the magnitude of the change and the resulting impact on the environment.

(II) Procedures.

(a) An applicant for a significant permit modification shall adhere to all the relevant requirements for an initial permit application under section (6) of this rule, as well as requirements for public participation under section (7), and review by the administrator and affected states under subsection (6)(F) except—

I. The applicant should use the form for a significant permit modification application, rather than the form for an initial permit issuance; and

II. The permitting authority will complete review of significant permit modification applications within nine (9) months after receipt of an application.

6. Reopening permits for cause.

A. Cause to reopen. A part 70 operating permit shall be reopened for cause if—

(I) The permitting authority receives notice from the administrator that the administrator has granted a petition for disapproval of a permit pursuant to 40 CFR 70.8(d), provided that the reopening may be stayed pending judicial review of that determination;

(II) The permitting authority or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions limitations standards or other terms of the permit;

(III) Additional applicable requirements under the Act become applicable to the installation; however, reopening on this ground is not required if—

(a) The permit has a remaining term of less than three (3) years;

(b) The effective date of the requirement is later than the date on which the permit is due to expire; or

(c) The additional applicable requirements are implemented in a general permit that is applicable to the installation and the installation receives authorization for coverage under that general permit;

(IV) The installation is an affected source under the acid rain program and additional requirements (including excess emissions requirements) become applicable to that source, provided that, upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit; or

(V) The permitting authority or the administrator determines that the permit must be reopened and revised to assure compliance with applicable requirements.

B. Notice to the permittee. If the permitting authority finds reason to believe that a permit should be reopened for cause, it shall provide at least thirty (30) day's prior written notice to the permittee, except the notice period may be less if the permitting authority finds that an emergency exists.

(I) This notice shall include a statement of the terms and conditions that the permitting authority proposes to change, delete or add to the permit. If the permitting authority does not have sufficient information to determine the terms and conditions that must be changed, deleted or added to the permit, the notice shall request the permittee to provide that information within a period of time specified in the notice, which shall be not less than thirty (30) days except in the case of an emergency.

(II) If the proposed reopening is pursuant to subparagraph (6)(E)6.A. of this rule, the permitting authority shall give the permittee an opportunity to provide evidence that the permit should not be reopened.

C. Procedures for reissuance. In reissuing the permit, the permitting authority shall follow the procedures established under subsection (6)(E). The permittee shall in all cases be afforded an opportunity to comment on the revised permit terms.

D. Judicial review. Upon issuance of the revised permit, both the determination to reopen the permit and the revised permit terms shall be subject to judicial review.

E. Extension of permit shield. While a reopening proceeding is pending, the permittee shall be entitled to the continued protection of any permit shield provided in the permit pending issuance of a revised permit, unless the permitting authority specifically suspends the permit shield on the basis of a finding that this suspension is necessary to implement applicable requirements. If this finding applies only to certain applicable requirements or to certain permit terms, the suspension shall extend only to those requirements or terms.

F. Deadline for completion. Any reopening and reissuance proceeding shall be completed within eighteen (18) months after promulgation of the applicable requirements.

7. Reopening permits for cause by the administrator.

A. Notice of cause. If the permitting authority receives notice from the administrator that the administrator has found cause to revoke, modify or reopen and reissue a part 70 operating permit, the permitting authority, within ten (10) days after receipt of this notification, shall provide notice to the permittee. The notice to the permittee shall include a copy of the notice from the administrator and invite the permittee to comment in writing on the proposed action.

B. Proposed permitting authority response. Within ninety (90) days following receipt of the notification from the administrator, the permitting authority shall issue and forward to the administrator a proposed determination in response to the administrator's notification. The permitting authority may request an additional ninety (90) days for this submission if this time is required to obtain a new or revised permit application or other information from the permittee.

C. Comment by the administrator. The permitting authority shall address any further comment or objection from the administrator on the permitting authority's response to the administrator notification pursuant to this section.

