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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-4.111 Endangered Species. The department proposes to amend subsections (3)(E) and (G).

PURPOSE: This amendment adds Scaleshell Mussel and Tumbling Creek Cave Snail to the list of species designated as endangered in Missouri.

(3) For the purpose of this rule, endangered species of wildlife and plants shall include the following native species designated as endangered in Missouri:

(E) Mussels: Curtis Pearlymussel, Higgins' Eye, Pink Mucket, Fat Pocketbook, Ebonyshell, Elephant Ear, Winged Mapleleaf, Sheepnose, Snuffbox**, Scaleshell**.

(G) Invertebrates: American Burying Beetle, Hine's Emerald Dragonfly**, Tumbling Creek Cave Snail**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 15, 1973, effective Dec. 31, 1973. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Dec. 19, 2001.*

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

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

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

Title 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 section (2).

PURPOSE: This amendment revises the reference to Intensive Community Psychiatric Rehabilitation. This amendment also removes the definition of Psychosocial Rehabilitation Recovery Support.

(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:

(AA) Intensive community psychiatric rehabilitation (CPR)—as defined in *[9 CSR 30-4.043(2)(H)]* **9 CSR 30-4.045**;

[(MM) Psychosocial rehabilitation-recovery support—as defined in 9 CSR 30-4.043(2)(J);]

[(NN)] **(MM)** Research—experiments, including intervention or interaction with clients, whether behavioral, psychological, biomedical or pharmacological and program evaluation as set out in 9 CSR 60-1.010(1);

[(OO)] **(NN)** Seclusion—placement alone in a locked room for any period of time;

[(PP)] **(OO)** Sexual abuse—in accordance with 9 CSR 10-5.200;

[(QQ)] **(PP)** Time-out—temporary exclusion or removal of a client from the treatment or rehabilitation setting, used as a behavior modifying technique as prescribed in the client's individual treatment plan and for periods of time not to exceed fifteen (15) minutes each; and

[(RR)] **(QQ)** Verbal abuse—in accordance with 9 CSR 10-5.200.

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**. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.031 Procedures to Obtain Certification for Centers. The department proposes to add three new sections and to renumber section (4).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

(4) The department shall certify, as a result of a certification survey, each Community Psychiatric Rehabilitation (CPR) Program as designated and eligible to serve children and youth under the age of eighteen (18).

(5) To be eligible to serve children and youth under the age of eighteen (18) a certified community psychiatric rehabilitation (CPR) provider shall meet each of the following requirements:

(A) Have a current and valid purchase of service contract with the Division of Comprehensive Psychiatric Services (CPS) pursuant to 9 CSR 25-2;

(B) Must meet the eligibility requirements for receipt of federal mental health block grant funds;

(C) Must provide a comprehensive array of psychiatric services to children and youth including but not limited to:

1. Crisis intervention mobile response;

2. Screening and assessment;

3. Medication services; and

4. Intensive case management consistent with state plan approved services; and

(D) Have experience and expertise in delivering a division approved home-based crisis intervention program of psychiatric services for children and youth.

(6) A certified community psychiatric rehabilitation (CPR) provider may serve transitional age youth (age sixteen (16) and older) meeting the diagnostic eligibility requirements in 9 CSR 30-4.042(4)(B) in each designated CPS service area without the certification required in 9 CSR 30-4.031(4) and (5) if it is documented in the client record that it is clinically and developmentally appropriate to serve the individual in an adult program.

[(4)] **(7)** The following forms are included herein:

(A) MO 650-1722; and

(B) MO 650-0231.

*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**. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.032 Administration. The department proposes to revise sections (2) and (3).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

(2) A CPR program director shall be appointed whose qualifications, authority and duties are defined in writing. The director shall have responsibility and authority for all operating elements of the CPR program, including all administrative and service delivery staff. If the CPR program director is not a qualified mental health professional as defined in 9 CSR 30-4.030, then the agency shall identify a clinical supervisor who is a qualified mental health professional who has responsibility for monitoring and supervising all clinical aspects of the program. **If the agency is certified to provide services to children and youth, then the CPR program director shall have at least two (2) years of supervisory experience with children and youth. If the CPR program director does not meet these requirements, the agency shall identify a clinical supervisor for children and youth services who is a qualified mental health professional who has responsibility for monitoring and supervising all clinical aspects of the program and meets the above requirements.**

(3) The CPR provider *[and]* shall maintain a policy and procedure manual for all aspects of its operations. CPR program plans, policies and procedures shall include descriptions, details and relevant information about—

(M) Emergency policies and procedures by staff, volunteers, clients, visitors and others for—

1. Medical emergencies;

2. Natural emergencies, such as earthquakes, fires, severe storms, tornado or flood;

3. Behavioral crisis;

4. Abuse or neglect of clients;

5. Injury or death of a client; and

6. Arrest or detention of a client; *[and]*

(N) Policies and procedures which address commonly occurring client problems such as missed appointments, appearing under the influence of alcohol or drugs, broken rules, suicide attempts, loitering, accidents, harassment and threats*[.]***; and**

(O) Relevant information about service provision for children and youth addressing any and all aspects of subsections (A) through (N) of this rule.

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. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.034 Personnel and Staff Development. The department proposes to amend sections (3), (7) and (8).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

(3) The CPR provider shall ensure that an adequate number of appropriately qualified staff is available to support the functions of the program. The department shall prescribe caseload size and supervisory to staff ratios.

(A) Caseload size may not exceed one (1) community support worker to twenty (20) clients in the rehabilitation level of care **and one (1) community support worker to twelve (12) children and youth in the rehabilitation level of care**.

(B) The supervisory to staff ratio in the rehabilitation *[and intensive levels]* **level** of care should not exceed one (1) qualified mental health professional to seven (7) community support workers.

(C) The supervisory to staff ratio in the rehabilitation *[and intensive levels]* **level** of care should not exceed one (1) qualified mental health professional to two (2) community support assistants.

(D) The supervisory to staff ratio in the rehabilitation *[and intensive levels]* **level** of care should not exceed one (1) qualified mental health professional to eight (8) total staff.

[(E) For intensive community psychiatric rehabilitation, each team shall provide for a caseload size of no more than ten (10) clients to one (1) direct care staff member.]

(7) The CPR provider shall establish, maintain and implement a written plan for professional growth and development of personnel.

(A) The CPR provider shall provide orientation within thirty (30) calendar days of employment, documented, for all personnel and affiliates, and shall include, but not be limited to:

1. Client rights and confidentiality policies and procedures, including prohibition and definition of verbal/physical abuse;

2. Client management, for example, techniques which address verbal and physical management of aggressive, intoxicated or behaviorally disturbed clients;

3. CPR program emergency policies and procedures;

4. Infection control;

5. Job responsibilities;

6. Philosophy, values, mission and goals of the CPR provider; and

7. Principles of appropriate treatment**, including for staff working with children and youth, principles related to children and youth populations**.

(D) Staff working within the CPR program also shall receive additional training within six (6) months of employment. This training shall include, but is not limited to:

1. Signs and symptoms of disability-related illnesses;

2. Working with families and caretakers of clients receiving services;

3. Rights, roles and responsibilities of clients and families;

4. Methods of teaching clients self-help, communication and homemaking skills in a community context;

5. Writing and implementing an individual treatment plan specific to community psychiatric rehabilitation services, including goal setting, writing measurable objectives and development of specific strategies or methodologies;

6. Basic principles of assessment;

7. Special needs and characteristics of individuals with serious mental illnesses; *[and]*

8. Philosophy, values and objectives of community psychiatric rehabilitation services for individuals with serious mental illnesses*[.]***; and**

9. Staff working with children and youth shall receive additional training in the above areas as it pertains to children and youth.

(8) The CPR provider shall develop and implement a written plan for comprehensive training and continuing education programs for community support workers, community support assistants and supervisors in addition to those set out in section (7).

(A) Orientation for community support workers, community support assistants and supervisors shall include, but is not limited to, the following items:

1. Philosophy, values and objectives of community psychiatric rehabilitation services for individuals with serious and persistent mental illnesses;

2. Behavioral management, crisis intervention techniques and identification of critical situations;

3. Communication techniques;

4. Health assessment and medication training;

5. Legal issues, including commitment procedures; *[and]*

6. Identification and recognition of critical situations*[.]***; and**

7. Staff working with children and youth shall receive additional training in the above areas as it pertains to children and youth.

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****. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.035 Client Records of a Community Psychiatric Rehabilitation Program. The department proposes to amend sections (7), (8) and (10).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

(7) The treatment plan, goals and objectives shall be completed within thirty (30) days of the client's admission to services. *[For clients admitted to the intensive level of community psychiatric rehabilitation, the treatment plan shall be developed upon admission to that level of care.]*

(8) Each client's record shall document services, activities or sessions that involve the client.

[(B) For psychosocial rehabilitation-recovery support, the client record shall include:

1. Attendance records or logs that include actual attendance times; and

2. A monthly note that summarizes services rendered and client response to services.]

[(C)] **(B)** For all other community psychiatric rehabilitation program services, the client record shall include documentation of each session or episode that involves the client.

1. The specific services rendered.
2. The date and actual time the service was rendered.
3. Who rendered the service.
4. The setting in which the services were rendered.
5. The amount of time it took to deliver the services.
6. The relationship of the services to the treatment regimen described in the treatment plan.
7. Updates describing the client's response to prescribed care and treatment.

(10) An evaluation team, consisting of at least, a qualified mental health professional and the client's community support worker, if appropriate, shall review the treatment plan, goals and objectives on a regular basis, as determined by department policy.

[(F) For clients in the intensive level of care, treatment plans shall be reviewed at a minimum every thirty (30) calendar days and the review documented in the case record.]

*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**. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.039 Service Provision. The department proposes to add a new section (14).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

(14) The CPR provider shall take appropriate precautions to assure the provision of confidentiality and safety of children and youth in all aspects of programming including but not limited to:

(A) Outings;
(B) Transportation; and
(C) Day program activities.

*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**. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.042 Admission Criteria. The department proposes to add a new section (5).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

(5) Under the following circumstances, children and adolescents under the age of eighteen (18) years of age may be provisionally admitted to community psychiatric rehabilitation program services:

(A) Disability: There shall be clear evidence of serious and/or substantial impairment in the ability to function at an age or developmentally appropriate level due to serious psychiatric disorder in each of the following two (2) areas of behavioral functioning as indicated by intake evaluation and assessment:

1. Social role functioning/family life—the individual is at risk or out-of-home or out-of-school placement; and

2. Daily living skills/self-care skills—the individual is unable to engage in personal care (such as grooming, personal hygiene) and community living (performing school work or household chores), learning, self-direction or activities appropriate to the individual's age, developmental level and social role functioning;

(B) Diagnosis: If a person is exhibiting behaviors or symptoms that are consistent with an unestablished CPRP eligible diagnosis, they may be provisionally admitted to CPRP for further evaluation. There may be insufficient clinical information because of rapidly changing developmental needs to determine if a CPR eligible diagnosis is appropriate without an opportunity to observe and evaluate the person's behavior, mood and functional status. In such cases, there must be documentation that clearly supports the individual's level of functioning as defined in (5)(A).

(C) Duration: There must be documented evidence of an individual's functional disability as defined in (5)(A) for a period of ninety (90) days prior to provisional admission.

