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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

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

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 9—Animal Care Facilities

PROPOSED AMENDMENT

2 CSR 30-9.020 Animal Care Facility Rules Governing Licensing, Fees, Reports, Record Keeping, Veterinary Care, Identification and Holding Period. The director is adding the following new subsections (1)(T) and (14)(G), new subparagraph (11)(B)1.I., removing paragraphs (13)(B)2. and (15)(C)3.

PURPOSE: This proposed amendment sets forth requirements to document the disposition of animals handled by animal rescues and shelters.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material, which is incorporated by reference as a portion of this rule, would be unduly cumbersome or expensive. Therefore, the material, which is so incorporated, is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. The publication for ***2000 Report of the AVMA Panel on Euthanasia*** *can be asscess at http://www.avma.org.*

(1) Application For License and Conditions of Issuing.

(T) Contested cases and other matters involving licensees and the director, or his designee, may be informally resolved by consent agreement, settlement, stipulation, consent order, or default.

(11) Records.

(B) Records of Operators of Auction Sales and Brokers.

1. Every broker or operator of an auction sale shall make, keep and maintain records or forms which fully and correctly disclose the following information concerning each animal sold, whether or not a fee or commission is charged:

A. The name and complete mailing address of the person who owned or consigned the animal(s) for sale;

B. The name and complete mailing address of the buyer or consignee who received the animal;

C. The USDA and ACFA license or registration number of the person(s) selling, consigning, buying or receiving the animals if s/he is licensed or registered under the Acts;

D. The vehicle license number and state and the driver's license number and state of the person, if s/he is not licensed or registered under the Acts;

E. The date of the consignment;

F. The official USDA or ACFA tag number assigned to the animal(s) under this rule;

G. A description of the animal(s) which shall include:

(I) The species and breed or type;

(II) The sex of the animal;

(III) The date of birth or approximate age; and

(IV) The color and any distinctive markings; *[and]*

H. The auction sales number or records number assigned to the animal*[.]***; and**

I. The name, mailing address, any USDA/ACFA license numbers of all people registering at the auction to buy animals.

(13) Holding Period.

(B) Any live dog or cat acquired by a commercial breeder, dealer, exhibitor or pet shop shall be held under his/her supervision and control, for a period of not less than five (5) full days, not including the day of acquisition, after acquiring the animal, excluding time in transit; provided, however—

1. That any live dog or cat acquired by a commercial breeder, dealer, exhibitor or pet shop from any private or contract animal pound, animal shelter, pound or dog pound shall be held by that commercial breeder, dealer, exhibitor or pet shop for a period of not less than ten (10) full days, not including the day of acquisition, after acquiring the animal, excluding time in transit;

[2. Dogs and cats which have completed a five (5)-day holding period with another licensee or a ten (10)-day holding period with another licensee following release from an animal shelter, pound or dog pound, may be sold or otherwise disposed of by subsequent licensees after a minimum holding period of twenty-four (24) hours by each subsequent licensee excluding time in transit.]

(14) Miscellaneous.

(F) Handling of Animals.

1. Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm or unnecessary discomfort.

2. Physical abuse shall not be used to train, work or otherwise handle animals.

3. Deprivation of food or water shall not be used to train, work or otherwise handle animals; provided however, that the short-term withholding of food or water from animals by exhibitors is allowed by this rule as long as each of the animals affected receives its full dietary and nutrition requirements each day.

4. During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance or barriers, or both, between the animal and the general viewing public so as to assure the safety of animals and the public.

A. Performing animals shall be allowed a rest period between performances at least equal to the time for one (1) performance.

B. Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.

C. Drugs, such as tranquilizers, shall not be used to facilitate, allow or provide for public handling of the animals.

D. Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

E. A responsible, knowledgeable and readily identifiable employee or attendant must be present at all times during periods of public contact.

F. During public exhibitions, dangerous animals such as lions, tigers or wolves must be under the direct control and supervision of a knowledgeable and experienced animal handler.

G. If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.

5. All euthanasia of animals shall be accomplished by a method approved by the *[1993] **2000*** edition, or later revisions, of the *American Veterinary Medical Association's Pan on Euthanasia*, **as incorporated by reference in this rule**.

(G) When foster homes are used to house animals at locations other than an animal shelter, the licensee must annually provide a listing of names, addresses and phones for all active fostering sites.

(15) Procurement of Dogs and Cats By Licensees.

(C) Any licensee or exhibitor who also operates a public or private pound, animal shelter, contract pound, pound or dog pound shall comply with the following:

1. The animal pound or shelter shall be located on premises that are physically separated from all other licensed facilities. The animal housing facility of the pound or shelter shall not be adjacent to any other licensed facility.

2. Accurate and complete records shall be separately maintained by the licensee and by the pound or shelter. All records shall be in accordance with those specified in this rule. If the animals are lost or stray, the pound or shelter records shall provide:

A. An accurate description of the animal;

B. How, where, from whom and when the dog or cat was obtained;

C. How long the dog or cat was held by the pound or shelter before being transferred to the dealer; and

D. The date the dog or cat was transferred to the dealer.

[3. Any licensee who obtains or acquires a dog or cat from a pound or shelter, including a pound or shelter s/he operates, shall hold the dog or cat for a period of at least ten (10) full days, not including the day of acquisition, excluding time in transit, after acquiring the animal.]

*AUTHORITY: sections 273.344 and 273.346, RSMo [1994] **2000**. Original rule filed Jan. 13, 1994, effective Aug. 28, 1994. Amended: Filed Oct. 24, 1994, effective May 28, 1995. Amended: Filed Nov. 30, 1995, effective July 30, 1996. Amended: Filed May 15, 2003.*

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

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

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

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 9—Animal Care Facilities

PROPOSED AMENDMENT

2 CSR 30-9.030 Animal Care Facilities Minimum Standards of Operation and Transportation. The director is deleting part (1)(F)3.A.(IV).

PURPOSE: This proposed amendment allows Missouri's regulations to be compatible with current USDA regulations.

(1) Facilities and Operating Standards.

(F) Primary Enclosures. Primary enclosures for animals must meet the following minimum requirements:

1. General requirements.

A. Primary enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosure must be kept in good repair.

B. Primary enclosures must be constructed and maintained so that they—

(I) Have no sharp points or edges that could injure the animals;

(II) Protect the animals from injury;

(III) Contain the animals securely;

(IV) Keep other animals from entering the enclosure;

(V) Enable the animals to remain dry and clean;

(VI) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the animals;

(VII) Provide sufficient shade to shelter all the animals housed in the primary enclosure at one time;

(VIII) Provide all the animals with easy and convenient access to clean food and water;

(IX) Enable all surfaces in contact with the animals to be readily cleaned and sanitized in accordance with this rule, or be replaceable when worn or soiled;

(X) Have floors that are constructed in a manner that protects the animals' feet and legs from injury and that, if mesh or slatted construction, it must be constructed of materials strong enough to prevent sagging and with a mesh small enough that will not allow the animals' feet to pass through any openings in the floor. If the floor of the primary enclosure is constructed of wire, a solid resting surface(s) that, in the aggregate, is large enough to hold all the occupants of the primary enclosure at the same time comfortably must be provided; and

(XI) Provide sufficient space to allow each animal to turn about freely, to stand, sit and lie in a comfortable, normal position and to walk in a normal manner;

2. Additional requirements for cats.

A. Space. Each cat, including weaned kittens, that is housed in any primary enclosure must be provided minimum vertical space and floor space as follows:

(I) Each primary enclosure housing cats must be at least twenty-four inches (24") high or sixty point ninety-six centimeters (60.96 cm). Temporary housing such as queening cages may be reduced to a height of eighteen inches (18") or forty-five point seventy-two centimeters (45.72 cm) to reduce injury to kittens;

(II) Cats up to and including eight point eight (8.8) pounds or four (4) kilograms, must be provided with at least three point zero (3.0) square feet or zero point twenty-eight (0.28) square meters;

(III) Cats over eight point eight (8.8) pounds or four (4) kilograms must be provided with at least four point zero (4.0) square feet or zero point thirty-seven (0.37) square meters;

(IV) Each queen with nursing kittens must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices. If the additional amount of floor space for each nursing kitten is equivalent to less than five percent (5%) of the minimum requirement for the queen, the housing must be approved by the state veterinarian; and

(V) The minimum floor space required by this section is exclusive of any food or water pans. The litter pan may be considered part of the floor space if properly cleaned and sanitized.

B. Compatibility. All cats housed in the same primary enclosure must be compatible, as determined by observation. Not more than twelve (12) adult nonconditioned cats may be housed in the same primary enclosure. Queens in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, queens with litters may not be housed in the same primary enclosure with other adult cats, and kittens under four (4) months of age may not be housed in the same primary enclosure with adult cats, other than the dam or foster dam. Cats with a vicious or aggressive disposition must be housed separately.

C. Litter. In all primary enclosures, a receptacle containing sufficient clean litter must be provided to contain excreta and body wastes.

D. Resting surfaces. Each primary enclosure housing cats must contain a resting surface(s) that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably. The resting surfaces must be elevated, impervious to moisture and be able to be easily cleaned and sanitized or easily replaced when soiled or worn.

(I) Low resting surfaces that do not allow the space under them to be comfortably occupied by the animal will be counted as part of the floor space. Floor space under low resting surfaces shall not be counted as floor space to meet the minimum space requirements.

(II) Elevated resting surfaces will not be required for short-term housing facilities such as boarding kennels, commercial kennels, contract kennels, pet shops, pounds or dog pounds, however, elevated resting surfaces may be properly installed to increase floor space to that required in this rule; and

3. Additional requirements for dogs.

A. Space.

(I) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus six inches (6"); then divide the product by one hundred forty-four (144). The calculation is: (length of dog in inches plus six (6)) times (length of dog in inches plus six (6)) equals required floor space in square inches. Required floor space in inches divided by one hundred forty-four (144) equals required floor space in square feet.

(II) Each bitch with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than five percent (5%) of the minimum requirement for the bitch, this housing must be approved by the state veterinarian.

(III) The interior height of a primary enclosure must be at least six inches (6") higher than the head of the tallest dog in the enclosure when it is in a normal standing position.

[(IV) Dogs on tethers.

(a) Dogs may be kept on tethers only in outside housing facilities that meet the requirements of this rule, and then only when the tether meets the requirements of this paragraph. The tether must be attached to the front of the dog's shelter structure or to a post in front of the shelter structure and must be at least three (3) times the length of the dog, as measured from the tip of its nose to the base of its tail. The tether must allow the dog convenient access to the shelter structure and to food and water containers. The tether must be of the type and strength commonly used for the size dog involved and must be attached to the dog by a well-fitted collar that will not cause trauma or injury to the dog. Collars made of materials such as wire, flat chains, chains with sharp edges, or chains with rusty or nonuniform links are prohibited. The tether must be attached so that the dog cannot become entangled with other objects or come into physical contact with other dogs in the outside housing facility, and so the dog can roam to the full range of the tether.

(b) Dog housing areas where dogs are on tethers must be enclosed by a perimeter fence that is of sufficient height to keep unwanted animals out. Fences less than six feet (6') high must be approved by the state veterinarian. The fence must be constructed so that it protects the dogs by preventing animals the size of dogs, skunks and raccoons from going through it or under it and having contact with the dogs inside.]

B. Compatibility. All dogs housed in the same primary enclosure must be compatible, as determined by observation. Not more than twelve (12) adult nonconditioned dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under four (4) months of age may not be housed in the same primary enclosure with adult dogs, other than their dam or foster dam. Dogs with a vicious or aggressive disposition must be housed separately.

*AUTHORITY: sections 273.344 and 273.346, RSMo [1994] **2000**. Original rule filed Jan. 13, 1994, effective Aug. 28, 1994. Amended: Filed Nov. 30, 1995, effective July 30, 1996. Amended: Filed May 15, 2003.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Jerry Eber, DVM, Veterinarian II, Missouri Department of Agriculture, Division of Animal Health, PO Box 630, Jefferson City, MO 65102.

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

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

PROPOSED AMENDMENT

3 CSR 10-4.111 Endangered Species. The commission proposes to amend section (3).

PURPOSE: This amendment adds the eastern and Ozark hellbender to the state endangered list; adds the new subsection of Amphibians; and reorders the subsections taxonomically, beginning with mammals and ending with plants.