8. Revocations and terminations.

A. Cause for revocation. The permitting authority may revoke a part 70 operating permit only upon request of the permittee or for cause. For purposes of this section, cause for revocation exists if—

(I) There is a pattern of unresolved and repeated noncompliance with the terms and conditions of the permit and the permittee has refused to take appropriate action (such as a schedule of compliance) to resolve the noncompliance;

(II) The permittee has failed to disclose material facts relevant to issuance of the permit or has knowingly submitted false or misleading information to the permitting authority;

(III) The permitting authority finds that the permitted installation or activity endangers public health, safety or the environment, and that the danger cannot be removed by a modification of the terms of the permit; or

(IV) The permittee has failed to pay a civil or criminal penalty imposed for violations of the permit.

B. Notice to permittee. Upon finding that cause exists for the revocation of a permit, the permitting authority shall notify the permittee of that finding in writing, stating the reasons for the proposed revocation. Within thirty (30) days following receipt of the notice, the permittee may submit written comments concerning the proposed revocation. If the permitting authority after that makes a final determination to revoke the permit, it shall provide a written notice to the permittee specifying the reasons for the decision and the effective date of the revocation.

C. Conditional revocation. A permit revocation issued under this section may be issued conditionally, with a future effective date, and may specify that the revocation will not take effect if the permittee satisfies the specified conditions before the effective date.

D. Application for termination. A permittee may apply at any time for termination of all or a portion of its part 70 operating permit relating solely to operations, activities and emissions that have been permanently discontinued at the permitted installation. An application for termination shall identify with specificity the permit or permit terms that relate to the discontinued operations, activities and emissions. The permitting authority shall act on an application for termination on this ground within ninety (90) days after receipt, and shall grant the application for termination upon finding that the permit terms for which termination is sought relate solely to operations, activities and emissions that have been permanently discontinued. In terminating all or portions of a permit pursuant to this subsection, the permitting authority may make appropriate orders for the submission of a final report or other information from the permittee to verify the complete discontinuation of the relevant operations, activities and emissions.

E. Application for termination based on general permit. A permittee may apply for termination of its permit on the ground that its operations, activities and emissions are fully covered by a general permit for which it has applied and received coverage. The permitting authority shall act on an application for termination on this ground within ninety (90) days after receipt, and shall grant the application upon a finding that the permittee's installation's operations, activities and emissions are fully covered by a general permit.

F. Application for new permit. An installation that has received a final revocation or termination of its permit may apply for a new permit.

9. Case-by-case determinations. If applicable requirements require the permitting authority to make a case-by-case determination of an emission limitation, technology requirement, work practice standard or other requirement for an installation, and to include terms and conditions implementing that determination in the installation's part 70 operating permit, the installation shall include in its permit application a proposed determination, together with the data and other information upon which the determination is to be based, and proposed terms and conditions to implement the determination. Upon receipt of a request from the applicant, the permitting authority shall meet with the applicant before the permit application is submitted to discuss the determination and the information required to make it. In the event the permitting authority determines that the applicant's proposed determination and implementing terms and conditions should be revised in the draft permit or the final permit, the permitting authority shall in all cases inform the applicant of the changes to be made, and allow the applicant to comment on those changes before issuing the draft permit or final permit.

10. Public participation. The procedures of section (7) of this rule shall be followed.

11. Judicial review. Any final action in granting or denying an application for a permit, permit amendment or modification or permit renewal shall be subject to Missouri Air Conservation Commission review as provided in 643.078 and 643.130, RSMo upon an appeal filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

A. Deadline for filing. No application for judicial review may be filed more than ninety (90) days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within ninety (90) days of the date on which the grounds for review first arose, and review shall be limited to such later-arising grounds.

B. Scope of review. Any application for judicial review shall be limited to issues that—

(I) Were raised in written comments filed with the permitting authority or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(II) Are germane and material to the permit action at issue.

C. Deadline for final action. For purposes of this section (6), final action shall include a failure by the permitting authority to take final action to issue or deny an application within the time specified in these regulations.