(D) Provisional admissions shall not exceed ninety (90) days. Immediately upon completion of the ninety (90) days or sooner, if the individual has been determined to have an eligible diagnosis as listed in 9 CSR 30-4.042(4)(B) of the rule, the diagnosis must be documented and the individual may continue in the CPR program.

(E) If an individual who has been provisionally admitted is determined to be ineligible for CPR services, staff shall directly assist the individual and/or family in arranging appropriate follow-up services. Follow-up services shall be documented in the discharge summary of the clinical record.

(F) All admission documentation is required for those provisionally admitted, with the exception of the comprehensive evaluation, which may be deferred for ninety (90) days.

*AUTHORITY: sections 630.050, [RSMo Supp. 1999 and] 630.655 and 632.050, [RSMo 1994] **2000**. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of 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 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 30-4.043 Treatment Provided by Community Psychiatric Rehabilitation Programs. The department proposes to amend section (2).

PURPOSE: This amendment establishes provisions for the certification of services for children and youth.

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

(H) Intensive Community Psychiatric Rehabilitation (CPR) *[is a level of support designed to help consumers who are experiencing an acute psychiatric condition, alleviating or eliminating the need to admit them into a psychiatric inpatient or residential setting. It is a comprehensive, time-limited, community-based service delivered to consumers who are exhibiting symptoms that interfere with individual/family life in a highly disabling manner. Intensive CPR is provided by treatment teams delivering services that will maintain the consumer within the family and significant support systems and assist consumers in meeting basic living needs and age appropriate developmental needs. This level of CPR is intended for consumers who have extended or repeated hospitalizations, crisis episodes, or who are at imminent risk of being removed from their home or current living situation to a more restrictive living situation, or who require assistance in transitioning from a highly restrictive setting to a community-based alternative, including specifically persons being discharged from inpatient psychiatric settings who require assertive outreach and engagement. A treatment team comprised of individuals required to provide the specific services identified on the Individualized Treatment Plan (ITP), delivers this level of service to consumers with serious mental illness and serious emotional disturbance who meet CPRP eligibility criteria]* **as defined in 9 CSR 30-4.045**;

*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**. Emergency amendment filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Amended: Filed Dec. 28, 2001.*

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

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

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

PROPOSED RULE

9 CSR 30-4.045 Intensive Community Psychiatric Rehabilitation

PURPOSE: This rule sets forth standards and regulations for the provision of intensive community psychiatric rehabilitation service.

(1) Intensive Community Psychiatric Rehabilitation (CPR). A level of support designed to help consumers who are experiencing an acute psychiatric condition, alleviating or eliminating the need to admit them into a psychiatric inpatient or residential setting. It is a comprehensive, time-limited, community-based service delivered to consumers who are exhibiting symptoms that interfere with individual/family life in a highly disabling manner.

(A) The intensive community psychiatric rehabilitation is intended for the following consumers:

1. Persons who would be hospitalized without the provision of intensive community based intervention; or
2. Persons who have extended or repeated hospitalizations; or
3. Persons who have crisis episodes; or
4. Persons who are at risk of being removed from their home or school to a more restrictive environment; or
5. Persons who require assistance in transitioning from a highly restrictive setting to a community-based alternative, including specifically persons being discharged from inpatient psychiatric settings who require assertive outreach and engagement.

(B) Intensive community psychiatric rehabilitation is provided by treatment teams delivering services that will maintain the consumer within the family and significant support systems and assist consumers in meeting basic living needs and age appropriate developmental needs.

(C) A treatment team comprised of individuals required to provide the specific services identified on the Individualized Treatment Plan (ITP), delivers this level of service to consumers who meet the Community Psychiatric Rehabilitation (CPR) eligibility criteria.

(2) Admission Criteria. Persons meeting criteria for this level of service must meet admission criteria as defined in 9 CSR 30-4.042, will be in need of intensive clinical intervention or support to alleviate or eliminate the need for admission into a psychiatric inpatient or a restrictive living setting and must meet at least one (1) of the following descriptions:

(A) A person who is being discharged from a Department of Mental Health facility or Department of Mental Health purchased bed;

(B) A person who has had extended or repeated psychiatric inpatient hospitalizations or crisis episodes within the past six (6) months;

(C) A person who has had multiple out-of-home placements due to their mental disorder; or

(D) A person who is at imminent risk of being removed from his/her home, school or current living situation.

(3) Personnel and Staff Development. Intensive CPR shall be delivered by a treatment team responsible for coordinating a comprehensive array of services available to the individual through CPR with the amount of frequency of service commensurate with the individual's assessed acuity and need.

(A) The treatment team shall be supervised by a qualified mental health professional as defined in 9 CSR 30-4.030(2)(HH) and shall include the following:

1. Individuals required to provide specific services identified on the Individualized Treatment Plan; and
2. The consumer, and family if developmentally appropriate.

(B) Treatment team models shall follow one (1) of two (2) options:

1. The treatment team may serve exclusively individuals enrolled in the intensive CPR level; or
2. The treatment team may serve individuals enrolled in intensive CPR and individuals enrolled in the rehabilitation levels.

(4) Treatment.

(A) Intensive CPR shall include—

1. Multiple face-to-face contacts on a weekly basis and may require contact on a daily basis;
2. Services that are available twenty-four (24) hours per day and seven (7) days per week;
3. Crisis response services that may be coordinated with an existing crisis system.

(B) A full array of CPR services as defined in 9 CSR 30-4.043 shall be available to each individual based upon identified needs including but not limited to the following services:

1. Outreach and engagement;
2. Behavioral aid/family assistance worker;
3. Targeted case management;
4. Clinical interventions for the purpose of stabilizing the individual offered twenty-four (24) hours per day and seven (7) days per week;
5. Increased services to assist the individual with medication stabilization;
6. Utilization of natural services and supports needed to maintain the individual in the community;
7. Day treatment.

(C) The frequency of service delivery shall be based upon the individual's assessed acuity and need.

(D) Individuals can be moved out of the intensive level when:

1. There is a reduction of acute symptoms; and
2. The individual is able to function in the rehabilitation level of CPR; or
3. The individual chooses to move from the intensive level.

(5) Client Records.

(A) For consumers currently enrolled in the CPR Program, documentation must be present in the client record indicating the individual's acuity level and supporting admission into the intensive level of care. Upon admission to the intensive level of care, the following is required—

1. A progress note must be written that documents the individual's acuity level and compliance with admission criteria;
2. The treatment plan must be updated to reflect the higher level of service the individual will receive while participating in the intensive level of care;
3. The appropriate outcomes packet shall be completed and forwarded to the department; and
4. Service system reporting shall be updated to reflect participation with the appropriate program code.

(B) For new consumers who have been admitted directly from the community into the intensive level of care, a brief evaluation to substantiate acuity and criteria for admission will initially be accepted which may be in the form of a separate report or progress note that includes the following elements: presenting problem, recent psychiatric history, current medications, current housing status, current legal status, family and/or guardian, and mental status examination.

1. Each individual shall have a psychiatric evaluation at admission. For individuals who have been discharged from an inpatient bed into the intensive level of care, a psychiatric evaluation completed at the facility will initially be accepted.

2. A comprehensive evaluation shall be completed within thirty (30) days of admission except for individuals admitted provisionally.

3. Treatment plans shall be developed upon admission to the intensive level of care.

4. The appropriate outcomes packet shall be completed and forwarded to the department.

5. Service system reporting shall be updated to reflect participation with the appropriate program code.

(C) Treatment plans shall be reviewed on a weekly basis and the review documented in the case record with a summary progress note including updates to the treatment plan as appropriate.

(D) Each individual shall have a critical intervention plan.

(E) All services provided must have accompanying progress notes that include:

1. Specific type of service rendered as defined in the CPR menu of services or the Purchase of Service Catalogue;

2. Date and actual time the service was rendered;

3. Who rendered the service;

4. The setting in which the service was rendered;

5. The amount of time it took to deliver the service;

6. The relationship of services to the treatment regimen described in the treatment plan;

7. Updates describing the client's response to prescribed care and treatment; and

8. Signature and position of staff member delivering the service.

(F) Upon change from the intensive level of care, a transition plan for follow-up services must be documented in a level of care transition summary and reflected in an updated treatment plan.

(G) Upon change from the intensive level of care, the provider must complete the appropriate outcomes packet and forward to the department.

(6) Quality Assurance.

(A) The department will track the following indicators:

1. Hospitalizations that occur while the individual is participating in the intensive level of care; and

2. Consumer movement to a more restrictive level of care while the individual is participating in the intensive level of care.

(B) The department will monitor specific services provided to an individual while they are enrolled in intensive CPR. The providers shall maintain and have available for review, the detail regarding service delivery. This information must be in the same format as if the services had been billed separately. The review may consist of documents sent to the department for review or a face-to-face review on-site at an agency.

AUTHORITY: sections 630.050, 630.655 and 632.050, RSMo 2000. Emergency rule filed Dec. 28, 2001, effective Jan. 13, 2002, expires July 11, 2002. Original rule filed Dec. 28, 2001.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions $115,336,375 in the aggregate over the twenty (20)-year anticipated life of the rule. As indicated in the attached fiscal note, sufficient general revenue is available to provide the match required for federal financial participation.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of 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 of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Fiscal Note
Public Entity Cost

I. REGULATION NUMBER. (All of the information in Part I comes from the header of the rule.)

Title: Title 9----Department of Mental Health

Division: 30-----Certification Standards

Chapter: 4-----Mental Health Programs

Type of Regulation: Proposed Rule Amendment

Regulation Number and Name: Intensive Community Psychiatric Rehabilitation
9 CSR 30-4.045

II. SUMMARY OF FISCAL IMPACT (Present a summary of fiscal impact. Use a separate row for each public agency or political subdivision affected.)

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Mental Health	$115,336,375

III. WORKSHEET (Present more detailed fiscal information.)

Worksheet attached

IV. ASSUMPTIONS AND METHODOLOGY. (Present assumptions, references and methods of acquiring information that underlie the conclusions in the fiscal note. Examples of information that might be included here are the sources of information presented in the fiscal note, why those sources were chosen and eventualities that might cause the fiscal impact to be different from your estimate.)

This rule expands the services offered through the CPR program by authorizing the provision of a service known as Intensive Community Psychiatric Rehabilitation. This rule provides more appropriate services and interventions offered by the CPR program to individuals with serious mental illness and serious emotional disorders. This rule provides for the inclusion of intensive services to be added to the menu of services in the CPR program , with its own service code and rate of $110 per day.

Such services for adults are currently found in 9 CSR 30-4.043.2(H) (Treatment) and 9 CSR 30-4.034.3(B,C,D,E) Personnel. Costs for this has been filed with earlier Rules. However, the sections just mentioned are being deleted from the current rule and included in the new rule. Since costs for the provision of these services for adults have not changed and have been previously addressed they are not included in this fiscal note projection.

Intensive Community Psychiatric Rehabilitation Services are new for children and youth and are, therefore, included with this filing.