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

(A) Birds: Northern Harrier, Interior Least Tern, Barn-Owl, Swainson's Warbler, Snowy Egret, King Rail, Bachman's Sparrow, Bald Eagle, Peregrine Falcon, American Bittern, Greater Prairie-Chicken.

(B) Mammals: Gray Bat, Ozark Big-eared Bat, Indiana Bat, Mountain Lion, Black-tailed Jackrabbit, Spotted Skunk.

(C) Fishes: Lake Sturgeon, Pallid Sturgeon, Taillight Shiner, Neosho Madtom, Spring Cavefish, Harlequin Darter, Goldstripe Darter, Cypress Minnow, Central Mudminnow, Crystal Darter, Swamp Darter, Ozark Cavefish, Niangua Darter, Sabine Shiner, Mountain Madtom, Redfin Darter, Longnose Darter, Flathead Chub, Topeka Shiner.

(D) Reptiles: Western Chicken Turtle, Blanding's Turtle, Illinois Mud Turtle, Yellow Mud Turtle, Western Fox Snake, Mississippi Green Water Snake, Massasauga.

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

(F) Plants: Small Whorled Pogonia, Mead's Milkweed, Decurrent False Aster, Missouri Bladderpod, Geocarpon, Running Buffalo Clover, Pondberry, Eastern Prairie Fringed Orchid, Western Prairie Fringed Orchid, Virginia Sneezeweed.

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

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

(A) Mammals: gray bat, Ozark big-eared bat, Indiana bat, mountain lion, black-tailed jackrabbit, spotted skunk.

(B) Birds: northern harrier, interior least tern, barn-owl, Swainson's warbler, snowy egret, king rail, Bachman's sparrow, bald eagle, peregrine falcon, American bittern, greater prairie-chicken.

(C) Reptiles: western chicken turtle, Blanding's turtle, Illinois mud turtle, yellow mud turtle, western fox snake, Mississippi green water snake, massasauga.

(D) Amphibians: eastern hellbender, Ozark hellbender.

(E) Fishes: lake sturgeon, pallid sturgeon, taillight shiner, Neosho madtom, spring cavefish, harlequin darter, goldstripe darter, cypress minnow, central mudminnow, crystal darter, swamp darter, Ozark cavefish, Niangua darter, Sabine shiner, mountain madtom, redfin darter, longnose darter, flathead chub, Topeka shiner.

(F) Mussels: Curtis pearlymussel, Higgins' eye, pink mucket, fat pocketbook, ebonyshell, elephant ear, winged mapleleaf, sheepnose, snuffbox, scaleshell.

(G) Other Invertebrates: American burying beetle, Hine's emerald dragonfly, Tumbling Creek cavesnail.

(H) Plants: small whorled pogonia, Mead's milkweed, decurrent false aster, Missouri bladderpod, geocarpon, running buffalo clover, pondberry, eastern prairie fringed orchid, western prairie fringed orchid, Virginia sneezeweed.

*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 May 9, 2003.*

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

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

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

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-7.410 Hunting Methods. The commission proposes to amend subsection (1)(H).

PURPOSE: This amendment provides clarification of the portions of deer seasons in which hunting restrictions apply for hunting other wildlife.

(1) Wildlife may be hunted and taken only in accordance with the following:

(H) Special Firearms Provision. During the November **portion** and *[January]* **the antlerless-only** portion*[s]* of the firearms deer season **in deer management units open to deer hunting**, other wildlife **and feral hogs (any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission)** may be hunted only with a shotgun and shot not larger than No. 4, except that this provision does not apply to waterfowl hunters, trappers or to a landowner on his/her land or to a lessee on the land on which s/he resides.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 9, 2003.*

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

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

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

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits. The commission proposes to add section (8).

PURPOSE: This amendment supports section 270.400, RSMo to allow feral hog hunting during the firearms turkey seasons only by methods and permit requirements allowed during those hunting seasons.

(8) In accordance with section 270.400, RSMo feral hogs (any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission) may be taken in any number during the spring firearms turkey season and youth spring season only by the holder of a valid, unused turkey hunting permit; and only by methods and times prescribed for taking turkeys. During the fall firearms turkey season, feral hogs may be taken only by the holder of a valid, unused turkey hunting permit or a small game hunting permit; and only by methods prescribed in Chapter 7 for taking wildlife, and without the use of bait. Other restrictions may apply on public lands. Resident landowners or lessees as defined in this Code may take feral hogs on their own property at any time, by any method and without permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 9, 2003.*

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-9.110 General Prohibitions; Applications. The commission proposes to amend section (1).

PURPOSE: This amendment removes hellbender from the list of species allowed to be taken and possessed by residents of Missouri.

(1) A maximum of (5) specimens of any native wildlife not listed in 3 CSR 10-4.110(4) or 3 CSR 10-9.240, except endangered species, bats, *[hellbenders]* and alligator snapping turtles, may be taken and possessed alive by a resident of Missouri without permit, but these animals shall not be bought or sold. Bones, skins, shells and other parts of such wildlife may be possessed for personal use without permit, but these wildlife parts in any form shall not be bought or sold.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-4.110(5), (6) and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 9, 2003.*

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-11.160 Use of Boats and Motors. The commission proposes to amend subsection (1)(A).

PURPOSE: This amendment establishes outboard motor use regulations that are consistent with current U.S. Fish & Wildlife Service regulations on areas managed under agreement with the Department of Conservation.

(1) Boats, including sailboats, may be used on lakes and ponds designated as open to boats, except as further restricted in this chapter. Boats may not be left unattended overnight. Houseboats, and personal watercraft as defined in section 306.010, RSMo, are prohibited. Registration and a fee are required for rental of department-owned boats. Fees must be paid prior to use.

(A) Except as provided below, only electric motors are permitted on lakes and ponds of less than seventy (70) acres. Electric motors and outboard motors are permitted on lakes of seventy (70) or more acres and on certain areas in conjunction with waterfowl hunting, except as otherwise provided in paragraph (1)(A)3. of this rule. Outboard motors in excess of ten (10) horsepower must be operated at slow, no-wake speed, except as otherwise provided in paragraph (1)(A)4. of this rule.

1. On August A. Busch Memorial Conservation Area and James A. Reed Memorial Wildlife Area, only department-owned boats may be used and only electric motors are permitted.

2. On Hunnewell Lake Conservation Area, only department-owned boats may be used.

3. On Robert G. DeLaney Lake Conservation Area, only electric motors are permitted.

4. On Thomas Hill Reservoir, boating is prohibited on the main arm of the lake above Highway T from October 15 through January 15. No other restrictions in this section apply to this area.

5. All boating is prohibited from November 15 through February 15 on the Theodosia Arm of Bull Shoals Lake described as: All of Section 13, and south half of Section 12, T22N, R16W; all of Section 17, south half of Sections 7 and 8, and that part of Sections 19 and 20 north of Highway 160 bridge, all in T22N, R15W. No other restrictions in this section apply to this area.

6. On Bellefontaine Conservation Area, boats are prohibited.

7. Outboard motors of any size may be used on Overton Bottoms Conservation Area, but must be operated at slow, no-wake speed.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Oct. 1, 2001, effective Oct. 15, 2001. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-11.180 Hunting, General Provisions and Seasons. The commission proposes to amend sections (4), (6) and (7) of this rule.

PURPOSE: This amendment provides additional hunting opportunity on Truman Lake Management Land adjacent to the Clinton office; and, liberalizes firearm provisions on Drury-Mincy Conservation Area and restricts use of single projectile firearms on Columbia Bottom Conservation Area.

(4) Hunting is prohibited on the following department areas:

[(FFFFF) West Central Regional Office]

[(GGGGG)] **(FFFFF)** White Alloe Creek Wildcat Conservation Area

[(HHHHH)] **(GGGGG)** Wildcat Glade Natural Area

[(IIIIII)] **(HHHHH)** Walter Woods Conservation Area

[(JJJJJ)] **(IIIII)** Mark Youngdahl Urban Conservation Area

(6) Firearms firing single projectiles are prohibited, except during managed deer hunts, and except furbearers treed with the aid of dogs may be taken with a twenty-two (.22) caliber firearm on the following department areas:

(D) Truman Reservoir Management Lands (Clinton Wildlife Management Area)

(7) Firearms firing single projectiles are prohibited, except during managed deer hunts on the following department areas:

[(B) Drury-Mincy Conservation Area]

(B) Columbia Bottom Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed July 31, 2002, effective Dec. 30, 2002. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-11.182 Deer Hunting. The commission proposes to delete subsection (2)(RR), reletter the remaining subsections of (2), and amend subsection (4)(L).

PURPOSE: This amendment removes Hi Lonesome Prairie Conservation Area from the incorrect deer regulation listing, and corrects the area name.

(2) Deer may be hunted, under statewide seasons and limits, only by archery methods on the following department areas:

[(RR) Hi Lonesome Prairie Conservation Area]

[(SS)] **(RR)** Hinkson Woods Conservation Area

[(TT)] **(SS)** Hite Prairie Conservation Area

[(UU)] **(TT)** Hornersville Swamp Conservation Area

[(VV)] **(UU)** Horse Creek Prairie Conservation Area

[(WW)] **(VV)** Howell Island Conservation Area

[(XX)] **(WW)** Hyer Woods Conservation Area

[(YY)] **(XX)** Indigo Prairie Conservation Area

[(ZZ)] **(YY)** Jamesport Community Lake

[(AAA)] **(ZZ)** Anthony and Beatrice Kendzora Conservation Area

[(BBB)] **(AAA)** Kessler Memorial Wildlife Area

[(CCC)] **(BBB)** Wilford V. and Anna C. Kneib Memorial Conservation Area

[(DDD)] **(CCC)** Lake Girardeau Conservation Area

[(EEE)] **(DDD)** B. K. Leach Memorial Conservation Area

[(FFF)] **(EEE)** Little Bean Marsh Conservation Area

[(GGG)] **(FFF)** Little Dixie Lake Conservation Area

[(HHH)] **(GGG)** Little Prairie Conservation Area

[(III)] **(HHH)** Little River Conservation Area

[(JJJ)] **(III)** Caroline Sheridan Logan Memorial Wildlife Area

[(KKK)] **(JJJ)** Lon Sanders Canyon Conservation Area

[(LLL)] **(KKK)** Lone Jack Lake Conservation Area

[(MMM)] **(LLL)** Lost Valley Fish Hatchery

[(NNN)] **(MMM)** Alice Ahart Mansfield Conservation Area

[(OOO)] **(NNN)** Merrill Horse Access

[(PPP)] **(OOO)** Mockingbird Hill Access

[(QQQ)] **(PPP)** Monegaw Prairie Conservation Area

[(RRR)] **(QQQ)** Mo-No-I Prairie Conservation Area

[(SSS)] **(RRR)** Mon-Shon Prairie Conservation Area

[(TTT)] **(SSS)** Montrose Conservation Area
[(UUU)] **(TTT)** Mound View Access
[(VVV)] **(UUU)** Nodaway Valley Conservation Area
[(WWW)] **(VVV)** Old Town Access
[(XXX)] **(WWW)** Pacific Palisades Conservation Area
[(YYY)] **(XXX)** Guy B. Park Conservation Area
[(ZZZ)] **(YYY)** Parma Woods Range and Training Center (north portion)
[(AAAA)] **(ZZZ)** Pilot Knob Conservation Area
[(BBBB)] **(AAAA)** Platte Falls Conservation Area
[(CCCC)] **(BBBB)** Prairie Slough Conservation Area
[(DDDD)] **(CCCC)** J. Thad Ray Memorial Wildlife Area
[(EEEE)] **(DDDD)** Redwing Prairie Conservation Area
[(FFFF)] **(EEEE)** Reform Conservation Area
[(GGGG)] **(FFFF)** Rocky Barrens Conservation Area
[(HHHH)] **(GGGG)** Rocky Mount Towersite
[(IIII)] **(HHHH)** Schell-Osage Conservation Area
[(JJJJ)] **(IIII)** Ted Shanks Conservation Area
[(KKKK)] **(JJJJ)** Sky Prairie Conservation Area
[(LLLL)] **(KKKK)** Dr. O.E. and Eloise Sloan Conservation Area
[(MMMM)] **(LLLL)** Sni-A-Bar Conservation Area
[(NNNN)] **(MMMM)** Sterling Price Community Lake
[(OOOO)] **(NNNN)** Sunbridge Hills Conservation Area
[(PPPP)] **(OOOO)** Swift Ditch Access
[(QQQQ)] **(PPPP)** Ten Mile Pond Conservation Area
[(RRRR)] **(QQQQ)** Tipton Ford Access
[(SSSS)] **(RRRR)** Treaty Line Prairie Conservation Area
[(TTTT)] **(SSSS)** Upper Mississippi Conservation Area (Bay Island Unit)
[(UUUU)] **(TTTT)** Upper Mississippi Conservation Area (Dresser Island Unit)
[(VVVV)] **(UUUU)** Valley View Glades Natural Area
[(WWWW)] **(VVVV)** Archie and Gracie Vanderhoef Memorial State Forest
[(XXXX)] **(WWWW)** Victoria Glades Conservation Area
[(YYYY)] **(XXXX)** Vonaventure Memorial Forest and Wildlife Area
[(ZZZZ)] **(YYYY)** Warbler Woods Conservation Area
[(AAAAA)] **(ZZZZ)** Henry Jackson Waters and C. B. Moss Memorial Wildlife Area
[(BBBBB)] **(AAAAA)** George O. White State Forest Nursery
[(CCCCC)] **(BBBBB)** Wolf Bayou Conservation Area
[(DDDDD)] **(CCCCC)** Yellow Creek Conservation Area
[(EEEEE)] **(DDDDD)** Young Conservation Area