AUTHORITY: section 643.050, RSMo 2000. Original rule filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed June 5, 1995, effective Jan. 30, 1996. Amended: Filed Oct. 3, 1995, effective June 30, 1996. Amended: Filed Aug. 14, 1997, effective April 30, 1998. Amended: Filed Sept. 22, 1999, effective May 30, 2000. Amended: Filed Sept. 4, 2001, effective May 30, 2002. Amended: Filed July 19, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., October 24, 2002. The public hearing will be held at the Traveler's Inn Christian Bed and Breakfast, Ballroom, 301 W. Washington, Kirksville, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 31, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.060 Priority of Applications. The commission is amending section (1) of the rule.

PURPOSE: This amendment removes obsolete language from the rule and adds new criteria relevant to the application evaluation process.

(1) The commission shall prioritize the order in which applications are investigated and evaluated by the commission. Factors to be considered in setting the priority shall include the following:

(A) *[The date of filing an application]* **The support or opposition of the governing body of the home dock city or county**;

(B) The availability **and suitability** of a docking site;

(C) *[The availability of a boat]* **The financial resources of the applicant, including the criteria identified in 11 CSR 45-4.080(2)(E)**;

(D) *[The reasonable time necessary to start gaming]* **The applicant's experience in managing a licensed gaming operation**;

(E) The applicant's history of regulatory compliance in Missouri and/or other jurisdictions;

[(E)] **(F)** The economic impact to the state;

[(F) The complexity of the investigation;]

(G) *[The regional location of the home dock city or county; and]* **The economic impact on the home dock city or county and the surrounding region, including competing excursion gambling boats, local businesses, and local governments;**

(H) The quality and scope of the proposed development;

(I) The status of governmental actions required for the facility as identified in 11 CSR 45-4.080(2)(F); and

[(H)] **(J)** Other factors as the commission deems appropriate.

AUTHORITY: sections 313.004 and 313.800–313.850, RSMo [Supp. 1993] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed July 24, 2002.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m. on October 9, 2002 in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

PROPOSED AMENDMENT

12 CSR 10-24.050 Deletion of Traffic Convictions and Suspension or Revocation Data From Missouri Driver Records. The director proposes to amend subsection (1)(B).

PURPOSE: This amendment includes additional traffic convictions that cannot be deleted/expunged from the driver record.

(1) The Department of Revenue, when otherwise not prohibited by law, may delete from a Missouri driver record a previously recorded traffic conviction, suspension or revocation of a driving privilege if all of the following conditions are met:

(B) The conviction is not for a state violation of "no driver license," a state violation of "no motorcycle qualified," *[or]* a state, county or municipal violation of "driving while suspended/revoked," **a state violation of "leaving the scene of an accident," a state, county or municipal violation of "leaving the scene of an accident when the person was operating a commercial motor vehicle," a state, county or municipal violation of "driving while out of service," a state or county violation "where a fatality occurred while operating a commercial motor vehicle" or a state "felony"**;

AUTHORITY: sections 302.286, 302.304, 302.309 and 303.041, RSMo Supp. 2001. Original rule filed May 27, 1986, effective Aug. 25, 1986. Amended: Filed Sept. 8, 1989, effective Jan. 26, 1990. Amended: Filed Jan. 31, 1992, effective June 25, 1992. Amended: Filed Nov. 4, 1999, effective May 30, 2000. Amended: Filed May 1, 2000, effective Oct. 30, 2000. Amended: Filed Sept. 27, 2001, effective March 30, 2002. Amended: Filed July 22, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

PROPOSED AMENDMENT

13 CSR 70-3.020 Title XIX Provider Enrollment. The division is adding sections (7)–(10).

PURPOSE: This amendment clarifies that the Missouri Department of Social Services, Division of Medical Services, will not issue a new provider number for any type of changes, including, but not limited to, change of ownership, change of operator, tax identification change, merger, bankruptcy, name change, address change, payment address change, Medicare number change, or facilities/offices that have been closed and reopened at the same or different locations; that Medicaid provider numbers are contingent upon the applying provider receiving a favorable compliance determination with the Office of Civil Rights; that the enrolled Medicaid provider is responsible for all services provided and claims filed using her/his Medicaid provider number; and that Medicaid provider numbers are confidential.