Fiscal Note Worksheet for Proposed Rule 9 CSR 30-4.045

Rule Provision	Per Cent of Clients Affected	Number of Clients	Daily Rate	Cost Per Client	Total	State GR	FFP	Available GR
Intensive CPR	100%	1,000	$110	$4,950	$ 4,950,000	$ 1,980,000	$2,970,000	
Current CPR Services	50%	500		$ 1,875	$ 937,500	$ 375,000	$ 562,500	
Additional Month of CRP	50%	500		$ 208	$ 104,000	$ 41,600	$ 62,400	
					$ 5,991,500	$ 2,396,600	$3,594,900	$ 3,200,000

Footnotes:

1. Rate of $110 per day established by committee which included providers.
2. 1,000 clients is estimate of current client count available for eligibility determination
3. The cost per client of $1,875 for Current CPR Services is 75% of the average cost for providing regular CPR services of $2,500 per clilent.
4. The cost per client of $208 for the additional month of CPR services is 1/12th of $2,500.

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
$ 1,497,875	$ 5,991,500	$ 5,991,500	$5,991,500	$ 5,991,500	$ 5,991,500	$5,991,500	$ 5,991,500

FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
$ 5,991,500	$ 5,991,500	$ 5,991,500	$5,991,500	$ 5,991,500	$ 5,991,500	$5,991,500	$ 5,991,500

FY 2018	FY 2019	FY 2020	FY 2020	Twenty-Year Total
$ 5,991,500	$ 5,991,500	$ 5,991,500	$5,991,500	$ 115,336,375

Footnotes:

1. First year costs are calculated on three (3) months of service provision since training time will be involved.

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

PROPOSED RULE

10 CSR 20-7.040 Comprehensive Risk-Based Groundwater Remediation Rule

PURPOSE: *The purpose of this rule is to codify the allowances and limitations for risk-based groundwater cleanup projects, as authorized in section 644.143, RSMo. This rule is intended to complement federal and state laws and regulations. Any person conducting a groundwater cleanup under the authority of any state environmental statute must comply with the requirements of this rule. This rule further defines the procedures that are presently allowed under the Missouri Water Quality Standards 10 CSR 20-7.031(5)(D). Unless site-specific alternative groundwater cleanup standards are approved by these procedures, the values in Table A or other parts of the Missouri Water Quality Standards remain the cleanup standards for groundwater. Alternative standards may be approved to reflect site-specific, risk-based exposure conditions, institutional controls, continuing monitoring, and other aspects of remedial action plans described below. This rule shall not apply to any existing risk-based groundwater cleanups underway prior to the effective date of this rule pursuant to section (2) of this rule. A copy of the Missouri Comprehensive Risk-Based Groundwater Remediation Rule Statement of Intent can be accessed at www.dnr.state.mo.us/deq/wpcp/homewpcp.htm*.

(1) Definitions.

(A) Alternative cleanup levels (ACL)—Cleanup levels, other than maximum contaminant levels (MCLs), that are calculated based on site-specific conditions and that are protective of human health, safety and the environment.

(B) Ambient groundwater quality—General groundwater quality beneath and/or in the vicinity of a site that is not impacted by the site, but may have been impacted by background chemical constituents and/or ubiquitous anthropogenic constituents from off-site sources (for example, such as may be found in highly-industrialized areas).

(C) Background chemical constituents—Naturally-occurring elements and compounds.

(D) Completed exposure pathway—Exposure to a contaminant by a receptor, consisting of:

1. A source and mechanism of chemical release to the environment;

2. A retention or transport medium;

3. A point of contact with the contaminated medium (exposure point); and

4. An exposure route at the contact point.

(E) Groundwater—Water below the land's surface in a zone of saturation.

(F) Institutional controls—Legally binding and durable controls applied to properties that minimize the potential for exposure to contamination by limiting land or resource use. These institutional controls may include, but are not limited to, restrictive covenants, easements, and state law.

(G) Karst—Areas characterized by geologic features developed from the dissolution of soluble bedrock. Karst features include, but are not limited to, sinkholes, losing streams, caves, bedrock conduits and springs.

(H) Maximum contaminant levels (MCLs)—See 10 CSR 60-2.

(I) Monitored natural attenuation (MNA)—The reliance on naturally occurring processes in the environment that act without human intervention to reduce the mass, toxicity, mobility, volume or concentration of contaminants (within the context of carefully monitored subsurface conditions) to achieve site-specific remediation objectives within a time frame that is reasonable compared to that offered by other more active methods.

(J) Person—See section 644.016(13), RSMo.

(K) Point of compliance (POC)—The location at which MCLs or other Department of Natural Resources (DNR)-accepted health, safety or environmental-based levels must be met.

(L) Potentially complete exposure pathway—An exposure pathway that is not complete because one (1) or more of the four (4) criteria in 10 CSR 20-7.040(1)(D) are not currently satisfied, although it is possible that all four (4) criteria could be satisfied in the future.

(M) Private groundwater supply—A well or spring that is used as a water supply and that is not a public water supply.

(N) Public water supply—A system for the provision to the public of piped water for human consumption, if the system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

(O) Public well—A well that supplies water to a public water supply.

(P) Risk assessment—The process of characterizing the magnitude of potential adverse health and adverse environmental effects as a result of exposure to contaminated environmental media.

(Q) Site—The property which contains or contained the contaminant source area(s) is the site for purposes of this rule. Multiple properties overlying the groundwater contamination plume that originates from the source area property(ies) are considered part of the site for purposes of investigation, risk characterization, determination of cleanup levels, implementation of the approved remedy and monitoring, and documentation of remedy completion.

(2) Site Applicability.

(A) As provided by section 644.143, RSMo, this rule applies to all risk-based groundwater remediation projects. This includes, but is not limited to, risk-based groundwater remediation projects conducted pursuant to the following state statutes:

1. Missouri Clean Water Law (Chapter 644, RSMo);

2. Solid Waste Management Law (section 260.200, et seq., RSMo);

3. Hazardous Waste Management Law (section 260.350, et seq., RSMo);

4. Underground Storage Tank Law (Chapter 319, RSMo); and

5. Metallic Minerals Waste Management Act (section 444.350, et seq., RSMo).

(B) Unless site-specific alternative cleanup levels are approved by these procedures, the values in Table A or other parts of the Missouri Water Quality Standards remain the cleanup standards for groundwater.

(C) Prior Remedial Actions.

1. Notwithstanding any other provision of this rule, any person implementing or who has completed a risk-based groundwater remediation under a DNR-approved groundwater remediation plan prior to the effective date of this rule is exempt from this rule. However, any such person may voluntarily request oversight to conduct a risk-based groundwater cleanup under the provisions of this rule.

2. Nothing in this section will prohibit DNR from reopening a site if it has determined that a threat to either human health or the environment is continuing to occur.

(3) Urban Groundwater Zone Designation.

(A) An urban groundwater zone designation may be established that meets the following criteria:

1. The urban groundwater zone must have a designated management authority that shall be approved by the Missouri Clean Water Commission. The authority shall be a quasi-public

governmental body as defined in section 610.010(4)(f), RSMo that is capable of ensuring that the requirements of this rule are met;

2. The designation shall only encompass areas of known groundwater contamination, except that a one-quarter (1/4) mile buffer area may be drawn around an area, or areas, of groundwater contamination;

3. The zone shall not encompass any property(ies) that have a well that is used as a private groundwater supply or public water supply;

4. Sites that impact or may potentially impact a private groundwater supply or public water supply shall not qualify for inclusion in the urban groundwater zone;

5. The consent of all affected municipalities must be obtained before an urban groundwater zone may be designated;

6. Institutional controls prohibiting the drilling of wells for use as a private groundwater supply or public water supply must be in place; and

7. Upon conditional approval by DNR, the urban groundwater zone designation shall be subject to public review and comment.

(B) The Clean Water Commission will review the proposed urban groundwater zone designation and will make a decision to approve or reject the proposal following a public hearing.

(C) Only historically contaminated sites within the zone are eligible. The sites that are located within an urban groundwater zone must still meet the requirements of this rule with the exception that sites may demonstrate that there are no complete or potentially complete exposure pathways may be exempt from sections (8) and (9) of this rule.

(4) Oversight. All persons not already receiving DNR oversight pursuant to an abatement order on consent, consent agreement, abatement order, permit or other mechanism shall enter into a site-specific risk-based groundwater remediation agreement with DNR. This agreement shall set forth the responsibilities of the person and DNR. At a minimum, the site-specific groundwater remediation agreement will contain the following information:

(A) Site owner;

(B) Site location with latitude and longitude coordinates. At a minimum, this shall include the location of the site on a one to twenty-four thousand (1:24,000) U.S. Geological Survey topographic map;

(C) The specific contaminants identified and any suspected at the site (for example, degradation products);

(D) Known existing contaminant levels, corresponding MCLs, and other potentially applicable health, safety and environmental-based criteria;

(E) Present and former uses of the site, including information on past waste management and disposal practices;

(F) The intended use of the site;

(G) Consent for DNR access to the portions of the site under control of the person;

(H) Certified copy of the deed(s) for the portions of the site under control of the person;

(I) Copies of all environmental assessments and investigations conducted at the site.

(5) Site Characterization.

(A) Persons shall perform site characterization in accordance with the regulations, policies, practices and guidance established by the DNR program overseeing the cleanup.

(B) Persons shall perform site characterization in accordance with a schedule submitted by the person and approved by DNR.

(C) At a minimum, site characterization shall include the submission of work plans, schedules, reports or other necessary deliverables addressing the following site-specific information needs. The level of information provided to address the requirements of this subsection shall be appropriate for site-specific conditions and shall include:

1. Characterization of groundwater quality within and upgradient of the plume(s) of groundwater contamination. This shall include delineation of the horizontal and vertical extent of groundwater contamination and identification of all chemical compounds and associated degradation products found in the groundwater, which are known or reasonably suspected to be attributable to releases at the site;

2. Characterization of the hydrogeologic parameters of impacted and potentially impacted geologic materials including transmissivity, storativity, vertical and horizontal hydraulic conductivities and gradients, and the nature and location(s) of significant hydrologic boundaries in the vicinity of the plume(s) of groundwater contamination;

3. Groundwater yield potential of the affected aquifer and any potentially interconnected aquifers;

4. Historical use of groundwater from the affected aquifer and any potentially interconnected aquifers and surface water bodies in the vicinity of the plume(s) of groundwater contamination;

5. Proximity of the site to public water supplies or private groundwater supplies;

6. At a minimum, location of all Karst features within one (1) mile of the site boundary. Karst features beyond one (1) mile of the site that may reasonably be expected to be affected by the site shall be considered;

7. Proximity of the site to springs and other waters of the state;

8. A map of the site, clearly marked with all on-site and peripheral surface and subsurface, active and inactive utilities (that is, water, gas, electric, storm/sanitary sewers and telecommunications), along with property boundaries, roads, right-of-ways and easements. The map must also delineate adjacent and surrounding properties within one-quarter (1/4) mile and all properties known to be or potentially be overlying the groundwater contaminant plume(s);

9. An analysis of whether the site presently impacts or is likely to impact a public water supply or private groundwater supply based on the following criteria:

A. The site is within an area that has been designated by the DNR's Public Drinking Water Program as a wellhead protection area or a source water protection area for a public water supply, including a surface water intake serving a public water supply.