(4) Deer may be hunted, under statewide seasons and limits, only by archery and muzzleloader methods on the department areas listed below:

(L) Hi Lonesome **Prairie** Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed June 5, 2002, effective Nov. 30, 2002. Amended: Filed July 31, 2002, effective March 1, 2003. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-11.186 Waterfowl Hunting. The commission proposes to amend section (2) of this rule.

PURPOSE: This amendment opens Hunnewell Conservation Area to waterfowl hunting opportunity.

(2) Waterfowl hunting is prohibited on the following department areas:

[(B) Hunnewell Lake Conservation Area]
[(C)] **(B)** Lake Girardeau Conservation Area
[(D)] **(C)** Lake Paho Conservation Area
[(E)] **(D)** Lone Jack Lake Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed July 31, 2002, effective June 30, 2003. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-11.205 Fishing, Methods and Hours. The commission proposes to amend subsection (1)(B).

PURPOSE: This amendment legalizes the taking of rough fish by gig, longbow or crossbow in the wetland pools and other impounded waters on Columbia Bottom Conservation Area.

(1) On lakes and ponds, fish may be taken only with pole and line and not more than three (3) poles may be used by one (1) person at any time, except as otherwise provided in this chapter.

(B) Carp, buffalo, suckers and gar may be taken by gig, longbow or crossbow during statewide seasons on the following department areas or individually named lakes:

1. Atlanta Conservation Area
2. Bismarck Conservation Area
3. Blackjack Access

4. Bob Brown Conservation Area
5. Columbia Bottom Conservation Area
[5.] **6.** Cooley Lake Conservation Area
[6.] **7.** Deer Ridge Conservation Area
[7.] **8.** Deroin Bend Conservation Area
[8.] **9.** Duck Creek Conservation Area
[9.] **10.** Eagle Bluffs Conservation Area
[10.] **11.** Connor O. Fewel Conservation Area
[11.] **12.** Fountain Grove Conservation Area
[12.] **13.** Four Rivers Conservation Area
[13.] **14.** Franklin Island Conservation Area
[14.] **15.** Grand Pass Conservation Area
[15.] **16.** Hunnewell Lake Conservation Area
[16.] **17.** King Lake Conservation Area
[17.] **18.** Kings Prairie Access
[18.] **19.** Lake Paho Conservation Area
[19.] **20.** Lamine River Conservation Area
[20.] **21.** B.K. Leach Memorial Conservation Area
[21.] **22.** Limpp Community Lake
[22.] **23.** Little Compton Lake Conservation Area
[23.] **24.** Locust Creek Conservation Area
[24.] **25.** Manito Lake Conservation Area
[25.] **26.** Marais Temps Clair Conservation Area
[26.] **27.** Nodaway Valley Conservation Area
[27.] **28.** Otter Lake (Otter Slough Conservation Area)
[28.] **29.** Peabody Conservation Area
[29.] **30.** Ralph and Martha Perry Memorial Conservation Area
[30.] **31.** Haysler A. Poague Conservation Area
[31.] **32.** Pony Express Lake Conservation Area
[32.] **33.** Rebel's Cove Conservation Area
[33.] **34.** Schell-Osage Conservation Area
[34.] **35.** Henry Sever Lake Conservation Area
[35.] **36.** Settle's Ford Conservation Area
[36.] **37.** Ted Shanks Conservation Area
[37.] **38.** H. F. Thurnau Conservation Area
[38.] **39.** Truman Reservoir Management Lands
[39.] **40.** Worth County Community Lake
[40.] **41.** Worthwine Island Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed July 31, 2002, effective June 30, 2003. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-12.110 Use of Boats and Motors. The commission proposes to amend sections (5) and (8).

PURPOSE: This amendment changes restrictions on outboard boat motor use at Odessa City Lake.

(5) Outboard motors not in excess of ten (10) horsepower may be used on the following areas:
[(F) Odessa City Lake]
[(G)] **(F)** Springfield City Utilities (Lake Springfield)
[(H)] **(G)** Unionville (Lake Mahoney)
[(I)] **(H)** Wakonda State Park (Agate Lake and Wakonda Lake)
[(J)] **(I)** Watkins Mill State Park Lake

(8) Outboard motors of any size may be used on Concordia (Edwin A. Pape Lake) **and Odessa City Lake,** but must be operated at slow, no-wake speed.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-12.135 Fishing, Methods. The commission proposes to amend sections (7) and (8).

PURPOSE: This amendment establishes fishing methods for a winter trout fishery at the City of Jackson's Rotary Lake.

(7) Only flies, artificial lures and soft plastic baits (unscented) may be used from November 1 through January 31 on the following lakes*[;]***:**
(A) Jackson (Rotary Lake)
[(A)] **(B)** Kirkwood (Walker Lake)
[(B)] **(C)** Overland (Wild Acres Park Lake)
[(C)] **(D)** St. Louis City (Jefferson Lake)
[(D)] **(E)** St. Louis County (Tilles Park Lake)

(8) From November 1 through January 31, not more than one (1) pole and line may be used by one (1) person at any time and the use of natural or scented baits as chum is prohibited on the following lakes:
(C) Jackson (Rotary Lake)
[(C)] **(D)** Kirkwood (Walker Lake)
[(D)] **(E)** Overland (Wild Acres Park Lake)
[(E)] **(F)** St. Louis City (Boathouse Lake, Jefferson Lake, O'Fallon Park Lake)
[(F)] **(G)** St. Louis County (Suson Park Lakes No. 1, 2, 3, Tilles Park Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed July 31, 2002, effective March 1, 2003. Amended: Filed May 9, 2003.

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

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

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

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

PROPOSED AMENDMENT

3 CSR 10-12.140 Fishing, Daily and Possession Limits. The commission proposes to amend sections (13) and (14).

PURPOSE: This amendment establishes a winter catch-and-release fishing season for trout at the City of Jackson's Rotary Lake; and, corrects a location reference.

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

(A) Jackson (Rotary Lake)
(B) Kirkwood (Walker Lake)
(C) Overland (Wild Acres Park Lake)
(D) St. Louis City (Jefferson Lake)
(E) St. Louis County (Tilles Park Lake)

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

(D) St. Louis *[City]* **County** (Suson Park Lakes No. 1, 2, and 3)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed July 31, 2002, effective March 1, 2003. Amended: Filed May 9, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with 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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 60—Vocational and Adult Education
Chapter 900—Veterans' Education

PROPOSED AMENDMENT

5 CSR 60-900.050 Standards for the Approval of Courses for the Education of Persons Under Veterans' Education and Vocational Rehabilitation. The State Board of Education is proposing to amend subsections (1)(A), (1)(J), (3)(M), (4)(C) and (4)(G).

PURPOSE: This amendment clarifies the procedures for determining the amounts paid by the Division of Vocational Rehabilitation for training.

(1) All references to the State Board of Education (the board) in this rule may be construed to include the Department of Elementary and Secondary Education (DESE) and the appropriate program sections. The provisions of this section apply to accredited courses and nonaccredited courses.

(A) A course shall not be approved unless the institution has operated that course successfully for a period of twenty-four (24) calendar months for veterans' education courses or six (6) calendar months or for one (1) graduating class for vocational rehabilitation courses. Successful operation shall mean an operation which is sound educationally and financially. The following are exceptions:

1. Any course to be pursued in a public or other tax-supported educational institution;

2. Any course which is offered for veterans' education or vocational rehabilitation by a non-college (NCD) institution and/or a nonaccredited institution of higher learning (IHL) where at least one (1) course is already approved;

3. Any course which has been offered by an educational institution for a period of more than two (2) years or six (6) calendar months, whichever is appropriate, notwithstanding the institution has moved to another location within the same general locality or has made a complete move with substantially the same faculty, curricula and students, without change in ownership;

4. Any course which is offered by an educational institution of college level and which is recognized for credit toward a standard college degree; or

5. Any course for vocational rehabilitation when a needed course is not available at any other institution offering approved courses within a *[fifty-five (55)]* **forty-five (45)**-mile commuting distance as approved by DESE.

(J) The charges for tuition, fees and other charges for the course or program of education shall be reasonable, based on the services to be rendered, the books, supplies and equipment to be furnished and the operating costs of the institution **and may be reimbursed pursuant to the rules promulgated by the board for vocational rehabilitation courses**.

(3) The provisions of this section apply to courses which cannot be considered as accredited courses pursuant to this rule.

(M) The charges for tuition, fees and other charges for the course or program of education shall be reasonable, based on the services to be rendered, the books, supplies and equipment to be furnished and the operating costs of the institutions. **These charges may be reimbursed pursuant to the rules promulgated by the board for vocational rehabilitation courses.** The following referral policy applies only to eligible persons receiving veterans benefits:

1. The institution shall establish and maintain a policy for the refund of the unused portion of tuition, fees and other charges in the event an eligible person fails to enter the course or withdraws or is discontinued at any time prior to completion and the policy shall provide that the amount charged to the eligible person for tuition, fees and other charges for a portion of the course does not exceed the approximate *pro rata* portion of the total charges for tuition, fees and other charges that the length of the completed portion of the course bears to its total length.

(4) The provisions of this section apply to charges and reimbursements for accredited and nonaccredited courses. For the purpose of administering this rule, an individual referral is a student referred by a sponsoring agency for skill training or training-related service for which DESE has contracted to reimburse a public, not-for-profit or for-profit institution **pursuant to the rules promulgated by the board for vocational rehabilitation**. The cost of training for individual referrals with the Division of Vocational Rehabilitation shall be reimbursed in the following way:

(C) Tuition payments shall be made on the basis of the school's instructional periods, (that is, quarters, terms or semesters) **and will be reimbursed pursuant to the rules promulgated by the board for vocational rehabilitation**. However, the following guidelines shall apply:

1. Any instructional period that is at least twenty (20) weeks but no more than thirty-nine (39) weeks, will be treated as having a minimum of two (2) equal instructional periods;

2. Any instruction period that is at least forty (40) weeks but no more than fifty-nine (59) weeks, will be treated as three (3) equal instructional periods. Programs of instruction in licensed practical nursing, surgical technology, respiratory therapy, dental technology, emergency medical technician–paramedic, radiology and massage therapy are excluded;

3. Courses with instructional periods that are at least sixty (60) weeks or more will be divided into additional segments of twenty (20) weeks; and/or

4. The total instructional program for licensed practical nursing, surgical technology, respiratory therapy, dental technology, emergency medical technician-paramedic, radiology and/or massage therapy will be treated as one (1) instructional period;

(G) Institutions shall submit reimbursement request for tuition payments of individual referrals for each instructional period **pursuant to the rules promulgated by the board for vocational rehabilitation**; and

AUTHORITY: sections 161.092, RSMo Supp. 2002 and 161.172, 178.430, 178.530, 178.590 and 178.610, RSMo 2000. Original rule filed July 7, 2000, effective Feb. 28, 2001. Amended: Filed Sept. 24, 2002, effective April 30, 2003. Amended: Filed May 2, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 5—General Program Procedures

PROPOSED AMENDMENT

9 CSR 10-5.200 Report of Complaints of Abuse, Neglect and Misuse *[of]* Funds/Property. The department proposes to amend the Purpose and sections (1)–(3), (6), (7), (9), (11) and (14).