(7) The provider shall advise the single state agency, in writing, on enrollment forms specified by the single state agency, of any changes affecting the provider's enrollment records. The Provider Enrollment Unit within the division is responsible for determining whether a current Medicaid provider number shall be issued or a new Medicaid provider number is issued. A new Medicaid provider number is not issued for any changes, including, but not limited to, change of ownership, change of operator, tax identification change, merger, bankruptcy, name change, address change, payment address change, Medicare number change, or facilities/offices that have been closed and reopened at the same or different locations. This includes replacement facilities whether they are at the same location or a different location,

and whether the Medicare number is retained or if a new Medicare number is issued. If a new provider number is issued in error due to change information being withheld at the time of application, the new Medicaid provider number shall be made inactive, the existing provider number will be made active, the existing provider number shall be updated, and the provider may be subject to sanction. The division shall issue payments to the entity identified in the current Medicaid participation agreement. Regardless of changes in control or ownership, the division shall recover from the entity identified in the current Medicaid participation agreement liabilities, sanctions and penalties pertaining to the Medicaid program, regardless of when the services were rendered.

(8) Medicaid provider numbers are contingent upon the applying provider receiving a favorable determination of compliance with Civil Rights requirements from the Office of Civil Rights (OCR). If OCR approval is not obtained and maintained, any reimbursement received shall be recouped.

(9) The provider is responsible for all services provided and all claims filed using her/his Medicaid provider number regardless to whom the reimbursement is paid and regardless of who in her/his employ or services produced or submitted the Medicaid claim or both. The provider is responsible for submitting proper diagnosis codes, procedure codes, and billing codes. When the length of time actually spent providing a service (begin and end time) is required to be documented, the provider is responsible for documenting such length of time, except for services as specified pursuant to 13 CSR 70-91.010(4)(A), Personal Care Program, regardless to whom the reimbursement is paid and regardless of whom in the provider's employ or services produced or submitted the Medicaid claim.

(10) Medicaid provider numbers shall not be released to any nongovernmental entity, except the enrolled provider, by the Division of Medical Services or its agents.

*AUTHORITY: sections [207.020, RSMo Supp. 1993,] 208.159, [RSMo 1986] and 208.153, RSMo [Supp. 1991] **208.201, RSMo 2000**. This rule was previously filed as 13 CSR 40-81.165. Original rule filed June 14, 1982, effective Sept. 11, 1982. Amended: Filed July 30, 2002.*

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

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

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

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

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending subsection (13)(B).

PURPOSE: This proposed amendment amends the high volume adjustment to stop accumulating the adjustment from year to year and establishes a second tier high volume adjustment.

(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) 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. **Effective July 1, 2002, the adjustment shall not accumulate from year to year.**

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

D. Second Tier High Volume Adjustment. Effective for dates of service July 1, 2002, a second tier high volume adjustment shall be granted to qualifying providers.

(I) If a nursing facility qualifies for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., it may qualify for the second tier adjustment if it meets the following criteria:

(a) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety-three percent (93%) of the total patient days for all nursing facility licensed beds;

(b) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care cost component, as set forth in paragraph (11)(A)1., exceeds one hundred twenty percent (120%) of the per-diem ceiling for the patient care cost component in effect at the end of the cost report period; and

(c) The allowable cost per patient day as determined by the division from the applicable cost report for the administration cost component, as set forth in paragraph (11)(C)1., is less than one hundred fifty percent (150%) of the per-diem ceiling for the administration cost component in effect at the end of the cost report period.