B. A private groundwater supply is within two thousand feet (2,000') or ten (10)-year groundwater travel time, whichever is the greater distance, as measured from the closest property boundary of the site;

10. An analysis of whether the site presently impacts or is likely to impact groundwater that is not currently used as a public water supply or private groundwater supply where groundwater quality and quantity is such that it could be suitable for use as a public water supply or private groundwater supply without treatment or with reasonable and customary prior treatment;

11. An analysis of whether the site presently impacts or is likely to impact any natural spring, or any water which contributes to a natural spring, which is recognized for its recreational or aesthetic value and is located in a state park, national park, conservation area, or any area protected by a conservation easement;

12. Any off-site groundwater impacts that may influence the ambient groundwater quality conditions at the site;

13. Information regarding any current and potential exposures to site-related groundwater contamination. This information may include:

A. Current groundwater use patterns in the vicinity;

B. Quantity and yield of groundwater bearing zones;

C. Ambient and/or background groundwater quality of groundwater bearing zones, particularly the presence of

widespread anthropogenic contamination from historic regional sources;

D. Demographics, land use, and remoteness;

E. Availability of economic alternative water supplies;

F. Pre-existing institutional controls; and

G. Potential for impacting other groundwater-bearing zones that constitute a current or potential future source of public water supply or private groundwater supply; and

14. Other relevant information deemed necessary by DNR to demonstrate that site-specific risk-based groundwater cleanup levels are protective of human health, safety and the environment.

(D) The data and information identified above shall be submitted in a Site Characterization Report that has been sealed or stamped by a geologist registered in the state of Missouri. Site characterization work plans and other necessary deliverables shall also be sealed or stamped by a geologist registered in the state of Missouri, as appropriate. The DNR will review and approve the Site Characterization Report in accordance with section (13) of this rule.

(E) If DNR determines that contaminated groundwater has migrated from a source area to another property, the person shall notify the affected property owner(s) of the contamination by certified mail return receipt or other legal documentation and a copy of that notification shall be provided to DNR. The person shall notify affected property owners within thirty (30) days of notice from DNR that the notification is required.

(6) Source Control. If DNR determines that source control or removal measures are necessary and appropriate on the person's property as part of any risk-based groundwater remediation project, those measures shall be completed in order for the project to be determined by DNR to be complete. Such measures may be deemed necessary and appropriate to ensure that the contaminated media are no longer acting as a significant source of groundwater contamination.

(7) Exposure Pathway Assessment.

(A) Purpose: Identification of the complete and potentially complete groundwater-related exposure pathways at a site that may pose a risk to human health, safety or the environment.

(B) Required Submittal: Exposure Pathway Assessment Report. This report shall describe the nature, likelihood, and route of actual and potential exposures to human and ecological receptors, based on the Site Characterization Report. The exposure pathway assessment shall be prepared in accordance with the methodology contained in the most current version of the United States Environmental Protection Agency's (USEPA) Risk Assessment Guidance for Superfund (RAGS) or other procedures that receive written approval by DNR prior to submitting a risk assessment.

(C) Evaluation of Groundwater Use Pathway: The following factors will be considered in determining if a zone of impacted groundwater constitutes a potential future source of public water supply or private groundwater supply and is therefore part of a potentially complete exposure pathway:

1. Current groundwater use patterns in the site vicinity;

2. Quantity and yield of groundwater bearing zones;

3. Ambient and/or background quality of groundwater-bearing zones, particularly the presence of widespread anthropogenic contamination from historic regional sources; and

4. Potential for impacting other groundwater-bearing zones, which constitute a current or potential future source of public water supply or private groundwater supply.

(D) Required Demonstrations.

1. For all exposure pathways that are complete or potentially complete, the person must demonstrate to DNR that either:

A. Contaminant concentrations in the groundwater are below MCLs or other DNR-accepted health, safety or environmental-based levels; or

B. Complete and potentially complete exposure pathways will be adequately addressed by meeting the requirements of this rule.

2. Persons that demonstrate to DNR that an exposure pathway is not complete or potentially complete may propose natural attenuation as the remedy and are exempt from the requirements of subsection (9)(D) of this rule.

3. Persons that demonstrate to DNR that an exposure pathway is not complete or potentially complete, and groundwater is not usable as a public water supply or private groundwater supply based on yield and poor ambient groundwater quality resulting solely from anthropogenic contamination may be exempted from the provisions of sections (8) and (9) of this rule except as noted in the following. For purposes of this subsection, the person shall:

A. Demonstrate that groundwater beneath the site is of poor ambient quality resulting solely from anthropogenic contamination such that there is no reasonable expectation that the groundwater beneath the site will ever be used as a public water supply, private groundwater supply or for any other purpose that could result in unacceptable risks to human health, safety or the environment;

B. Demonstrate that the plume of groundwater contamination related to releases attributable to the site will not migrate beyond the area of poor ambient groundwater quality;

C. Conduct a DNR approved public participation process. The public participation process will follow the provisions of paragraph (9)(E)2. of this rule where applicable; and

D. DNR may require monitoring and/or institutional controls as part of the demonstration.

(E) Sites within an urban groundwater zone that can demonstrate that there is no complete or potentially complete exposure pathway (for all pathways, including groundwater to air and/or surface water) may be exempted from sections (8) and (9) of this rule.

(F) The Exposure Pathway Assessment Report shall be submitted to DNR and will be reviewed by DNR to assure the report's accuracy, compliance with guidance, and protectiveness of human health and the environment. The DNR will review and approve the Exposure Pathway Assessment Report in accordance with section (13) of this rule.

(8) Risk Characterization and Determination of Cleanup Levels.

(A) Purpose: Characterization of risk and establishment of contaminant cleanup levels based on DNR-accepted health, safety and environmental-based levels or site-specific risk-based determinations.

(B) Required Submittal: Risk Characterization and Determination of Cleanup Levels Report. This report shall propose the POC and cleanup levels that must be attained. The Risk Characterization and Determination of Cleanup Levels Report must provide information supporting the use of any proposed Alternative Cleanup Levels (ACLs), including an ecological risk assessment.

(C) Point of Compliance (POC). This applies to the groundwater remediation component of a site cleanup by establishing the locations at which cleanup levels must be met. If contaminants are present within separate aquifers or water-bearing zones beneath the site, DNR may require that each contaminated aquifer or water-bearing zone be monitored separately.

1. Contaminated groundwater below the site throughout the three-dimensional plume of contamination is the POC if there is a complete or potentially complete exposure pathway, and there are no DNR-approved institutional controls on the property.

2. If there are DNR-approved institutional controls in place and the plume of contamination has not migrated off of the property(ies) under control of the person, a POC may, with DNR approval, be established at the location(s) on the property(ies) under control of the person that is within the plume and as close to the leading edge of the plume of contamination as practical.

3. If the plume of contamination has migrated beyond the property(ies) under control of the person, a POC may, with DNR approval, be established on a downgradient site property at the location(s) within the plume and as close to the leading edge of the plume of contamination as practical. Persons requesting a POC(s) on a property(ies) other than the property(ies) which is under their control shall obtain and provide documentation of the following:

A. Institutional controls on the other properties;

B. Right of entry to the other site property(ies) for parties conducting cleanup and government agencies supervising cleanup as determined necessary by DNR;

C. Authorization to conduct monitoring, including installation of wells as determined necessary by DNR;

D. Proof, in the form of a certified mail return receipt or other legal documentation, that the owner(s) of the other property(ies) received a letter fully disclosing the risks related to the contamination, institutional control requirements and other relevant technical and legal information. The person shall submit for DNR approval the notification language in the letter before it is sent to the owner(s) of the other property(ies).

(D) Tiered Site Evaluation. The person shall conduct an evaluation of the risks posed by the groundwater contaminants and determine cleanup levels.

1. If DNR determines that contaminant levels in the groundwater are below MCLs or other DNR-accepted health, safety or environmental-based criteria, further actions to address groundwater at the site may not be required.

2. If DNR determines that contaminant levels in the groundwater are above MCLs or other DNR-accepted health, safety or environmental-based criteria, then MCLs or other health, safety or environmental-based criteria shall be the contaminant cleanup levels if any of the following conditions exist:

A. The site presently impacts or is likely to impact a private groundwater supply or public water supply. The likelihood that the site will impact a private groundwater supply or public water supply shall be based on the following:

(I) The site is within an area that has been designated by the DNR Public Drinking Water Program as a wellhead protection area or a source water protection area for a public water supply well; or

(II) A private groundwater supply is within two thousand feet (2,000') or ten (10)-year groundwater travel distance, whichever is the greater distance, as measured from the closest property line of the site; or

B. The site presently impacts or is likely to impact groundwater that is not currently used as a public water supply or private groundwater supply, but is suitable for use as a public water supply or private groundwater supply. The determination as to whether or not groundwater that is suitable for use as a public groundwater supply or private water supply shall be based on the considerations specified in subsection (7)(C) of this rule; or

C. The site presently impacts or is likely to impact any natural spring, or any water which contributes to a natural spring, which is recognized for its recreational or aesthetic value and is located in a state park, national park, conservation area, or any area protected by a conservation easement; or

D. Conditions at the site constitute an imminent and substantial endangerment to public health, safety or the environment; or

E. A POC is proposed where there is a complete or potentially complete exposure pathway and there are no DNR-approved institutional controls on the property.

3. If DNR determines that contaminant levels in the groundwater are above MCLs or other DNR-accepted health, safety or environmental-based criteria, the person is able to provide the assurances pursuant to paragraphs (8)(C)2. or (8)(C)3. of this rule in establishing a POC; and none of the criteria in paragraph (8)(D)2. of this rule apply, the person shall either:

A. Utilize MCLs or other DNR-accepted health, safety or environmental-based criteria to establish groundwater cleanup goals; or

B. Calculate ACLs for groundwater or proceed to subparagraph (8)(D)3.C. below. ACLs calculated under this item must be based on the methodology contained in the most current version of EPA's RAGS Volume I – *Human Health Evaluation Manual* (Part B, Development of Risk-Based Preliminary Remediation Goals), or other procedures that receive written approval by DNR prior to submitting calculated ACLs. Procedures developed under subparagraph (8)(D)3.D. of this paragraph may be used. If direct measurement/testing is not possible, an appropriate media transfer model may be used.

C. In calculating ACLs for groundwater, the following requirements shall apply:

(I) All complete and potentially complete human exposure routes must be addressed in the ACL calculations including, as appropriate: ingestion from drinking; inhalation of contaminants resulting from direct use of contaminated groundwater and/or the transfer of contaminants from contaminated groundwater to air; and dermal absorption of contaminants resulting from direct use of and/or contact with contaminated groundwater;

(II) All complete and potentially complete environmental exposure routes must be addressed within the ecological risk assessment required by paragraph (8)(D)4. of this rule;

(III) A cumulative carcinogenic target risk of 1×10^{-5} and a cumulative non-carcinogenic target hazard index of one (1) for the human exposure routes shall be used in the ACL calculations;

(IV) DNR accepted standard variable values shall be used, where available, in the calculation of ACLs with the exception of the following parameters, which may be based on site-specific conditions: the frequency of exposure and the exposure duration. The frequency of exposure and exposure duration used in the calculation for each exposure route must be representative of the exposure that might be reasonably expected for that particular route under site-specific conditions; and

(V) Proposed ACLs shall account for all potential adverse health, safety and environmental effects from all contaminants and all exposure pathways combined. Approved ACLs are site-specific and not applicable to any other site.