PURPOSE: This proposed amendment will narrow the definition of verbal abuse to specify abuse directed at a consumer; and make minor revisions to correct grammar, clarify confusing language, and increase language consistency with related department operating regulations and administrative rules.

PURPOSE: This rule prescribes procedures for reporting and investigating complaints of abuse, neglect and misuse [of] funds/property in a residential facility, day program or specialized service that is licensed, certified or funded by the Department of Mental Health (department) as required by sections 630.135, 630.168, 630.655 and 630.710, RSMo. The rule also sets forth due process procedures for persons who have been accused of abuse, neglect and misuse [of] funds/property.

(1) The following words and terms, as used in this rule, mean:

(A) Class I neglect, failure of an employee to provide reasonable *[and]* **or** necessary services to maintain the physical and mental health of any consumer when that failure presents either imminent danger to the health, safety or welfare of a consumer, or a substantial probability that death or physical injury would result;

(D) Misuse *[of]* funds/property, the misappropriation or conversion of a consumer's funds or property **by an employee** for another person's benefit;

(E) Physical abuse—

1. *[Purposefully]* **An employee purposefully** beating, striking, wounding or injuring any consumer; or

2. In any manner whatsoever**, an employee** mistreating or maltreating a consumer in a brutal or inhumane manner. Physical abuse includes handling a consumer with any more force than is reasonable for a consumer's proper control, treatment or management;

(F) Sexual abuse, any touching, directly or through clothing, of a consumer **by an employee** for sexual purpose or in a sexual manner. This includes but is not limited to:

1. Kissing;

2. Touching of the genitals, buttocks or breasts;

3. Causing a consumer to touch the employee for sexual purposes;

4. Promoting or observing for sexual purpose any activity or performance involving consumers including any play, motion picture, photography, dance, or other visual or written representation; or

5. Failing to intervene or attempt to stop or prevent inappropriate sexual activity or performance between consumers; and

(G) Verbal abuse, **an employee** using profanity or speaking in a demeaning, nontherapeutic, undignified, threatening or derogatory manner *[in a consumer's presence]* **to a consumer**.

(2) This section applies to any employee or consumer of any residential facility, day program or specialized service, as defined under section 630.005, RSMo. Facilities, programs and services that are operated by the department are regulated by the department's operating regulations and are not included in this definition.

(A) Any such employee who has reasonable cause to believe that a consumer has been subjected to physical abuse, sexual abuse, misuse *[of]* funds/property, class I neglect, class II neglect or verbal abuse while under the care of a residential facility, day program or specialized service that is licensed, certified or funded by the department shall immediately make a verbal or written complaint.

(3) The head of the facility, day program or specialized service that is licensed, certified or funded by the department shall immediately report to the local law enforcement official any alleged or suspected—

(C) Abuse, neglect or misuse *[of]* funds/property which may result in a criminal charge.

(6) Within ten (10) working days of receiving the final report from the board of inquiry, local investigator or central investigative unit, **if there is a preliminary determination of abuse, neglect or misuse funds/property,** the head of the supervising facility or department designee shall send to the alleged perpetrator a summary of the allegations and findings which are the basis for the alleged abuse/neglect/misuse *[of]* funds or property; the provider will be copied. The summary shall comply with the constraints regarding confidentiality contained in section 630.167, RSMo and shall be sent by regular and certified mail.

(C) Within ten (10) working days of the meeting, or if no request for a meeting is received within ten (10) working days of the alleged perpetrator's receipt of the summary, the head of the supervising facility or department designee shall make a final determination as to whether abuse/neglect/misuse *[of]* funds or property took place. The perpetrator shall be notified of this decision by regular and certified mail; the provider will be copied.

(D) The letter shall advise the perpetrator that they have ten (10) working days following receipt of the letter to contact the department's hearings administrator if they wish to appeal a finding of abuse, neglect or misuse *[of]* funds/property.

(7) If an appeal is requested, the hearings administrator shall schedule the hearing to take place within thirty (30) working days of the request, but may delay the hearing for good cause shown. At the hearing, the head of the supervising facility or designee, or other department designee shall present evidence supporting its findings of abuse, neglect, misuse *[of]* funds/property, or all. The provider or perpetrator may submit comments or present evidence to show why the decision of the head of the supervising facility or department designee should be modified or overruled. The hearings administrator may obtain additional information from department employees as s/he deems necessary.

(9) The opportunities described in sections (6), (7) and (8) of this rule regarding a meeting with the head of the supervising facility and an appeal before the department's hearings administrator apply also to providers and alleged perpetrators in an investigation of misuse *[of]* funds/property.

(11) If the department substantiates that a person has perpetrated physical abuse, sexual abuse, class I neglect, or misuse *[of]* funds/property, the perpetrator shall not be employed by the department, nor be licensed, employed or provide services by contract or agreement at a residential facility, day program or specialized service that is licensed, certified or funded by the department. The perpetrator's name shall be placed on the department Disqualification Registry pursuant to section 630.170, RSMo.

(14) No director, supervisor or employee of a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a consumer or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of consumer abuse, neglect or misuse *[of]* funds/property. Penalties for retaliation may be imposed up to and including cancellation of agency contracts and/or dismissal of such person.

AUTHORITY: sections 630.050, 630.135, 630.165, 630.167, 630.168, 630.655 and 630.705, RSMo 2000 and 630.170, RSMo Supp. 2001. Original rule filed Oct. 29, 1998, effective May 30, 1999. Emergency amendment filed March 29, 2002, effective May 2, 2002, terminated Oct 30, 2002. Amended: Filed March 29, 2002, effective Oct. 30, 2002. Amended: Filed May 5, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Rebecca Carson, Deputy Director, Office of Quality Management, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

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

PROPOSED AMENDMENT

10 CSR 10-6.110 Submission of Emission Data, Emission Fees and Process Information. The commission proposes to amend subsection (1)(A), add new section (2), renumber original section (2) to new section (3) and amend it to include original sections (2) through (8), and add new sections (4) and (5). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

PURPOSE: This amendment will establish emission fees for Missouri facilities as required annually and provide provisions for permits-by-rule. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is section 643.079 of the Missouri state statutes.

(1) Applicability.

(A) This rule applies to any installation that: **notifies and accepts a permit-by-rule under 10 CSR 10-6.062,** is required to obtain a permit under 10 CSR 10-6.060 or 10 CSR 10-6.065, is required to file an Emission Inventory Questionnaire (EIQ) as outlined in the Reporting Frequency table in *[subsection (2)(E)]* **paragraph (3)(A)5. of this rule**, or is required by the staff director to prove its potential emissions are below *de minimis* levels.

(2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

(3) General Provisions.

[(2)] **(A)** Record Keeping and Reporting Requirements.

[(A)] **1.** The owner or operator of an installation that is a source of any air contaminant shall collect, record and maintain, during each calendar year of operation—the time period and duration of emissions; the amounts of processed materials, fuels and solvents consumed; and the amounts of process materials, fuels and solvents stored in tanks and storage piles which emit any regulated air pollutant.

[(B)] **2.** The owner or operator of an installation subject to *[subsection (2)(A)]* **paragraph (3)(A)1.** of this rule shall file with the director, on the frequency specified in *[subsection (2)(E)]* **paragraph (3)(A)5. of this rule**, reports containing the information specified in *[subsection (2)(A)]* **paragraph (3)(A)1. of this rule**. The reports shall specify the type and location of all sources of regulated air pollutants and the amount of each type of regulated air pollutant at each location; the size and height of all emission outlets, stacks and vents; the processes employed, including all fuel combustion and incineration; the type of air pollution control equipment used at the installation; the capture efficiency and control efficiency of the air pollution control equipment, where applicable; and ozone season information (Form 2.0Z) from sources located in nonattainment areas. Capture efficiency shall be applicable to emission points which are controlled by air pollution control devices and are not fully enclosed. Capture efficiency is not applicable to fugitive dust. The department encourages facilities to perform tests to determine capture efficiency. Industrial ventilation principles and engineering calculations may be used if testing is physically impossible or cost prohibitive. If testing or engineering calculation is not possible, then a default value of fifty percent (50%) capture efficiency may be used. Documentation verifying the capture efficiency shall be included with the EIQ. The owner or operator may submit a report containing information of a different nature provided the information submitted is adequate for the purposes of air quality planning and fee assessment and is approved by the director. Information submitted shall be reduced by the director to emission data as defined in 10 CSR 10-6.210(3)(B)2.

[(C)] **3.** The reports required by *[subsections (2)(B) and (2)(D)]* **paragraphs (3)(A)2. and 4.** of this rule shall be completed on state supplied EIQ forms or in a form satisfactory to the director and shall be submitted to the director within ninety (90) days after the end of each reporting period. After the effective date of this rule, any revision to the EIQ forms will be presented to the regulated community for a forty-five (45)-day comment period. The reporting periods for an installation, as determined by the reporting frequency specified in *[subsection (2)(E)]* **paragraph (3)(A)5. of this rule**, shall end on December 31 of each calendar year. Sources allowed to file reports once every five (5) years shall submit the EIQ on the same schedule as the operating permit renewal application. Each report shall contain the information required by *[subsection (2)(B)]* **paragraph (3)(A)2. of this rule** for each air contaminant source at the installation for the twelve (12)-month period immediately preceding the end of the reporting period, in addition to the information required under *[subsection (2)(A)]* **paragraph (3)(A)1. of this rule** to be collected, recorded and maintained during each year of operation of the installation.

[(D)] **4.** For sources located in nonattainment areas, an emission statement is required if the actual emission of either nitrogen oxides (NO_x), volatile organic compounds (VOCs) or carbon monoxide (CO) are equal to or greater than ten (10) tons annually. Emissions of each pollutant shall be reported if a facility meets the ten (10) ton threshold for any of the three (3). Emissions statement reporting requirements shall be completed on state supplied EIQ forms and include the information required at *[subsection (2)(B)]* **paragraph (3)(A)2.** of this rule and ozone season information for VOC, NO_x and CO emissions and any other criteria pollutant requested by the director. After the effective date of this rule, any revision to the EIQ forms will be presented to the regulated community for a forty-five (45)-day comment period. Emission statements shall be submitted in accordance with the schedule in *[subsection (2)(E)]* **paragraph (3)(A)5.** of this rule.

[(E)] **5.** The reports required by *[subsections (2)(B) and (D)]* **paragraphs (3)(A)2. and 4.** of this rule shall be filed on the following frequency:

Reporting Frequency

Installation Classification	**Emission Inventory Questionnaire Nonattainment Area**	**All Other**
1. Any installation required to obtain a Part 70, Intermediate or Basic State Operating Permit under 10 CSR 10-6.065.	Annually	Annually
2. Any installation required to obtain a a construction permit under 10 CSR 10-6.060 **or accepting a permit-by-rule under 10 CSR 10-6.062**, but not an an operating permit.	Once every five years	Once every five years
3. Any installation required to submit an EIQ by the director.	Within 45 days of request	Within 45 days of request
4. Any installation whose actual emissions of VOC, NO_x or CO are equal to or greater than ten (10) tons/year.	Annually, an emission statement is required	Exempt, no emission statement required

[(F)] **6.** All data collected and recorded in accordance with the provisions of this rule shall be retained by the owner or operator for not less than five (5) years after the end of the calendar year in which the data was collected and all these records shall be made available to the director upon his/her request.

[(3)] **(B)** Specific Report Required. The director may require the owner or operator of an installation to submit compound specific emission rates when the information submitted pursuant to *[subsection (2)(C)]* **paragraph (3)(A)3.** of this rule does not provide sufficient information to determine whether specific compounds from the installation may cause a threat to public health or welfare.