(II) The second tier high volume adjustment will be calculated as a percentage, to be determined by the Department of Social Services, 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. The adjustment for state fiscal year 2003 shall be eighteen dollars and fifty-six cents ($18.56) per Medicaid day.

(a) The adjustment shall be distributed based on a quarterly amount, in addition to per-diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.

(b) The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.

(III) A nursing facility must qualify for the adjustment each year to receive the additional quarterly payments.

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 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 July 30, 2002.*

PUBLIC COST: This proposed amendment is expected to cost state agencies or political subdivisions $902,053 in the aggregate in SFY 2003. A fiscal note containing details of the estimated cost of compliance has been filed with the secretary of state.

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

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

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-10.015 Prospective Reimbursement **Plan for Nursing Facility Services**
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services Division of Medical Services	$902,053

III. WORKSHEET

SFY 02 Medicaid Days	48,602
Per diem Adjustment	$18.56
Total	$902,053

Patient Care Ceiling	$49.50
Ancillary Ceiling	$7.91
Administration Ceiling	$14.42
Total	$71.83
Percentage	25.84%
Per diem Adjustment	$18.56

IV. ASSUMPTIONS

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 26—Federally-Qualified Health Center Services

PROPOSED AMENDMENT

13 CSR 70-26.010 Medicaid Program Benefits for Federally-Qualified Health Center Services. The division is amending subsections (2)(C), (3)(A) and, (4)(A) and (B).

PURPOSE: This amendment allows FQHCs to receive grants from the Missouri Primary Care Association without those grants being offset against FQHC costs. This amendment also incorporates language for MC+ and interim payments.

(2) General Principles.

(C) Reasonable costs shall be apportioned to the Medicaid program based on a ratio of covered charges for beneficiaries to total charges. Charges mean the regular rate for various services which are established uniformly for both Medicaid recipients and other patients. **Medicaid charges shall include Medicaid managed care (MC+) charges for covered services.**

(3) Nonallowable Costs. Any costs which exceed those determined in accordance with the Medicare cost reimbursement principles set forth in 42 CFR Part 413 are not allowable in the determination of a provider's total reimbursement. In addition, the following items specifically are excluded in the determination of a provider's total reimbursement:

(A) Grants *[(other than Public Health Services Grants under Section 329, 330 or 340 of the Public Health Services Act)]*, gifts and income from endowments will be deducted from total operating costs*[;]***, with the following exceptions:**

1. Public Health Service Grants under sections 329, 330 or 340 of the Public Health Services Act; and

2. Grants received from the Missouri Primary Care Association (MPCA) in accordance with contractual agreements between the Division of Medical Services and MPCA;

(4) Interim Payments.

(A) FQHC services shall be reimbursed on an interim basis **up to ninety-seven percent (97%) of charges for covered services billed to the Medicaid program**. Interim billings will be processed in accordance with the claims processing procedures *[and fee schedules]* for the applicable programs.

(B) *[Each calendar quarter, an interim settlement will be processed to adjust payments for covered services to a level of ninety-five percent (95%) of billed charges.]* **An FQHC in a Medicaid managed care (MC+) region shall be eligible for supplemental reimbursement of up to ninety-seven percent (97%) of MC+ charges. This reimbursement shall make up the difference between ninety-seven percent (97%) of the FQHC's MC+ charges for a reporting period, and payments made by the MC+ health plans to the FQHC for covered services rendered to MC+ patients during that period. The supplemental reimbursement shall occur pursuant to the schedule agreed to by the division and the FQHC, but shall occur no less frequently than every four (4) months. Supplemental reimbursement shall be requested on forms provided by the division. Supplemental reimbursement for MC+ charges shall be considered interim reimbursement of the FQHC's Medicaid costs.**

*AUTHORITY: sections 208.153 and 208.201, RSMo [Supp. 1990] **2000**. Emergency rule filed June 4, 1990, effective July 1, 1990, expired Oct. 28, 1990. Original rule filed June 4, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 4, 1991, effective Jan. 13, 1992. Amended: Filed July 30, 2002.*

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

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

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