C. Perform a human health risk assessment in accordance with the most current version of the EPA's RAGS document or other procedures that receive written approval by DNR prior to submitting a risk assessment. Procedures developed under subparagraph (8)(D)3.D. of this rule may be used. The human health risk assessment shall be submitted to DNR and shall be reviewed by DNR and the Missouri Department of Health and Senior Services to assure the submission's accuracy, compliance with recommended guidance and protectiveness of human health.

(I) Human health risk assessments shall include consideration of all applicable human exposure routes (that is, ingestion, inhalation and dermal contact). The chemical concentrations used in assessing exposures related to the transfer of contaminants from groundwater to air shall be established via direct measurement/testing. If direct measurement/testing is not possible, an appropriate media transfer model may be used.

(II) Human health risk assessments shall be based on residential exposure scenarios, unless institutional, engineering and/or other controls are proposed that assure that no greater human exposure will occur than that of a non-residential scenario.

D. DNR may establish media and program-specific guidance that establishes cleanup levels under this paragraph. Such guidance may establish look-up tables and equations for deriving cleanup levels under items A. and B. of this subparagraph. Such guidance may also establish procedures for conducting risk assessments under subparagraph (8)(D)3.C. of this rule.

4. Ecological risk assessment. An ecological risk assessment shall be conducted at all sites where there is a complete or

potentially complete exposure pathway. The procedure outlined in the most recent version of DNR's Cleanup Levels for Missouri (CALM) guidance document shall be utilized in the preparation of the ecological risk assessment. In the event that a qualitative or quantitative ecological risk assessment identifies a risk to ecological receptors, the person shall determine if any ACL(s) calculated pursuant to paragraph (8)(D)3. of this rule are sufficiently protective of the ecological receptors. If the ACLs are determined not to be protective of ecological receptors, DNR may require the person to calculate new ACLs to ensure protection of the ecological receptors.

(E) A Risk Characterization and Cleanup Levels Report incorporating all information required by section (8) of this rule shall be submitted to DNR no later than ninety (90) days following approval of the Exposure Pathway Assessment Report. The Risk Characterization and Cleanup Levels Report shall be reviewed and conditionally approved by DNR in consultation with the Missouri Department of Health and Senior Services in accordance with section (13) of this rule.

(9) Risk-Based Groundwater Remediation Plan.

(A) A Risk-Based Groundwater Remediation Plan shall be prepared consisting of measures that reduce contaminant concentrations to levels at or below clean-up levels and/or prevent exposures to the contamination. These actions may include, but are not limited to, contaminant source removal, treatment, containment, engineering controls, institutional controls, monitored natural attenuation (MNA), or a combination thereof.

(B) To prevent off-site migration of a plume, MCLs or DNR-accepted health, safety, or environmental-based levels must be met at the boundary of the site.

(C) The minimum threshold for remedy performance shall be monitored natural attenuation in accordance with subsection (9)(E) of this rule below.

(D) In determining the level of remedial action that is warranted, DNR shall seek a reasonable balance among remediation level-of-effort, short- and long-term risk to human health and the environment, and groundwater resource protection. The plan shall describe, and DNR will consider, the following factors in reviewing the proposed Groundwater Remediation Plan:

1. Overall protection of human health and the environment;
2. Attainment of media cleanup levels, including the time estimated to achieve these levels;
3. Controlling or removing the source(s) of releases;
4. Compliance with standards for management of wastes; and
5. Other factors including:
   A. Long-term reliability and effectiveness;
   B. Reduction of toxicity, mobility or volume of wastes;
   C. Short-term effectiveness;
   D. Implementability;
   E. Technical practicability;
   F. Cost; and
   G. Community acceptance.

(E) Monitored Natural Attenuation.

1. The Groundwater Remediation Plan may request approval of MNA to remediate the groundwater at the site. The decision to allow MNA will be based on information supplied in the Site Characterization Report, Exposure Pathway Assessment Report and Risk Characterization and Cleanup Levels Report. DNR will evaluate potential impacts to human health and the environment in determining whether MNA is appropriate for the site.

2. A Groundwater Remediation Plan requesting consideration of MNA shall be evaluated by DNR only after the following have occurred:

A. Source control measures have been implemented that prevent future releases of contaminants to groundwater;

B. Durable institutional controls are in place, as approved by DNR, preventing the usage of contaminated groundwater and/or exposure to groundwater-related contaminants.

3. If MNA is proposed, the Groundwater Remediation Plan must provide details about the source control measures taken at the site and documentation of the institutional controls. In addition, the plan must include:

A. A demonstration that contaminated environmental media are no longer acting as a source of groundwater contamination at sites where the source control involved the treatment or containment of such media;

B. A demonstration that the plume of groundwater is stable and that the contaminants will not migrate vertically or horizontally across the boundary(ies) of the currently contaminated property(ies). Hydraulic control of the plume through pumping or other appropriate technologies, in order to prevent it from migrating off the property(ies), is acceptable;

C. A demonstration that natural attenuation processes are acting to reduce the mass, toxicity, mobility, volume or concentration of contaminants, including:

(I) Actual site hydrogeologic and geochemical field sampling data demonstrating that natural attenuation is occurring and/or that subsurface conditions are conducive to natural attenuation; and/or

(II) Data demonstrating actual reductions in contaminant concentrations;

D. Data demonstrating the rate at which contaminant levels are expected to attenuate, including the estimated time to achieve contaminant cleanup levels at the POC. The estimated attenuation rate and attenuation time frame shall be submitted as part of the proposed Groundwater Remediation Plan. The amount of time needed to attain contaminant cleanup levels must be reasonable when compared to other remedial technologies;

E. A groundwater monitoring program.

(I) The groundwater monitoring program must be designed to detect further migration of the plume of groundwater contamination, provide data on contaminant concentration changes over time and distance, detect changes in ambient groundwater quality, and provide data on contaminant degradation or transformation products.

(II) Sampling and analysis of groundwater must be performed at a frequency, and for parameters, which are appropriate for site-specific conditions and which are sufficient to enable assessment of contaminant trends, natural attenuation rates and seasonal/temporal variations in groundwater quality. Once contaminant cleanup levels are achieved, groundwater monitoring must continue for a period of time which is sufficient to ensure that residual subsurface contamination does not result in recontamination of groundwater above applicable contaminant cleanup levels. Proposed site-specific groundwater monitoring programs shall be specified and will be reviewed and approved as part of the Groundwater Remediation Plan required by this section;

F. Contingent provisions that specify evaluation of additional remedial alternatives by the person if MNA is determined by DNR to be ineffective.

4. If MNA is approved, a reevaluation of the groundwater remedy by the person may be required pursuant to the contingent provisions of the MNA proposal, if the MNA is determined by DNR to be ineffective (that is, monitoring data fails to demonstrate that MNA has achieved the estimated attenuation rate). DNR will notify the person of this determination in writing and shall require that the evaluation of additional remedial alternatives be fully developed and a new or modified remedy proposed.

A. The period of time allowed to demonstrate that MNA is achieving the estimated rate of attenuation will be determined on a site-specific basis.

B. DNR may grant variances or extensions for groundwater remedy reevaluation based on site-specific conditions.

(F) The Risk-Based Groundwater Remediation Plan shall be submitted to DNR no later than ninety (90) days following approval of the Risk Characterization and Cleanup Levels Report and shall be sealed or stamped by a geologist registered in the state of Missouri.

1. DNR will review the proposed Groundwater Remediation Plan to determine if it complies with the requirements of this section. DNR may require changes to the Groundwater Remediation Plan if the requirements of this section are not met. Plans that meet the requirements of this section shall be conditionally approved pending public review and comment.

2. Upon conditional approval by DNR, the Groundwater Remediation Plan shall be subject to public review and comment.

A. Existing public participation regulations, policies, established practices or guidance shall apply to persons participating pursuant to subsection (2)(A) of this rule.

B. The absence of such public participation regulations, policies, established practices, or guidance, public participation as described in the most current version of DNR's CALM guidance document will be used by DNR to guide the public participation aspects of the risk-based groundwater cleanup project. Public notification and participation requirements shall be tailored to each site due to the variety of factors involved in each cleanup. DNR shall approve such requirements on a case-by-case basis.

(10) Approval of Final Remedies and No Further Action.

(A) Following the close of the public comment period for the proposed Groundwater Remediation Plan, DNR will review and respond in writing to public comments on the proposed plan. DNR may accept, modify or reject the final remedy contained in the proposed Groundwater Remediation Plan in response to public comments.

(B) Following the public comment period, DNR will issue a final decision regarding the proposed Groundwater Remediation Plan, associated clean-up levels and continued management requirements.

(C) Conditions of continued management shall include, as applicable:

1. Monitoring;
2. Establishment of a POC;
3. Reporting;
4. Institutional controls;
5. Engineering controls (operation and maintenance of final remedy); and/or
6. A contingency plan to be implemented in the event of changing site conditions or failure of the approved final remedy.

(D) Upon completion of public participation for any proposed finding of No Further Action pursuant to paragraph (7)(D)3. of this rule, DNR will issue a final decision.

(11) Determination of Project Completion.

(A) Upon DNR's determination that all applicable provisions of this rule have been satisfied at a site, DNR will issue a written determination of project completion. DNR may require reevaluation of any groundwater remedy if it proves to be ineffective or fails to provide adequate protection of human health and the environment.

(B) Successful completion of a risk-based groundwater remediation project as evidenced by DNR's issuance of a determination of project completion automatically results in the termination of the site-specific groundwater remediation oversight agreement if any.

(12) Reimbursement.

(A) All persons, not already reimbursing DNR for work performed under the authority of other statutes, as identified in subsection (2)(A) of this rule, shall reimburse DNR for site-specific administration and oversight costs associated with risk-based groundwater cleanups. A complete accounting of the state's costs incurred in project administration and oversight will be billed to the person by mail in accordance with the following:

1. Personnel. The state's personnel hourly rates multiplied by a fixed factor of three and one-half (3 1/2) will be the basis for time accounting billing. This fixed factor is comprised of direct labor costs; fringe benefits, calculated at a rate developed by DNR; indirect costs, calculated at a rate approved by the United States Department of the Interior; and direct overhead, including but not limited to, the cost of clerical support and supervisory review and DNR administrative and management support;

2. Expenses. The direct expenses incurred during administration and oversight and any analytical costs associated with sampling; plus indirect costs calculated at the approved United States Department of the Interior rates;

3. Long-term oversight costs. For sites that require engineering and/or institutional controls (for example, capping, restrictive covenants), the person shall submit a fee to cover DNR's long-term costs in monitoring such controls. DNR shall establish a site-specific fee, ranging from five thousand to fifteen thousand dollars ($5,000–$15,000) to cover these costs. The amount of the fee shall be dependent upon the complexity of the site and the type of engineering and/or institutional controls.

(B) DNR shall bill the person for all administrative and oversight costs and any associated expenses. The person shall reimburse DNR within sixty (60) days following notice from DNR that reimbursement is due. Failure to submit timely reimbursement is grounds for termination of the groundwater remediation oversight agreement. All necessary reimbursements to DNR must be made prior to DNR's issuance of any final determinations regarding project completion.