[(4)] **(C)** Public Availability of Emission Data and Process Information. Any information obtained pursuant to the rule(s) of the Missouri Air Conservation Commission that would not be entitled to confidential treatment under 10 CSR 10-6.210 shall be made available to any member of the public upon request.

[(5)] **(D)** Emission Fees.

[(A)] **1.** Any air contaminant source required to obtain a permit under sections 643.010–643.190, RSMo, except sources that produce charcoal from wood, shall pay an annual emission fee, regardless of their EIQ reporting frequency, of thirty-one dollars and no cents ($31.00) per ton of regulated air pollutant emitted starting with calendar year *[2002]* **2003** in accordance with the conditions specified in *[subsection (5)(B)]* **paragraph (3)(D)2.** of this rule. **For calendar year 2003, the fee shall be reduced by one dollar and no cents ($1.00) per ton of regulated air pollutant emitted to reflect credit for fees collected for 2002 calendar year emissions for the Missouri Emission Inventory System project.** Sources which are required to file reports once every five (5) years may use the information in their most recent EIQ to determine their annual emission fee.

[(B)] **2.** General *[R]***r**equirements.

[1.] **A.** The fee shall apply to the first four thousand (4,000) tons of each regulated air pollutant emitted. However, no air contaminant source shall be required to pay fees on total emissions of regulated air pollutants in excess of twelve thousand (12,000) tons in any calendar year. A permitted air contaminant source which emitted less than one (1) ton of all regulated pollutants shall pay a fee equal to the amount of one (1) ton.

[2.] **B.** The fee shall be based on the information provided in the facility's EIQ.

[3.] **C.** An air contaminant source which pays emissions fees to a holder of a certificate of authority issued pursuant to section 643.140, RSMo, may deduct those fees from the emission fee due under this section.

[4.] **D.** The fee imposed under *[subsection (5)(A)]* **paragraph (3)(D)1.** of this rule shall not apply to carbon oxide emissions.

[5.] **E.** The fees shall be due April 1 each year for emissions produced during the previous calendar year.

[6.] **F.** The fees shall be payable to the Department of Natural Resources and shall be accompanied by the Emissions Inventory Questionnaire form or equivalent approved by the director.

[7.] **G.** For the purpose of determining the amount of air contaminant emissions on which the fees are assessed, a facility shall be considered one (1) source under the definition of section 643.078.2, RSMo, except that a facility with multiple operating permits shall pay emission fees separately for air contaminants emitted under each individual permit.

[(C)] **3.** Fee *[C]***c**ollection. The annual changes to this rule to establish emission fees for a specific year do not relieve any source from the payment of emission fees for any previous year.

[(6)] **(E)** Emission Calculation and Verification.

[(A)] **1.** Emission *[C]***c**alculation. All sources shall use the following hierarchy as a guide in determining the most desirable emission data to report to the department. If data is not available for an emission estimation method or an emission estimation method is impractical for a source, then the subsequent emission estimation method should be used in its place:

[1.] **A.** Continuous Emission Monitoring System (CEMS) as specified in *[paragraph (6)(B)1.]* **subparagraph (3)(E)2.A.** of this rule;

[2.] **B.** Stack tests as specified in *[paragraph (6)(B)2.]* **subparagraph (3)(E)2.B.** of this rule;

[3.] **C.** Material/mass balance;

[4.] **D.** AP-42 (Environmental Protection Agency (EPA) *Compilation of Air Pollution Emission Factors*) or FIRE (Factor Information and Retrieval System) (as updated);

[5.] **E.** Other EPA documents as specified in *[paragraph (6)(B)3.]* **subparagraph (3)(E)2.C.** of this rule;

[6.] **F.** Sound engineering calculations; or

[7.] **G.** Facilities shall obtain department pre-approval of emission estimation methods other than those listed in *[paragraphs (6)(A)1.–6.]* **subparagraphs (3)(E)1.A.–F.** of this rule before using any such method to estimate emissions in the submission of an EIQ. The department will approve or deny requests by December 31 if submitted in writing by September 1.

[(B)] **2.** Emission *[V]***v**erification. The director reserves the authority to review and approve all emission estimation methods used to calculate emissions for the purpose of filing an EIQ for accuracy, reliability and appropriateness. Inappropriate usage of an emission factor or method shall include, but is not limited to: using emission factors not representative of a process, using equipment in a manner other than that for which it was designed for in calculating emissions, or using a less accurate emission estimation method for a process when a facility has more accurate emission data available. Additional requirements for the use of a specific emission estimation method include:

[1.] **A.** Continuous Emission Monitoring System (CEMS).

[A.] **(I)** CEMS must be shown to have met applicable performance specifications during the period for which data is being presented.

[B.] **(II)** CEMS data must be presented in the units which the system was designed to measure. Additional data sets used to extrapolate CEMS data must have equal or better reliability for such extrapolation to be acceptable.

[C.] **(III)** When using CEMS data to estimate emissions, the data must include all parameters (i.e. emission rate, gas flow rate, etc.) necessary to accurately determine the emissions. CEMS data which does not include all the necessary parameters must be reviewed and approved by the director or local air pollution control authority before it may be used to estimate emissions;

[2.] **B.** Stack tests.

[A.] **(I)** Stack tests must be conducted on the specific equipment for which the stack test results are used to estimate emissions.

[B.] **(II)** Stack tests must be conducted according to the methods cited in 10 CSR 10-6.030, unless an alternative method has been approved in advance by the director or local air pollution control authority.

[C.] **(III)** Stack tests will not be accepted unless the choice of test sites and a detailed test plan have been approved in advance by the director or local air pollution control authority.

[D.] **(IV)** Stack tests will not be accepted unless the director or local air pollution control authority has been notified of test dates at least thirty (30) days in advance and thus provided the opportunity to observe the testing. This thirty (30)-day notification may be reduced or waived on a case-by-case basis by the director or local air pollution control authority.

[E.] **(V)** Stack test results which do not meet all the criteria of *[subparagraphs (6)(B)2.A.–D.]* **parts (3)(E)2.B.I.–IV.** of this rule may be acceptable for estimating emissions, but must be submitted for review and approval by the director or local air pollution control authority on a case-by-case basis; and

[3.] **C.** EPA documents. Other EPA documents may be used to estimate emissions if the emission factors are more appropriate or source specific than AP-42 or FIRE. Newly developed EPA emission

factors must be published by December 31 of the year for which the facility is submitting an EIQ.

[(7)] **(F)** Emission Fee Auditing/Adjustment.

[(A)] **1.** The department may conduct on-site detailed reviews (audits) of EIQs and supporting documentation as the director deems necessary.

[(B)] **2.** The department may make emission fee adjustments when—

[1.] **A.** Clerical or arithmetic errors have been made;

[2.] **B.** Submitted documentation is not supported by inspections or audits;

[3.] **C.** Emissions estimates are modified as a result of emission verification or audits;

[4.] **D.** Credit has been incorrectly applied for an emissions fee paid to a local air pollution control agency; or

[5.] **E.** The department shall not be limited by *[paragraphs (7)(B)1.–4.]* **subparagraphs (3)(F)2.A.–D. of this rule** in making emission fee adjustments.

[(8)] **(G)** Request for Additional Fees and Emission Fee Refunds.

[(A)] **1.** A maximum two (2)-year review period, beginning on the date received, shall exist for all EIQ submissions. If an EIQ review indicates that additional emission fees are required, the department will notify the source in writing and request that additional fees be paid within forty-five (45) days. The notification shall state the reason for the additional fees and the amount due. If after forty-five (45) days the additional fees have not been paid, then enforcement action may be taken against the source to recover the additional fees.

[(B)] **2.** Emission *[F]***f**ee *[R]***r**efunds. Overpayment of emission fees shall be refunded to the source. The refund shall be accompanied by a letter stating the reason for the refund and the amount refunded. There shall be a two (2)-year time limit, beginning on the date the EIQ is received, for emission fee refunds. Refunds on EIQs exceeding the two (2)-year time limit shall only be considered upon written request by the source and if approved by the director.

(4) Reporting and Record Keeping. Owners or operators shall maintain records containing sufficient information to demonstrate compliance with all applicable emission fee rule requirements as specified in subsections (3)(A) and (B). All data collected and recorded in accordance with the provisions of this rule shall be retained by the owner or operator for not less than five (5) years after the end of the calendar year in which the data was collected and all these records shall be made available to the director upon his/her request.

(5) Test Methods. ***(Not Applicable)***

AUTHORITY: section 643.050, RSMo 2000. Original rule filed June 13, 1984, effective Nov. 12, 1984. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 15, 2003.*

PUBLIC COST: This proposed amendment will result in an annualized aggregate loss of revenue of two hundred fifty thousand twelve dollars ($250,012) for the Department of Natural Resources. This loss of revenue takes into account an annualized aggregate cost savings of forty-one thousand nine hundred ten dollars ($41,910) for other public entities. Note attached fiscal note for assumptions that apply.

PRIVATE COST: This proposed amendment will result in an annualized aggregate cost savings of two hundred fifty thousand twelve dollars ($250,012) for private entities. Note attached fiscal note for assumptions that apply.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 24, 2003. The public hearing will be held at Drury Inn & Suites, Ballroom, 11980 Olive Blvd., Creve Coeur, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., July 31, 2003. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 6 - Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process Information

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Misc. Public Entities (listed below)	$41,910 Savings
Missouri Dept. of Natural Resources	$250,012 Reduction In Revenue

Cost estimates are reported as annualized aggregates.

III. WORKSHEET

	FY2004*	FY2005	FY2006	FY2007	FY2008	FY2009
EIQ Fees	$1,174,101	$1,185,842	$1,197,700	$1,209,677	$1,221,774	$1,233,992

FY2010	FY2011	FY2012	FY2013	FY2014*
$1,246,332	$1,258,795	$1,271,383	$1,284,097	$0

Total Cost Over 10 Years	$12,283,693
Annualized Aggregate Cost	$1,228,369

	EIQ Fee Costs		
	FY2004	FY2005**	Annualized Aggregate
EIQ Fees ($31.00 Fee)	$1,214,159	$1,226,301	$1,270,279

	EIQ Fee Costs		
	FY2004	FY2005**	Annualized Aggregate
EIQ Fees ($30.00 Fee)	$1,174,101	$1,185,842	$1,228,369

Aggregate EIQ Fee Cost Savings For This Amendment***	$41,910
Reduction In Public Entity Fee Revenue For This Amendment***	$291,922
Resulting Loss In Public Entity Fee Revenue For This Amendment***	$250,012

*See Assumption 3.
**The first full fiscal year for this rulemaking is FY2005.
***Difference in annualized aggregate costs using the $31.00 fee with $1.00 deducted for MoEIS.

List of Affected Entities:

Source Description	Number of Facilities
Gas & Electric	45
Sanitary Services	35
Hospitals	24
Rehabilitation Centers	2
Schools	9
Correctional Facility	5
National Security	6
Post Office	2
Transportation	3
Other	12
Totals	143

IV. ASSUMPTIONS

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.

2. The public entity costs are fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.

3. All emission fees for calendar years are assumed to be submitted during the last six (6) months of the fiscal year. For example, costs for all calendar year 2003 emission fees are received by the Missouri Department of Natural Resources between January 1, 2004 and June 30, 2004.

4. Cost and affected entity estimates are based on data presently entered in the tracking systems of the Missouri Department of Natural Resources' Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered.

5. Fees for public entities are based on $31.00 per ton of regulated air pollutant with the one-time credit of $1.00 per ton of regulated air pollutant deducted for the Missouri Emission Inventory System (MoEIS) project.

6. The emission fees paid by public entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.

7. The Emission Inventory Questionnaire (EIQ) fees are assumed to increase by 1% from FY2004 to FY2005.

8. Compliance and EIQ preparation costs reported on EIQs are not included in this fiscal note because these costs are not a result of this rulemaking. Compliance and preparation costs have been included in fiscal notes for the rulemakings that implemented these requirements.

9. The aggregate reduction in public entity fee revenue for the Missouri Department of Natural Resources' Air Pollution Control Program is directly related to the difference in emission fees. The total reduction in revenue is equivalent to the amount of savings realized by both public and private entities paying emission fees.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process Information

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:
2,573 Facilities (listed below)	Listed below	$250,012 Savings

Cost estimates are reported as annualized aggregates.