(13) DNR Review and Approval.

(A) Following submission of any plan or report pertaining to risk-based groundwater remediation, DNR will acknowledge receipt, review, and either approve or disapprove the plan or report in writing.

(B) If DNR disapproves a plan or report, DNR will notify the person in writing of the plan's or report's deficiencies and specify a due date for submittal of a revised plan or report. If DNR disapproves a revised plan or report, DNR will work informally with the person to resolve any remaining issues or deficiencies within a reasonable period of time.

(C) The person may request an extension to the deadlines specified in this rule, including any schedules established pursuant to approved work plans or reports submitted pursuant to this rule. The person must provide justification for the extension and specify a new date for document submittal and/or completion of required activities as part of any such request. DNR will consider extension requests on a case-by-case basis and will either approve or disapprove the extension request in writing within thirty (30) days of receipt.

(D) Any Risk Characterization and Cleanup Levels Report or Groundwater Remediation Plan conditionally approved by the DNR pursuant to subsection (8)(E) or paragraph (9)(E)1. of this rule, respectively, is subject to modification or rejection based upon public review and comment.

(14) Termination of Risk-Based Groundwater Remediation Agreements.

(A) Subsection (13)(C) of this rule provides for extension of the deadlines specified in this rule, including any schedules established pursuant to approved work plans or reports submitted pursuant to this rule. Repeated failure to request extensions in accordance with this paragraph, as appropriate, and/or failure to follow schedules, which are approved by DNR pursuant to this rule, may also be considered grounds for termination of site-specific groundwater remediation oversight agreements.

(B) Failure to reimburse the state's oversight costs may result in termination of the site-specific groundwater remediation oversight agreement.

(C) Persons not subject to enforcement action or other regulatory requirements to remediate groundwater at the site may voluntarily withdraw from the site-specific groundwater remediation oversight agreement. The person shall reimburse all applicable oversight costs incurred by the state prior to the agreement being terminated. Requests to terminate a groundwater remediation oversight agreement must be submitted to DNR in writing no less than thirty (30) days prior to the termination of the agreement.

(15) Financial Assurances. DNR may require that the person provide financial assurance or the person may offer to provide financial assurance to ensure completion of any monitoring or remedy implemented pursuant to this rule. If DNR determines that financial assurance is required, the amount, timing and type of the financial assurance instrument(s) and the acceptability of particular instruments will be negotiated with the person and will be approved by DNR on a case-by-case basis.

(16) Penalties. Nothing in this rule shall prevent DNR from seeking penalties for violations of the law for any person subject to enforcement action or other regulatory requirements to remediate groundwater.

(17) Natural Resources Damages. Nothing in this rule shall prevent DNR from seeking the payment of damages, including natural resources damages, including investigative or cleanup costs related to pollution or other violations of law.

(18) Commission Appeal. Consistent with Chapters 640 and 644, RSMo, an affected person may appeal any decision by DNR under section (13) of this rule to the Clean Water Commission. The affected party must file a notice of appeal with the commission within thirty (30) days of the notice of any action in accordance with section (13) of this rule pertaining to risk-based groundwater remediation.

AUTHORITY: section 644.026, RSMo 2000. Original rule filed Dec. 28, 2001.

PUBLIC COST: It is estimated the proposed rule will cost the agencies responsible for implementation one hundred fifty-five thousand six hundred ninety-one dollars ($155,691). In addition, it is estimated that the cost for groundwater cleanups at sites owned by local government could range from one hundred fifty thousand dollars ($150,000) to eight (8) million dollars.

PRIVATE COST: The annualized cost of this rule cannot be estimated. It is estimated that the total cost could range from ten and one-half (10.5) million dollars to one hundred fifty-six (156) million dollars. As noted in the fiscal note, it is assumed that the number of groundwater cleanups to be conducted will not change as a result of this rule with the exception of the Voluntary Cleanup Program. The change will be that the procedures in the rule will now apply to these groundwater cleanups. These cleanups take place over a period of years in the future.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will accept comments for sixty (60) days and will hold a public hearing on this proposed rule. In addition, the staff will conduct public meetings in Kansas City and St. Louis prior to the hearing to allow interested parties to review the proposed rule and ask questions about its applicability. The public hearing will be held beginning at 9:00 a.m., March 19, 2002 at the Capitol Plaza Hotel, 415 W. McCarty, Jefferson City, Missouri. Those wishing to speak at the public hearing should send a written request to speak to the Secretary, Missouri Clean Water Commission, PO Box 176, Jefferson City, MO 65102, or by fax at (573) 526-1146, by 5:00 p.m. March 12, 2002, written comments will also be accepted until 5:00 p.m., April 2, 2002.

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Title: **10 – Department of Natural Resources**

Division: **20 – Clean Water Commission**

Chapter: **7 – Water Quality**

Type of Rulemaking: **Proposed Rule**

Rule Number and Name: **10 CSR 20-7.040 Comprehensive Risk-Based Groundwater Remediation Rule**

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources and Department of Health and Senior Services	$155,691
Local Government – This estimated cost would be for groundwater cleanups at sites owned by local government	$150,000 - $8 million

III. WORKSHEET

Missouri Department of Natural Resources and Department of Health and Senior Services

Personnel	#FTE	Salary	Estimated Annualized Cost
Envir. Specialist III	3.0	$33,276	$99,828
Geologist II	1.0	$33,276	$33,276
Subtotal			$133,101
E&E		$7,530/FTE	$22,590
Total*			$155,691

* Does not include Fringe Benefit or Indirect

New groundwater cleanups initiated as a result of this rule:

Authority	Estimated Number Groundwater Cleanups	Estimated Range of Cleanup Costs
Voluntary Cleanup Program	15	$150,000 - $8 million

IV. ASSUMPTIONS

1. Section 644.143 RSMo which was passed in 1999 requires the Clean Water Commission to "establish procedures for determining whether remediation of groundwater, based on risk to human health and the environment, is appropriate for any particular site."

2. Risk-based groundwater cleanups are presently conducted under the authority of the various, existing federal and state statutes and regulations, such as the Voluntary Cleanup Program, Underground Storage Tank program, etc.

3. Section 644.143 RSMo does not provide the Department of Natural Resources with any additional authority regarding groundwater cleanups.

4. The proposed rule establishes the "procedure" to be followed when an entity is conducting a groundwater cleanup. This rule would apply to all groundwater cleanups in the state under the authority of existing federal and state statutes and rules. A single procedure which applies to all groundwater cleanups for groundwater cleanups has not existed prior to this rule.

5. Groundwater cleanups are normally part of a larger cleanup effort (i.e., soil contamination, etc.).

6. With the exception of the VCP program, it is assumed that the number of the groundwater cleanups to be conducted will not change as a result of this rule.

7. It is assumed that owners and developers of brownfield sites will chose to take advantage of this rule to pursue alternative groundwater cleanup levels to facilitate cleanup and redevelopment of these sites.

8. It is estimated that there will be an additional 20-25 new sites a year with groundwater contamination entering the VCP as a result of this rule. It is further estimated that at least 15 of these sites will be properties under the control of state or local government.

9. The costs to perform groundwater cleanups can range from approximately $10,000 to hundreds of thousands, or even millions of dollars depending on the extent of the groundwater contamination, nature of the pollutants, etc. The cleanup costs are dependent on many factors including the extent of contamination, type of contaminants, existing groundwater quality, etc.

10. For those sites where the department allows alternative cleanup levels, there could be a savings to the entity conducting the cleanup.

11. It is expected that many sites with groundwater contamination will pursue alternative cleanup levels in accordance with this rule to remediate the site.

12. The cost of compliance could depend on the geographic location of the contaminated site.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Title: 10 – Department of Natural Resources

Division: 20– Clean Water Commission

Chapter: 7 – Water Quality

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 20-7.040 Comprehensive Risk-Based Groundwater Remediation Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Unknown	This rule would apply to any site where groundwater contamination exists and groundwater cleanup will be conducted. It would include industrial and commercial sources, abandoned properties, etc.	An estimate of the aggregate cost of the rule can not be provided. Section III provides an estimate of the number of sites in the state which include some level of groundwater cleanup and the estimated cost range for those cleanups.

III. WORKSHEET

As stated in the assumptions this rule will apply to groundwater cleanups conducted under the authority of the various, existing federal and state statutes and regulations, such as the Voluntary Cleanup Program (VCP), Underground Storage Tank program, Resource Conservation, and Recovery Act, Superfund, etc. With the exception of the VCP program, it is assumed that the number of the groundwater cleanups to be conducted will not change as a result of this rule. The change will be that the procedures in the rule will now apply to these groundwater cleanups. These groundwater cleanups would take place over a period of years in the future.

As also stated in the assumptions, the cost of groundwater cleanups can range from a few thousand dollars to several hundreds of thousands of dollars depending on the extent of contamination, pollutants, threat to human health and the environment, etc. It is impossible to provide an accurate estimate of the costs of the cleanups. Therefore, a cost range has been provided. In addition, because the rule outlines a process for determining the appropriateness of alternative cleanup levels, there could be a substantial cost savings to private entities.

Ongoing groundwater cleanups under the authority of existing statutes:

Authority	Estimated Number Groundwater Cleanups	Estimated Range of Cleanup Costs
Resource Conservation and Recovery Act (RCRA)	50	$500,000 - $25 million
Voluntary Cleanup Program	62	$620,000 - $32 million
Underground/Above Ground Storage Tanks	939	$9,390,000 - $94 million

New groundwater cleanups initiated as a result of this rule:

Authority	Estimated Number Groundwater Cleanups	Estimated Range of Cleanup Costs
Voluntary Cleanup Program	10	$50,000 - $5 million

IV. ASSUMPTIONS

1. Section 644.143 RSMo which was passed in 1999 requires the Clean Water Commission to "establish procedures for determining whether remediation of groundwater, based on risk to human health and the environment, is appropriate for any particular site."

2. Risk-based groundwater cleanups are presently conducted under the authority of the various, existing federal and state statutes and regulations, such as the Voluntary Cleanup Program, Underground Storage Tank program, etc.

3. Section 644.143 RSMo does not provide the Department of Natural Resources with any additional authority regarding groundwater cleanups.

4. The proposed rule establishes the "procedure" to be followed when an entity is conducting a groundwater cleanup. This rule would apply to all groundwater cleanups in the state under the authority of existing federal and state statutes and rules. A single procedure which applies to all groundwater cleanups for groundwater cleanups has not existed prior to this rule.

5. Groundwater cleanups are normally part of a larger cleanup effort (i.e., soil contamination, etc.).

6. With the exception of the VCP program, it is assumed that the number of the groundwater cleanups to be conducted will not change as a result of this rule.

7. It is assumed that owners and developers of brownfield sites will chose to take advantage of this rule to pursue alternative groundwater cleanup levels to facilitate cleanup and redevelopment of these sites.

8. It is estimated that there will be an additional 20-25 new sites a year with groundwater contamination entering the VCP as a result of this rule. It is further estimated that at least 10 of these sites will be private industrial or commercial properties.

9. The costs to perform groundwater cleanups can range from approximately $10,000 to hundreds of thousands, or even millions of dollars depending on the extent of the groundwater contamination, nature of the pollutants, etc. The cleanup costs are dependent on many factors including the extent of contamination, type of contaminants, existing groundwater quality, etc.

10. For those sites where the department allows alternative cleanup levels, there could be a savings to the entity conducting the cleanup.

11. It is expected that many sites with groundwater contamination will pursue alternative cleanup levels in accordance with this rule to remediate the site.

12. The cost of compliance could depend on the geographic location of the contaminated site.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 1—Organization

PROPOSED AMENDMENT

10 CSR 70-1.010 Organization. The Soil and Water Districts Commission is adding a new subsection (1)(G).

PURPOSE: The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with Senate Bill No. 462, Truly Agreed To and Finally Passed on June 28, 2001. Section 6 was added to State Statute 278.080. The State Statute, along with this proposed rulemaking, was promulgated in order to provide the Soil and Water Districts Commission the authority to grant variances to their rules when strict compliance would cause undue hardship and unreasonable impact on Soil and Water Conservation Districts and Missouri landowners that participate in Soil and Water Conservation practices.

(1) The Soil and Water Districts Commission is a state agency created by section 278.080, RSMo *[(1986)]* **2000** for the administration of the soil and water conservation districts provided for in sections 278.060–278.300, RSMo (1986). The commission is comprised of five (5) persons and operates with an assigned staff as an agency within the Department of Natural Resources. Its primary responsibility is the determination of policies and procedures to be used by soil and water conservation districts. In addition, the Soil and Water Districts Commission has the authority and responsibility to—

(G) Unless prohibited by any federal or state law, the commission may grant individual variances to Soil and Water Districts Commission rules upon presentation of adequate proof, that compliance with sections 278.070 to 278.300, or any rule or regulation, standard, requirement, limitation or order of the commission will have an arbitrary and unreasonable impact on landowners participating in soil and water conservation eligible practices. In determining under what conditions and to what extent a variance may be granted, the commission shall exercise a wide discretion in weighing the equities involved as well as the advantages and disadvantages in approving or disapproving a request for a variance.

1. The variance request shall:

A. Be in writing;

B. Filed with the program director of the Soil and Water Districts Commission; and

C. Set out reasons the applicant believes a variance should be granted.

2. The burden shall be placed on the applicant of a variance to show the inequities if the variance is not granted.

3. The program director shall promptly investigate the application and make a recommendation to the commission after the application is received as to whether the variance should be granted or denied.

AUTHORITY: *sections* ***278.070.4,*** *278.080.****1****,* ***278.080.5(8)*** *and* ***278.110.8****, RSMo [1986] 2000. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Jan. 2, 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 submit a written statement in support of or in opposition to the proposed amendment with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
[Division 40—Division of Fire Safety]
Division 10—Adjutant General
[Chapter 4—General Organization]
Chapter 11—State Emergency Management Agency

PROPOSED AMENDMENT

11 CSR *[40-4.010]* ***10-11.210 General*** **Organization** ***Missouri Emergency Response Commission***. The director is 1) moving the Missouri Emergency Response Commission from Division 4—Division of Fire Safety, Chapter 4—General Organization MERC to Division 10—Office of Adjutant General, Chapter 11—State Emergency Management Agency, 2) updating current address and telephone numbers, 3) and adding rules clarifying how fees collected by the department and distributed to the LEPCs can be spent.

PURPOSE: This amendment changes the physical location of the Missouri Emergency Response Commission, updates address and telephone number accordingly, adds clarifying rules for spending LEPC fees and renumbers this rule.

(1) The Department of Public Safety is authorized under sections 292.600–292.625, RSMo to administer the state and the federal Emergency Planning and Community Right-to-Know Act **(EPCRA)**. *[The Division of Fire Safety has been designated by statute 292.602 to provide the day-to-day operation of the program.]* **The State Emergency Management Agency (SEMA) has been designated by the Department of Public Safety to provide the day-to-day operation of the EPCRA Program and the Hazardous Materials Emergency Preparedness (HMEP) Program.**

(2) The Missouri Emergency Planning and Community Right-to-Know Act (EPCRA or sections 292.600–292.625, RSMo) and the federal EPCRA (P.L. 99-499) are administered in Missouri by the Missouri Department of Public Safety in conjunction with the Missouri Emergency Response Commission (MERC). MERC was first established in 1987 by Executive Order of the Governor and was later established under statute in 1988 and revised in 1992. The commission resides within the Missouri Department of Public Safety. *[Public Safety, Division of Fire Safety provide day-to-day operation of the EPCRA section.]* The commission in conjunction with the department is responsible for—

(3) Information.

(A) Requests for copies of rules, report forms, planning guides, and other EPCRA information may be made to the Missouri Emergency Response Commission, PO Box 3133, Jefferson City, MO 65102. *[The telephone number during office hours is (314) 526-3901.]*

(B) The EPCRA files, except trade secrets, as provided in section 292.610, RSMo, are public information and are located in the offices of the *[Division of Fire Safety, 301 West High Street, Truman Building, Room 860]* **Missouri Emergency Response Commission, 2302 Militia Dr.,** Jefferson City, Missouri. Anyone wishing to review information in the EPCRA files is requested to make an appointment *[by calling (314) 526-3901]* **by writing to the MERC at the mailing address listed in subsection (3)(A).** There is no fee for reviewing file information. There is a copying

fee if copies of file information are made and it must be paid by check or money order.

*AUTHORITY: section 292.613, RSMo [Cum. Supp. 1993] **2000**. This rule previously filed as 11 CSR 40.4.010. This rule also filed as 10 CSR 24-1.010. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 20, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.210. Amended: Filed Dec. 19, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Emergency Response Commission, PO Box 3133, 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 11—DEPARTMENT OF PUBLIC SAFETY
[Division 40—Division of Fire Safety]
Division 10—Adjutant General
[Chapter 4—General Organization MERC]
Chapter 11—State Emergency Management Agency

PROPOSED AMENDMENT

11 CSR *[40-4.020] **10-11.220*** **Definitions**. The director is moving the Missouri Emergency Response Commission from Division 4—Division of Fire Safety, Chapter 4—General Organization MERC to Division 10—Office of Adjutant General, Chapter 11—State Emergency Management Agency.

PURPOSE: This amendment changes the physical location of the Missouri Emergency Response Commission, and renumbers this rule.

*PURPOSE: This rule provides definitions for terms used in 11 CSR [40]**10**.*

(24) Missouri Tier Two Form *[or Tier Two Form]* (see 11 CSR *[40-4.040]* **10-11.240**)—the emergency and hazardous chemical inventory form developed by the MERC.

*AUTHORITY: section 292.613, RSMo [Cum. Supp. 1993] **2000**. This rule previously filed as 11 CSR 40-4.020. This rule also filed as 10 CSR 24-2.010. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.220. Amended: Filed Dec. 19, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Emergency Response Commission, PO Box 3133, 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 11—DEPARTMENT OF PUBLIC SAFETY
[Division 40—Division of Fire Safety]
Division 10—Adjutant General
[Chapter 4—General Organization MGRC]
Chapter 11—State Emergency Management Agency

PROPOSED AMENDMENT

11 CSR *[40-4.030] **10-11.230*** **Emergency Notification of Releases of Hazardous Substances and Extremely Hazardous Substances**. The director is moving the Missouri Emergency Response Commission from Division 4—Division of Fire Safety, Chapter 4—General Organization MERC to Division 10—Office of Adjutant General, Chapter 11—State Emergency Management Agency.

PURPOSE: This amendment changes the physical location of the Missouri Emergency Response Commission and renumbers this rule.

PURPOSE: This rule establishes a statewide emergency telephone number to notify Missouri whenever a hazardous substance emergency occurs and specifies the requirements for emergency notification and follow-up written notices in the event of a hazardous substance emergency, the release of a reportable quantity of a hazardous substance and the release of a reportable quantity of an extremely hazardous substance.

(2) Any person required to provide an emergency notification under 11 CSR *[40-4.030]* **10-11.230**(1) shall provide a written follow-up emergency notice (or notices as more information becomes available) to the department and any affected LEPC. This written notice(s) shall contain the information described in 10 CSR 24-3.010(3). Also, written follow-up notice(s) shall be provided to the MDNR upon request of the MDNR.

*AUTHORITY: section 292.613, RSMo [Supp. 1993] **2000**. This rule previously filed as 11 CSR 40-4.030. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan 1, 1993, expired April 30, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.230. Amended: Filed Dec. 19, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Emergency Response Commission, PO Box 3133, 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 11—DEPARTMENT OF PUBLIC SAFETY
[Division 40—Division of Fire Safety]
Division 10—Adjutant General
[Chapter 4—General Organization MERC]
Chapter 11—State Emergency Management Agency

PROPOSED AMENDMENT

11 CSR *[40-4.040]* ***10-11.240*** **Reporting Procedures Under the State and Federal Emergency Planning and Community Right-to-Know Act (EPCRA)**. The director is 1) moving the Missouri Emergency Response Commission from Division 4—Division of Fire Safety, Chapter 4—General Organization MERC to Division 10—Office of Adjutant General, Chapter 11—State Emergency Management Agency, 2) updating current address and telephone numbers, 3) deleting an outdated form and adding Internet web site addresses to access current forms.

PURPOSE: This amendment changes the physical location of the Missouri Emergency Response Commission, updates address and telephone number accordingly, deletes the Tier Two form from the ***Code of State Regulations*** *and renumbers this rule.*

(1) The format for routine reporting under */S/*sections 302, 303, 311 and 312 of the federal Emergency Planning and Community Right-to-Know Acts (EPCRA) and sections 292.605 and 292.617, RSMo of the state EPCRA is the Missouri Tier Two form. **This form can be accessed on the Internet at www.sema.state.mo.us/mercc.htm.** These reports are due to the department or postmarked by March 1 annually for the previous calendar year. The state EPCRA requires the names, current addresses and phone numbers of at least two (2) individuals familiar with the kind, location, nature and approximate quantities present in the facility, who may be contacted in the event of an emergency. The federal regulations for reporting under */S/*sections 302 and 303 of the EPCRA are in 40 CFR part 355. Federal regulations for reporting under */S/*sections 311 and 312 of the EPCRA are in 40 CFR part 370.

AUTHORITY: section 292.613, RSMo [Supp. 1993] ***2000****. This rule also filed as 10 CSR 24-4.010. This rule previously filed as 11 CSR 40-4.040. Emergency rule filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Original rule filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 40-4.040. Amended: Filed Dec. 19, 2001.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Emergency Response Commission, PO Box 3133, 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 11—DEPARTMENT OF PUBLIC SAFETY
[Division 40—Division of Fire Safety]
Division 10—Adjutant General
[Chapter 4—General Organization MERC]
Chapter 11—State Emergency Management Agency

PROPOSED AMENDMENT

11 CSR *[40-4.050]* **10-11.250 Hazardous Chemical Fees**. The director is 1) moving the Missouri Emergency Response Commission from Division 4—Division of Fire Safety, Chapter 4—General Organization MERC to Division 10—Office of Adjutant General, Chapter 11—State Emergency Management Agency, 2) updating current address and telephone numbers, 3) deleting an outdated form currently in the Code and adding Internet web site addresses to access current forms, and 4) adding rules clarifying how fees collected by the department and distributed to the LEPCs can be spent.