III. WORKSHEET

	FY2004*	FY2005	FY2006	FY2007	FY2008	FY2009
EIQ Fees	$6,996,651	$7,066,618	$7,137,284	$7,208,657	$7,280,743	$7,353,551

FY2010	FY2011	FY2012	FY2013	FY2014*
$7,427,086	$7,501,357	$7,576,370	$7,652,134	$0

Total Cost Over 10 Years	$73,200,450
Annualized Aggregate Cost	$7,320,045

	EIQ Fee Costs		
	FY2004	FY2005**	Annualized Aggregate
EIQ Fees ($31.00 Fee)	$7,235,618	$7,307,974	$7,570,057

	EIQ Fee Costs		
	FY2004	FY2005**	Annualized Aggregate
EIQ Fees ($30.00 Fee)	$6,996,651	$7,066,618	$7,320,045

Total Aggregate Cost Savings For This Amendment***	$250,012

*See Assumption 3.
**The first full fiscal year for this rulemaking is FY2005.
***Difference in annualized aggregate costs using the $31.00 fee with $1.00 deducted for MoEIS.

List of Affected Entities:

SIC Code	SIC Description	Number of Facilities
01	AGRICULTURAL PRODUCTION CROPS	0
02	AGRICULTURAL PRODUCTION LIVESTOCK AND ANIMAL SPECIALTIES	2
07	AGRICULTURAL SERVICES	46
10	METAL MINING	11
12	COAL MINING	5
14	MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	348
15	BUILDING CONSTRUCTION GENERAL CONTRACTORS AND OPERATIVE	18
16	HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION	5
17	CONSTRUCTION SPECIAL TRADE CONTRACTORS	4
20	FOOD AND KINDRED PRODUCTS	129
21	TOBACCO PRODUCTS	1
22	TEXTILE MILL PRODUCTS	1
23	APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS	2
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	67
25	FURNITURE AND FIXTURES	24
26	PAPER AND ALLIED PRODUCTS	22
27	PRINTING, PUBLISHING, AND ALLIED INDUSTRIES	66
28	CHEMICALS, BRIQUETS, PAINTS	157
29	PETROLEUM REFINING AND RELATED INDUSTRIES	130
30	RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	56
31	LEATHER AND LEATHER PRODUCTS	6

SIC Code	SIC Description	Number of Facilities
32	STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	338
33	PRIMARY METAL INDUSTRIES	55
34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION	89
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	50
36	ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS	42
37	TRANSPORTATION EQUIPMENT	60
38	MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS	6
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	21
40	RAILROAD TRANSPORTATION	0
41	LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER	1
42	MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	21
44	WATER TRANSPORTATION	4
45	TRANSPORTATION BY AIR	4
46	PIPELINES, EXCEPT NATURAL GAS	20
47	TRANSPORTATION SERVICES	3
48	COMMUNICATIONS	2
49	ELECTRIC, GAS, SANITARY SERVICES, AND LANDFILLS	120
50	WHOLESALE TRADE-DURABLE GOODS	22
51	WHOLESALE TRADE-NON-DURABLE GOODS	162
52	LUMBER/HARDWARE	1
54	FOOD STORES	0
55	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	2
57	HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES	0

SIC Code	SIC Description	Number of Facilities
59	MISCELLANEOUS RETAIL	1
60	BANK	0
63	INSURANCE CARRIERS	0
65	REAL ESTATE	0
70	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	1
72	PERSONAL SERVICES AND DRY CLEANERS	379
73	BUSINESS SERVICES	5
75	AUTOMOTIVE REPAIR, SERVICES, AND PARKING	7
76	MISCELLANEOUS REPAIR SERVICES	4
80	HEALTH SERVICES	39
82	EDUCATIONAL SERVICES	7
83	NURSE HOME	2
84	MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS	0
87	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED	1
91	EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	0
92	CORRECTIONS	2
95	ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	0
97	MILITARY	2
	Total Facilities	2,573

IV. ASSUMPTIONS

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.

2. The private entity costs are fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.

3. All emission fees for calendar years are assumed to be submitted during the last six (6) months of the fiscal year. For example, costs for all calendar year 2003 emission fees are received by the Missouri Department of Natural Resources between January 1, 2004 and June 30, 2004.

4. Cost and affected entity estimates are based on data presently entered in the tracking systems of the Missouri Department of Natural Resources' Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered.

5. Fees for private entities are based on $31.00 per ton of regulated air pollutant with the one-time credit of $1.00 per ton of regulated air pollutant deducted for the Missouri Emission Inventory System (MoEIS) project.

6. The emission fees paid by private entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.

7. The Emission Inventory Questionnaire (EIQ) fees are assumed to increase by 1% from FY2004 to FY2005.

8. Compliance and EIQ preparation costs reported on EIQs are not included in this fiscal note because these costs are not a result of this rulemaking. Compliance and preparation costs have been included in fiscal notes for the rulemakings that implemented these requirements.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.010 Construction and Operating Permits. The commission is amending section (5), and adding section (14), and deleting the forms that follow this rule in the *Code of State Regulations*.

PURPOSE: This amendment creates a new option for permitting wastewater discharges from hydrostatic testing of new petroleum pipelines and storage tanks.

(5) Operating Permits.

(A) Persons who build, erect, alter, replace, operate, use or maintain any water contaminant source, point source or wastewater treatment facility which discharges to waters of the state shall obtain an operating permit from the department before any discharge occurs. The operating permit shall be issued to the owner/operator. Nondischarging facilities for the treatment or disposal of wastes, wastewater or residuals shall obtain permits as provided in 10 CSR 20-6.015. **Persons who intend to discharge in accordance with section (14) of this rule are permitted by rule and may discharge without additional written approval from the department.**

(14) Permit by Rule.

(A) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new petroleum-related oil and gas pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is *de minimis* (less than one thousand (<1,000) gallons) or the person takes the following steps:

1. Notification. The owner/operator must notify the department in writing of its intent to conduct hydrostatic test discharge(s) under this rule at least thirty (30) days prior to the first such discharge. This requirement may be met by a one (1)-time annual notification. Notice shall specify the source of water to be used in the hydrotest and shall identify the location(s) of the pipeline(s) and/or tank(s) to be tested.

2. Filing fee. Persons who intend to discharge in accordance with section (14) of this rule must pay a filing fee of twenty-five dollars ($25) to the department with their notification above.

3. Discharge limits. The discharge must meet the following limits: < 10 mg/l total petroleum hydrocarbons, <100 mg/l total suspended solids, and equal to or between 6.0 and 9.5 standard units pH.

4. Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge. The sample shall be analyzed for the pollutants limited by this rule. Total discharge volume shall be documented for each hydrostatic test discharge.

5. Analytical report. The owner/operator of the pipeline(s) and/or storage tank(s) on which the hydrostatic tests are performed shall submit an annual report summarizing each discharge, including date, time, test location, analytical results, and total discharge volume, in gallons, by October 28, of each year.

6. Exception reporting. If any of the sampling results from the hydrostatic test discharge show any violations of the following discharge limitations, written notification shall be made to the department within five (5) days of notification of analytical results. Notification shall indicate the date(s) of sample collection, the analytical results, and a statement concerning the revisions or modifications in management practices that are being implemented to address the violation of the limitation that occurred.

A. <10 mg/l total petroleum hydrocarbons;

B. <100 mg/l total suspended solids;

C. pH equal to or between 6.0 and 9.5 standard pH units.

7. General requirement. The hydrostatic testing water shall not contain dyes or have a visible sheen indicating the presence of petroleum products.

(B) The department may require a permit for these discharges if it determines that requiring a permit may better protect the quality of waters of the state.

(C) The person(s) discharging under this rule may apply for a permit at any time.

(D) This rule does not supersede nor eliminate liability for compliance with county and other local ordinances.

(E) Persons discharging under this rule are not required to obtain a separate permit to construct and operate an oil-water separator to aid in meeting limits for hydrostatic wastewater.

*AUTHORITY: section 644.026, RSMo [Supp. 1997] **2000**. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 15, 2003.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 30, 2003. The public hearing will be held at the Holiday Inn Select Executive Center, 2200 I-70 Drive Southwest, Columbia, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to the Secretary of the Clean Water Commission, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-6721. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m. August 13, 2003. Written comments shall be sent to the Secretary of the Clean Water Commission, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System

PROPOSED AMENDMENT

11 CSR 45-9.030 Minimum Internal Control Standards. The commission is amending Appendix A.

PURPOSE: The purpose of the proposed amendment is to amend sections A, B, E, H, R and the Table of Contents of Appendix A which is incorporated by reference in this rule.

*AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 6, 2003.*

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

PRIVATE COST: This proposed amendment will cost private entities more than five hundred dollars ($500) in the aggregate. See attached fiscal note.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. Private entities who feel there is cost which exceeds five hundred dollars ($500) associated with this rule are requested to submit cost (estimated or actual, if available) with the comments. A public hearing is scheduled for July 30, 2003, at 10:00 a.m., in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 9 - Internal Control System

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 11 CSR 45-9.030 – Minimum Internal Control Standards

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:
11	Licensed Riverboat Casinos	$8,250
11	Licensed Riverboat Casinos	$83,380
11	Licensed Riverboat Casinos	$8,800

III. WORKSHEET

CHAPTER B – KEY CONTROLS

§ 4 Key Log

4.04 Some Casinos may have to add numbers to approximately 20% of all their keys.
Estimated startup costs of $750 per Class A Licensee
Ongoing costs of $750/yr per Class A Licensee
Total aggregate amount 11 Class A Licensees x $750 = Total Aggregate Cost of $8250/yr.

CHAPTER E - ELECTRONIC GAMING DEVICES (EGDs)

These new regulations promote potentially great, but unquantifiable cost savings to both Class A Licensees and the State by prevention of theft, error, and fraud.

§ 8 Statistics (11 CSR 45-5.220)

8.7 10% of one FTE @$34,000 (Salary + Benefits) per casino:
$3400 per year x 11 casinos: $37,400 aggregate ongoing costs per year

8.8 10% of one FTE @$41, 800 (Salary + Benefits) per casino:

$4180 per year x 11 casinos: $45,980 aggregate ongoing costs per year

§ 14 Ticket Validation Systems – "Ticket In/Ticket Out" (TITO)

Implementation of TITO is **optional** - in the event a licensee elects to use TITO machines, costs would be significant, but unquantifiable.

§ 15 Redemption Kiosks

Implementation of TITO and Redemption Kiosks are optional - in the event a licensee elects to use TITO machines, costs would be significant, but unquantifiable, and Redemption Kiosks would be implemented to realize cost SAVINGS by eliminating employee costs.

CHAPTER R - FORMS

Duplicate Key Inventory Log

Affects 11 Casinos –each will have to create a new form
Estimated one time start-up cost of $100
0 on-going costs
Aggregate amount of $1100.

EGD Drop Compartment Sweeps Log

Affects 11 Casinos –each will have to create a new form
Estimated one time start-up cost of $100
0 on-going costs
Aggregate amount of $1100.

EGD Hand-Paid Jackpot Form

Affects 11 Casinos –each will have to create a new form/amend slot data systems
Estimated one time start-up cost of $500
0 on-going costs
Aggregate amount of $5500.

EGD Sweeps Log

Affects 11 Casinos –each will have to create a new form
Estimated one time start-up cost of $100
0 on-going costs
Aggregate amount of $1100.

IV. ASSUMPTIONS

Title 15—DEPARTMENT OF PUBLIC SAFETY
Division 11—Missouri Gaming Commission
Chapter 30—Bingo

PROPOSED RULE

11 CSR 45-30.540 Approval of Bingo Paraphernalia

PURPOSE: This rule clarifies items that must be approved by the commission, the party responsible for getting approval, and the approval process.

(1) Licensed manufacturers shall submit all pull-tab flares and five (5) pull-tabs to the commission and obtain written approval from the commission prior to the delivery of such items to any licensed supplier to be made available for sale to organizations licensed to conduct bingo in this state.