PURPOSE: This amendment changes the physical location of the Missouri Emergency Response Commission, updates address and telephone number accordingly, deletes the Fee Calculation Worksheet form from the ***Code of State Regulations*** *and adds clarifying rules for spending LEPC fees and renumbers this rule.*

PURPOSE: This rule describes the hazardous chemical fee system, how to calculate these fees and when and where to submit them.

(1) Fees for Tier Two forms (see 11 CSR *[40-4.020]* ***10-11.220***) are payable at the time Tier Two forms are due, each March 1 for the previous calendar year.

(A) Fees shall be calculated as described in this section. It shall be the **employer's** responsibility to calculate the required fees on the fee calculation worksheet **which can be accessed on the Internet at www.sema.state.mo.us/mercc.htm** and to remit them to the Missouri Emergency Response Commission (MERC) at PO Box 3133, Jefferson City, MO 65102. Family farm operations and local government facilities are exempt from paying fees under this chapter.

(6) Fees collected by the department and all funds provided to local emergency planning committees shall be used for chemical emergency preparedness purposes as outlined in sections 292.600 to 292.625, RSMo and the federal act, including:

(A) Contingency planning for chemical releases;

(B) Exercising, evaluating, and distributing plans;

(C) Providing training related to chemical emergency preparedness and prevention of chemical accidents;

(D) Identifying facilities required to report;

(E) Processing the information submitted by facilities and making it available to the public;

(F) Receiving and handling emergency notifications of chemical releases;

(G) Operating a local emergency planning committee;

(H) Providing public notice of chemical preparedness activities.

(7) Local emergency planning committees receiving funds under this section may combine such funds with other local emergency planning committees to further the purposes of sections 292.600 to 292.625, RSMo or the federal act.

(8) The commission shall establish criteria and guidance on how funds received by local emergency planning committees may be used.

(9) No funds provided to the local emergency planning committees under this program shall be used for salaries for full-time employee.

AUTHORITY: section 292.613, RSMo [Supp. 1993] ***2000****. This rule also filed as 10 CSR 24-5.010. This rule previously filed has 11 CSR 40-4.050. Emergency rule filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Original rule filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5,1993, effective June 6, 1994. Changed to 11 CSR 10-11.250. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Emergency Response Commission, PO Box 3133, 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 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 4—Agricultural Land Productive Values

PROPOSED AMENDMENT

12 CSR 30-4.010 Agricultural Land Productive Values

PURPOSE: Pursuant to section 137.021 requirements, the state tax commission proposes that there is no change in the existing agricultural land grades and values. The State Tax Commission proposes to implement the same use values which are in effect to date.

PURPOSE: This rule complies with the requirement of section 137.021, RSMo, to publish a range of productive values for agricultural and horticultural land for the ensuing tax year.

(1) Agricultural Land Grades and Values. The following are definitions of agricultural land grades and the productive values of each:

(A) Grade #1. This is prime agricultural land. Condition of soils is highly favorable with no limitations that restrict their use. Soils are deep, nearly level (zero to two percent (0–2%) slope) or gently sloping with low erosion hazard and not subject to damaging overflow. Soils that are consistently wet and poorly drained are not placed in Grade #1. They are easily worked and produce dependable crop yields with ordinary management practices to maintain productivity-both soil fertility and soil structure. They are adapted to a wide variety of crops and suited for intensive cropping. Use value: nine hundred eighty-five dollars ($985);

(B) Grade #2. These soils are less desirable in one (1) or more respects than Grade #1 and require careful soil management, including some conservation practices on upland to prevent deterioration. This grade has a wide range of soils and minimum slopes (mostly zero to five percent (0–5%)) that result in less choice of either crops or management practices. Primarily bottomland and best upland soils. Limitations—

1. Low to moderate susceptibility to erosion;

2. Rare damaging overflows (once in five to ten (5–10) years); and

3. Wetness correctable by drainage. Use value: eight hundred ten dollars ($810);

(C) Grade #3. Soils have more restrictions than Grade #2. They require good management for best results. Conservation practices are generally more difficult to apply and maintain. Primarily good upland and some bottomland with medium productivity. Limitations—

1. Gentle slope (two to seven percent (2–7%));

2. Moderate susceptibility to erosion;

3. Occasional damaging overflow (once in three to five (3–5) years) of Grades #1 and #2 bottomland; and

4. Some bottomland soils have slow permeability, poor drainage, or both. Use value: six hundred fifteen dollars ($615);

(D) Grade #4. Soils have moderate limitations to cropping that generally require good conservation practices. Crop rotation normally includes some small grain (for example, wheat or oats), hay, or both. Soils have moderately rolling slopes and show evidence of serious erosion. Limitations—

1. Moderate slope (four to ten percent (4–10%));

2. Grade #1 bottomland subject to frequent damaging flooding (more often than once in two (2) years), or Grades #2 and #3 bottomland subject to occasional damaging flooding (once every three to five (3–5) years);

3. Poor drainage in some cases; and

4. Shallow soils, possibly with claypan or hardpan. Use value: three hundred eighty-five dollars ($385);

(E) Grade #5. Soils are not suited to continuous cultivation. Crop rotations contain increasing proportions of small grain (for example, wheat or oats), hay, or both. Upland soils have moderate to steep slopes and require conservation practices. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));

2. Grades #2 and #3 bottomland subject to frequent damaging flooding (more than once in two (2) years) and Grade #4 bottomland subject to occasional damaging flooding; and

3. Serious drainage problems for some soils. Use value: one hundred ninety-five dollars ($195);

(F) Grade #6. Soils are generally unsuited for cultivation and are limited largely to pasture and sparse woodland. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));

2. Severe erosion hazards present;

3. Grades #3 and #4 bottomland subject to frequent damaging flooding (more than once in two (2) years), and Grade #5 bottomland subject to occasional damaging flooding (once every three to five (3–5) years); and

4. Intensive management required for crops. Use value: one hundred fifty dollars ($150);

(G) Grade #7. These soils are generally unsuited for cultivation and may have other severe limitations for grazing and forestry that cannot be corrected. Limitations—

1. Very steep slopes (over fifteen percent (15%));

2. Severe erosion potential;

3. Grades #5 and #6 bottomland subject to frequent damaging flooding (more than once in two (2) years);

4. Intensive management required to achieve grass or timber productions; and

5. Very shallow topsoil. Use value: seventy-five dollars ($75);

(H) Grade #8. Land capable of only limited production of plant growth. It may be extremely dry, rough, steep, stony, sandy, wet or severely eroded. Includes rivers, running branches, dry creek and swamp areas. The lands do provide areas of benefit for wildlife or recreational purposes. Use value: thirty dollars ($30); and

(I) Definitions. The following are definitions of flooding for purposes of this rule:

1. Damaging flooding. A damaging flood is one that limits or affects crop production in one (1) or more of the following ways:

A. Erosion of the soil;

B. Reduced yields due to plant damage caused by standing or flowing water;

C. Reduced crop selection due to extended delays in planting and harvesting; and

D. Soil damage caused by sand and rock being deposited on the land by flood waters;

2. Frequent damaging flooding. Flooding of bottomlands that is so frequent that normal row cropping is affected (reduces row crop selection); and

3. Occasional damaging flooding. Flooding of bottomland that is so infrequent that producing normal row crops is not compromised in most years.

(2) Forest Land and Horticultural Land. The following prescribes the treatment of forest land and horticultural land:

(A) Forest land, whose cover is predominantly trees and other woody vegetation, should not be assigned to a land classification grade based on its productivity for agricultural crops. Forest land of two (2) or more acres in area, which if cleared and used for agricultural crops, would fall into land grades #1–#5 should be placed in land grade #6; or if land would fall into land grades #6 or #7 should be placed in land grade #7. Forest land may or may not be in use for timber production, wildlife management, hunting, other outdoor recreation or similar uses; and

(B) Land utilized for the production of horticultural crops should be assigned to a land classification grade based on productivity of the land if used for agricultural crops. Horticultural crops include fruits, ornamental trees and shrubs, flowers, vegetables, nuts, Christmas trees and similar crops which are produced in orchards, nurseries, gardens or cleared fields.

AUTHORITY: section 137.021, RSMo [Supp. 1999] 2000. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Dec. 28, 2001.*

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

PRIVATE COST: Because this proposed amendment does not change the use value per acre placed on agricultural land, the assessed value of agricultural property remains the same, therefore there will be no increased cost to private entities as a result of this proposed amendment.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Rosemary Kaiser, Administrative Secretary, State Tax Commission of Missouri, PO Box 146, Jefferson City, MO 65102, (573) 751-2414. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

PROPOSED RULE

15 CSR 30-51.180 Exclusions from Definition of Broker-Dealer, Agents, Investment Advisers, and Investment Adviser Representatives

PURPOSE: This rule prescribes the persons that are excluded from the definition of broker-dealer, agent, investment adviser, and investment adviser representative.

(1) Broker-Dealer.

(A) Canadian—United States Cross-Border Trading Exclusion. A person who is a resident of Canada and who has no office or other physical presence in this state is excluded from the definition of broker-dealer contained in section 409.401(c), RSMo, provided it complies with the following conditions:

1. Registered with or is a member of a self-regulatory organization in Canada, stock exchange in Canada or the *Bureau des services financiers*;

2. Maintains in good standing its provincial or territorial registration and its registration with or membership in a self-regulatory organization in Canada, stock exchange in Canada or the *Bureau des services financiers*; and

3. Effects or attempts to effect transactions in securities:

A. With or for a person from Canada who is temporarily a resident in or visiting this state, with whom the Canadian broker-dealer had a bona fide broker-dealer–client relationship before the person entered this state;

B. With or for a person present in this state, whose transactions are in Canadian self-directed tax advantaged retirement account of which the person is the holder or contributor; or

C. As otherwise permitted by the securities laws of this state.

(2) Agent.

(A) Sellers of Agricultural Cooperatives. An individual who represents an issuer for the purpose of effecting transactions in a security exempted by clause (5) of section 409.402(a), RSMo, and seeks an exception from the definition of agent shall submit the following:

1. Form SE-2, Application for Exception from Definition as Agent for Sellers of Agricultural Cooperatives Securities;

2. Filing of copies of all sales and solicitation material to be used by the applicant; and

3. Filing of copies of any agreements between the issuer and the applicant regarding commissions or other remuneration to be received for effecting transactions in the previously mentioned securities.

AUTHORITY: sections 409.401(b) and (c)(5) and 409.413(a), RSMo 2000. Original rule filed Dec. 28, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions

PROPOSED RULE

15 CSR 30-54.290 Canadian–United States Cross-Border Trading Exemption

PURPOSE: This rule prescribes transactions exempted pursuant to section 409.402(c), RSMo, for Canadians who are temporarily a resident in or visiting this state and persons in the state who are holders of or contributors to Canadian self-directed tax advantaged retirement accounts.

(1) Any offer or sale of a security effected by a Canadian broker-dealer excluded from definition of broker-dealer pursuant to 15 CSR 30-51.180 is exempted from the securities registration requirements of section 409.301, RSMo.

AUTHORITY: section 409.402(c) and 409.413, RSMo 2000. Original rule filed Dec. 28, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*