(2) Licensed manufacturers shall submit all coin boards, excluding the actual coins and prizes, or legible artwork of the coin board and five (5) pull-tabs to the commission and obtain written approval from the commission prior to the delivery of such items to any licensed supplier to be made available for sale to organizations licensed to conduct bingo in this state.

(3) No unapproved pull-tabs or coin boards shall be provided to, or be possessed or used by, any licensed bingo organization in this state. Bingo paper that does not meet the definition contained in section 313.005, RSMo, shall not be provided to, or be possessed or used by, any licensed bingo organization. Any such bingo paper that may be provided to or possessed by a licensed bingo organization is declared contraband.

AUTHORITY: section 313.065, RSMo 2000. Original rule filed May 6, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. Private entities who feel there is cost which exceeds five hundred dollars ($500) associated with this rule, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for July 30, 2003, at 10:00 a.m., in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo

PROPOSED RULE

11 CSR 45-30.550 Licensee's Duty to Report and Prevent Misconduct

PURPOSE: This rule establishes a licensee's duty to report and prevent misconduct associated with charitable gaming.

(1) Licensees, workers, and employees of a licensee shall promptly report to the commission any facts which the licensee has reasonable grounds to believe indicate a violation of law (other than a traffic violation) or commission rule committed by any licensed bingo manufacturer, supplier, or organization, their workers or employees.

(2) At no time shall any licensed bingo organization or its workers fail to take reasonable action to prevent or suppress any violent quarrel, disorder, brawl, fight, or other improper or unlawful conduct of any person at a bingo occasion.

(3) In the event that a licensee, or a worker or employee of a licensee, knows that an illegal or violent act has been committed in association with bingo activities, the individual shall promptly report the occurrence to the commission (and local law enforcement officials, if applicable) and shall cooperate with authorities and agents of the commission during the course of any investigation of the occurrence.

AUTHORITY: section 313.065, RSMo 2000. Original ruled May 6, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. Private entities who feel there is cost which exceeds five hundred dollars ($500) associated with this rule, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for July 30, 2003, at 10:00 a.m., in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
[Chapter 23—Motor Vehicle]
Chapter 26—Dealer Licensure

PROPOSED AMENDMENT

12 CSR 10-*[23.190] 26.180* Temporary Permits Sold by a Registered Missouri Motor Vehicle Dealer. The director proposes to amend the rule number, and sections (1), (3), (4) and (6).

PURPOSE: This rule is being amended for consistency and clarity.

(1) A registered dealer may provide no more than one (1) *[two (2)-piece set of]* temporary permit*[s]* per motor vehicle or trailer sold by his/her dealership. The temporary permits shall be effective for the number of days provided by law and shall be nonrenewable. No dealer shall sell a permit for use on any motor vehicle or trailer other than a motor vehicle or trailer sold by the dealer or his/her authorized employees at the dealer's own certified place of business except that a franchised motor vehicle dealer may issue a temporary permit for use on a motor vehicle the dealer delivers to a purchaser pursuant to a courtesy delivery arrangement made with another franchised dealer or manufacturer.

(3) A registered dealer may charge no more than the fee prescribed by law for each *[set of]* temporary permit*[s]* as specified in section 301.140.4., RSMo.

(4) Upon each sale of a *[set of]* temporary permit*[s],* each dealer shall fully complete all information on the temporary permit*[s]* in accordance with Department of Revenue instructions and complete all appropriate records of issuance found within the booklet of permits. If the permit is issued pursuant to a courtesy delivery arrangement, the dealer issuing the permit must record the words courtesy delivery on the corresponding permit and on the permit record within the permit booklet. The information listed shall be true, accurate and complete. Temporary permits that are spoiled shall be marked void and kept as a part of the dealership's records. The records shall be maintained in booklet form for a period of at least three (3) years for inspection by law enforcement or Department of Revenue officials.

(6) No temporary permit*[s]* shall be issued for use on a motor vehicle unless there is a valid certificate of inspection and approval for the particular motor vehicle in accordance with section 307.380, RSMo. Dealers shall enter the true, accurate and complete motor vehicle inspection certificate number on the temporary permit record. **No temporary permit shall be issued when the ownership document is a salvage certificate of title.**

AUTHORITY: sections 301.140 and 307.380, RSMo [1986] 2000. This rule was previously filed as 12 CSR 10-23.190. Original rule filed Oct. 1, 1985, effective Dec. 26, 1985. Amended: Filed Nov. 13, 1986, effective Feb. 28, 1987. Amended: Filed Nov. 17, 1987, effective April 11, 1988. Emergency amendment filed Oct. 26, 1990, effective Nov. 5, 1990, expired March 4, 1991. Amended: Filed July 2, 1990, effective Dec. 31, 1990. Moved and Amended: Filed May 14, 2003.

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

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 98—Psychiatric/Psychology/Counseling/Clinical Social Work Program

PROPOSED RULE

13 CSR 70-98.010 Psychiatric/Psychology/Counseling/Clinical Social Work Program

PURPOSE: This rule establishes the regulatory basis for administration of the psychiatric/psychology/counseling/clinical social work program. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services; to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. The Department of Social Services is mandated by the Centers for Medicare and Medicaid Services to implement the provisions of the Health Insurance Portability and Accountability Act (HIPAA). In order to meet these mandates the Division of Medical Services (DMS) has redefined how psychiatrists, psychiatric clinical nurse specialists, psychologists, licensed clinical social workers, licensed professional counselors, federally qualified health centers (FQHCs), rural health centers (RHCs), and community mental health centers (CMHCs) must bill for services. HIPAA mandates that states allow providers to bill for services using the standard current procedural terminology (CPT) code sets, however, it does not require states to add coverage for services that it does not currently cover. DMS has not added coverage of services previously not covered, however, it is redefining limitations based on code definition, and clarification to Medicaid policy. Specific details of provider participation, criteria and methodology for provider reimbursement, recipient eligibility, and amount, duration and scope of services covered are included in the provider program bulletins and manual, which are incorporated by reference in this rule and available at the website www.dss.state.mo.us/dms.

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

(1) Administration. The Missouri Medicaid psychiatric/psychology/counseling/clinical social work program shall be administered by the Department of Social Services, Division of Medical Services (DMS). The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by DMS and shall be included in the provider program manual, which is incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms. Psychiatric/psychology/counseling/clinical social work services shall include only those which are clearly shown to be medically necessary. The division reserves the right to affect changes in services, limitations, and fees with notification to providers.

(2) Persons Eligible. The Missouri Medicaid program pays for psychiatric/psychology/counseling/clinical social work services when furnished within the provider's scope of practice. The recipient must be eligible on the date the service is furnished. Recipients may have specific limitations for psychiatric/psychology/counseling/clinical social work services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a recipient based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's Medicaid/MC+ and managed care or other lock-in status before any service is performed. The recipient's eligibility shall be verified in accordance with methodology outlined in the provider program manual.

(3) Provider Participation. To be eligible for participation in the Missouri Medicaid psychiatric/psychology/counseling program, a provider must meet the licensing criteria specified for his or her profession and be an enrolled Medicaid provider.

(A) The enrolled Medicaid provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to recipients; and

2. On request furnish to the Medicaid agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Covered Services. For all covered services, documentation of all stipulated documentation elements (referenced herein) are an essential and integral part of the service itself. No service has been performed if documentation requirements are not met.

(A) Services furnished by a psychiatrist, psychiatric clinical nurse specialist, or psychologist are covered when furnished within the provider's scope of practice.

1. Services by a psychiatrist, psychiatric clinical nurse specialist may be furnished to eligible adults and children.

2. The psychiatrist, psychiatric clinical nurse specialist, or psychologist is working independently, or the employee of a federally qualified health center (FQHC), rural health center (RHC), or community mental health center (CMHC).

3. One (1) psychological testing service is covered per year per provider under the following criteria:

A. When mental, psychoneurotic, or personality disorders are suspected;

B. Self-administered or self-scored inventories are not covered as a testing service, but are included in the evaluation and management services, assessment, or as part of the total testing procedure;

C. Ancillary personnel (psychometric technicians or other qualified persons) can only administer the pencil and paper portion and score psychological tests. The services of ancillary personnel cannot be billed separately, but are included in the reimbursement for testing, including all elements of testing: administration, scoring, interpretation, and report preparation;

D. The psychiatrist, psychiatric clinical nurse specialist, or psychologist may bill up to four (4) one (1) hour units of testing procedure, accounting for the total components of the psychological testing service. This includes the time the provider spends in face-to-face consultation with the recipient, testing administered directly by the provider, but not the time when testing is administered by ancillary personnel, interpretation, and report preparation;

E. If the testing is done over the course of several days, the testing procedure code may be reported on the date the report is completed.

(B) Services furnished by licensed or provisionally licensed professional counselor (LPC) or licensed or provisionally licensed clinical social worker (LCSW) are reimbursed by DMS when furnished within the provider's scope of practice to children under age twenty-one (21).

1. The LCSW and LPC must be working independently or the employee of a FQHC, RHC, or CMHC.

2. By state statute, an LPC is unable to diagnose. Therefore, an independently enrolled LPC must maintain a copy of a diagnostic assessment from a Medicaid enrolled provider licensed to diagnose for all services provided. The diagnostic assessment from a Medicaid enrolled provider licensed to diagnose must have been completed not more than six (6) months prior to the initial date of service or more than eighteen (18) months prior to the date of any subsequently billed service.

3. Some services covered for children under age twenty-one (21) require prior authorization (PA). A list of services requiring PA can be found in the program manual at the DMS website at www.dss.state.mo.us/dms.

(C) The assessment is a medical service. The assessment should be kept in the provider's file. Assessment services (psychiatric diagnostic interview exam) are limited to one (1) unit per provider per year. The single unit covers all components of the assessment. If the assessment is done over the course of several days, the assessment must be reported on the date the assessment is completed. If a child is in the legal custody of the Division of Family Services (DFS), a copy of the assessment shall be maintained in the DFS case file in order for the provider to retain the reimbursement for the covered services.

1. An interactive psychiatric diagnostic exam may be billed in addition to an assessment when medically appropriate and is limited to one (1) unit per provider per year.

2. Each individual shall participate in an assessment that more fully identifies their needs and goals. The participation of family and other collateral parties (e.g., referral source, employer school, other community agencies) in assessment shall be encouraged, as appropriate to the age, guardianship, services provided, or wishes of the individual.

A. The assessment shall assist in ensuring an appropriate level of care, identifying necessary services, and developing an individualized treatment plan. The assessment data shall subsequently be used in determining progress and outcomes. Documentation of the screening and assessment must include, but is not limited to, the following:

(I) Demographic and identifying information;

(II) Statement of needs, goals, and treatment expectations from the individual requesting services. The family's perceptions are also obtained, when appropriate and available;

(III) Presenting situations/problem and referral source;

(IV) History of previous psychiatric and/or substance abuse treatment including number and type of admissions;

(V) Health screening;

(VI) Current medications and identifications of any medications allergies and adverse reactions;

(VII) Recent alcohol and drug use for at least the past thirty (30) days and, when indicated, a substance use history that includes duration, patterns, and consequences of use;

(VIII) Current psychiatric symptoms;

(IX) Family, social, legal, and vocational/educational status and functioning. The collection and assessment of historical data is also required unless short-term crisis intervention or detoxification are the only services being provided;

(X) Current use of resources and services from other community agencies;

(XI) Personal and social resources and strengths, including the availability and use of family, social, peer, and other natural supports; and

(XII) Multi-axis diagnosis or diagnostic impression in accordance with the current edition of the *Diagnostic and Statistical Manual* of the American Psychiatric Association or the *International Classification of Diseases*, Ninth Revision, Clinical Modification (ICD-9-CM). The ICD-9-CM is required for billing purposes.

(D) A treatment plan must be developed by the provider based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the recipient's situations and reflects the need for psychiatric/psychology/counseling/clinical social work services. Any services other than crisis intervention, assessment/diagnosis, or psychological testing that are performed prior to the completion of the treatment plan shall not be reimbursed by the MC+ or Medicaid programs or the recipient. If a child is in the legal custody of DFS, a copy of the treatment plan shall be provided to DFS in order for the provider to retain the reimbursement for the covered service(s).

1. Each person shall directly participate in developing his/her individualized treatment plan including, but not limited to, signing the treatment plan. A copy of the treatment plan shall be given to the parent or legal guardian of a child.

2. The individualized treatment plan shall reflect the person's unique needs and goals. The plan shall include, but is not limited to, the following:

A. Measurable goals and outcomes;

B. Services, support, and actions to accomplish each goal/outcome. This includes services and supports and the staff member responsible, as well as action steps of the individual and other supports (family, social, peer, and other natural supports);

C. Involvement of family, when indicated;

D. Services needed beyond the scope of the organization or program that are being addressed by referral or services at another community organization, where applicable;

E. Projected time frame for the completion of each goal/outcome; and

F. Estimated completion/discharge date for the level of care.

3. Progress toward treatment goals and outcomes shall be reviewed on a periodic basis.

A. Each person shall directly participate in the review of their individualized treatment plan.

B. The frequency of treatment plan reviews shall be based on the individual's level of care or other applicable program rules. The occurrence of a crisis or significant clinical event may require a further review and modification of the treatment plan.

C. The individualized treatment plan shall be updated and changed as indicated.

(E) A unit of service is defined in accordance with the current procedural terminology (CPT) definitions for a procedure code. The provider must furnish services within the following criteria for the following time measurements describing procedure codes.

1. A unit of service by CPT definition which represents twenty to thirty (20–30) minutes face-to-face with the recipient must include at least twenty (20) minutes face-to-face with the recipient. When less than thirty (30) minutes is spent face-to-face with the recipient, the remainder of the unit must be directed to the benefit of the recipient, including, but not limited to: report writing, note summary, reviewing treatment plan, etc.

2. A unit of service by CPT definition which represents forty-five to fifty (45–50) minutes face-to-face with the recipient must include at least forty-five (45) minutes face-to-face with the recipient. When less than fifty (50) minutes is spent face-to-face with the recipient, the remainder of the unit must be directed to the benefit of the recipient including, but not limited to: report writing, note summary, reviewing treatment plan, etc.

3. A procedure code which represents a time measure, whether insight oriented or interactive is covered for one (1) unit per day. The provider must choose the appropriate time measure to represent the service furnished.

(F) Crisis intervention is an emergency service which is immediately available to a recipient, family member, or significant other or ameliorate emotional trauma precipitated by a specific event affecting the Medicaid eligible recipient.

1. Services may be provided by telephone or face-to-face.

2. Services provided by telephone cannot be billed if the provider has a telephone hotline.

3. Telephone crisis intervention services must document the presenting problem, the scope of service provided, and resolution.

4. Crisis intervention services cannot be scheduled.

(G) Family therapy is defined as the treatment of family members as family unit together, rather than an individual "patient." The family unit is viewed as a social system that affects all its members.

1. When family therapy services are provided to a family (with or without the patient present), the session is billed as one (1) service (family unit), regardless of the number of individuals present in the session.

2. If family therapy with the patient present is directed at more than one (1) member of the family, the provider is limited to one (1) unit per day and may focus attention to different members of the family as needed during the session. The provider may not bill for each Medicaid/MC+ eligible member of the family separately. The provider may bill a modified family therapy procedure for additional family members beyond two (2) who participate in the family therapy session.

3. A family unit is not a group, and providers may not submit a claim for each eligible child attending the same session such as they would for group therapy.

4. If there is more than one (1) eligible child (biological, foster, adoptive, or any other family unit) and no child is exclusively identified in the session as the primary recipient of treatment, then the oldest child's identification number (Departmental Control Number (DCN)) must be used for billing purposes.

5. When a family consists of a Medicaid/MC+ eligible adult (e.g. parent, guardian) and a Medicaid/MC+ eligible child(ren) and the therapy is not directed at one (1) specific child, a psychiatrist, psychiatric clinical nurse specialist, or psychologist may direct treatment to the adult for the effective treatment of the family unit.

A. If the adult is not eligible and the family therapy is directed at the adult and not the child, the service is not covered and must not be billed using the child's identification number (DCN).

B. If the adult is not eligible, the provider may bill for the family therapy under the condition that the family therapy is directed to the exclusive benefit of the child and can be billed using a child's identification number (DCN).

6. Services of an LCSW and LPC are covered under the Omnibus Budget Reconciliation Act of 1989 (OBRA 89) mandate for coverage of early and periodic screening, diagnosis, and treatment (EPSDT) services in accordance with the following:

A. Services for a specific child in a family unit must be directed exclusively to the effective treatment of that child; and

B. The issues of the parent may not be billed as a covered service by an LCSW or LPC.

7. Family therapy without patient present and family therapy with patient present are limited to one (1) unit of procedure code 90846 or 90847 per day per family.

8. Documentation of each service shall include members present, description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, description of therapist intervention, and progress towards goals.

(H) Group therapy shall be directly related to the attainment of objectives as defined/specified in the written treatment plan.

1. Group therapy must consist of a group oriented process delivered to groups of three (3) but no more than eight (8) individuals.

2. A maximum of three (3) units per day is covered.

3. Group therapy is not covered in the home.

4. Group therapy may not be billed on the same date of service as family therapy unless the recipient is inpatient in a residential treatment facility or custodial care facility.

A. A group home is defined as a child care facility which approximates a family setting, provides access to community activities and resources and provides care to no more than twelve (12) children.

5. When providing therapy to a group of children in a group home or a setting to provide a safe shelter for a group of individuals, group therapy is billed with a place of service "other."

6. Documentation of each service shall include members present, description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, description of therapist intervention, and progress towards goals.

(5) Non-Covered Services.

(A) The following services are not covered under the psychiatric/psychology/counseling/clinical social work program:

1. Services listed as non-covered on the psychiatric/psychological/counseling appendix;

2. Tutoring;

3. Services provided by someone other than the enrolled provider;

4. Psychotherapy services to nursing facility residents when those services are provided in a nursing facility. Pharmacologic management including prescription is covered in a nursing facility;

5. Services for diagnoses relating to mental retardation;

6. Electroshock therapy unless specified within the scope of practice;

7. Any service not documented with all stipulated elements covered by the documentation. Documentation must be completed within twenty-four (24) hours of the service being provided;

8. Any individual, family, or group therapy provided prior to the documentation of a treatment plan with all stipulated documentation elements; or

9. Any service provided by an LPC other than crisis intervention or assessment if the documentation of a current diagnostic assessment by a licensed provider as described previously is not documented in the record prior to the service being provided.

(6) Non-allowed services under the psychiatric/psychology/counseling/clinical social work program (services are included as incidental to the providers cost of doing business and not allowed as separate billing to DMS or the recipient).

(A) The entire time for a unit of therapy billed to DMS must be for the direct benefit of the recipient either in face-to-face therapy, report writing, note summary, reviewing treatment plan, etc., and includes the overhead costs or time associated with the cost of doing business. The following services are non-allowed:

1. Courtesy calls such as patient drop-in visits to give a progress report that were not scheduled and no therapy services were rendered;

2. Telephone consultations with colleagues or phone calls with the recipient that are not documented as crisis intervention;

3. Missed appointments or failure to show;

4. Additional payment is not made for services that are performed after regularly scheduled office hours, on holidays, or on weekends;

5. Services performed by nonlicensed, non-enrolled personnel;

6. Additional payment is not made for participation in discussion with colleagues for case planning or treatment including, but not limited to, staffing and Individual Education Plan (IEP).

7. Transportation and travel time or mileage to or from destinations, e.g., a provider may not bill a forty-five to fifty (45–50) minute unit of service and use ten (10) minutes of the time traveling to and from the service destination with the result of furnishing only thirty-five (35) minutes of therapy. In this case, the provider could only bill for the twenty to thirty (20–30) minute code;

8. Accompaniment to such places as the doctor's office, court, etc.;

9. Shopping trips;

10. The paper/pencil portion of the psychological test administration provided by an individual under the direction or supervision of the enrolled psychologist.

(7) Reimbursement. Payment will be made in accordance with the fee per unit of service as defined and determined by DMS. Providers must bill their usual and customary charge for psychiatric/psychology/counseling/clinical work services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by DMS or the provider's billed charges.

(A) When billing for assessment and testing services, the time selected for billing purposes includes face-to-face administration and report preparation. If the assessment or testing is done over several days, the assessment or testing components are combined and reported all on the last date of service.

(B) In accordance with CPT definitions of service and Health Insurance Portability and Accountability Act (HIPAA) compliance for billing purposes, the fee structure and reimbursement has changed for some services. A list of covered procedures with the maximum allowable amount can be found in the psychiatric/psychological/counseling appendix on the DMS website at www.dss.state.mo.us/dms.

(8) Documentation Requirements for Psychiatric/Psychology/Counseling/Clinical Social Work Services. Each date of service must contain the following documentation in the patient's medical record. This documentation must be in narrative form, fully describing each session billed. A check-off list or pre-established form will not be accepted as sole documentation.

(A) First and last name of recipient:

1. When family therapy is furnished, each member of the family included in the session must be identified. Description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention;

2. When group therapy is furnished each service shall include the number of group members present, description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention;

(B) The specific service rendered;

(C) Name of person who provided service;

(D) The date (month/date/year) and actual begin and end time (e.g., 4:00–4:30 p.m.) for face-to-face services;

(E) The setting in which the service was rendered;

(F) The pertinence of the service to the treatment plan (the plan of treatment is a required document in the overall records for the patient);

(G) The individual's progress toward the goals stated in the treatment plan (progress notes);

(H) An independent LPC must maintain a copy of a diagnostic assessment from a Medicaid enrolled provider licensed to diagnose. The assessment must have been completed not more then six (6) months prior to the initial date of service or more than eighteen (18) months prior to the date of any subsequently billed service;

(I) When interactive therapy is billed, the provider must document the need for this service and the equipment, devices, or other mechanism of equipment used;

(J) The documentation in the treatment plan, identified in subsection (4)(D) must be included in the patient's records and if applicable:

1. Identification of other agencies working with the patient;

2. Plans for coordinating services with other agencies; and

3. Identification of medications which have been prescribed for the patient must be included in the patient's record;

(K) Documentation required by DMS does not replace or negate documentation/reports required by DFS for individuals in their care or custody. Providers are expected to comply with policies and procedures established by DFS and DMS. If a child is in the legal custody of DFS, the treatment plan shall be provided to DFS in order for the provider to retain the reimbursement for the covered service(s);

(L) The requirement to document services and to release records to representatives of the Department of Social Services or the U.S. Department of Health and Human Services is found in 13 CSR 70-3.020 and 13 CSR 70-3.030.

(9) Records Retention. Medicaid providers must retain for six (6) years from the date of service fiscal and medical records that coincide with and fully document services billed to the Medicaid program, and must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, and retain adequate documentation for services billed to the Medicaid program may result in recovery of the payments for those services not adequately documented and may result in sanctions to the provider's participation in the Medicaid program. This policy continues to apply in the event of the provider's discontinuance as an actively participating Medicaid provider through change of ownership or any other circumstance.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo 2000. Original rule filed May 15, 2003.

PUBLIC COST: This proposed rule is expected to cost state agencies or political subdivisions $7,724,823.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate. The state is going to begin paying for a service with psychologists, for certain members, which it has previously not paid. There is no new mandate on any provider that our fee is not intended to cover.

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

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-98.010 Psychiatric/Psychology/Counseling/ Clinical Social Work Program
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Social Services Division of Medical Services	$7,724,823

III. WORKSHEET

Coverage of Medicaid enrolled adults by independently enrolled Medicaid psychologists for psychology services furnished with in the scope of practice of a psychologist.

Program Expenditures	
Total fee-for-service adults	293,206
Less Adults receiving psychiatric services	– 11,793
	281,413
Adult utilization projected to be 50% of the utilization rate for children which is 16.28%	x 8.14%
Projected users	22,908
Average Cost of Adult Psychiatric Services	x $337.20
Projected Expenditures	$7,724,823

IV. ASSUMPTIONS

- The utilization of psychology services for adults is projected to be 50% of the utilization by children (16.28%) for psychology services.
- The cost for adult psychology services is projected to be equal to the average cost for adult users of psychiatric services.
- The number of eligible adults who are not receiving psychiatric services was multiplied by 8.14% to arrive at the number of adults who would utilize psychology services.
- The projected users were then multiplied by the cost/user to arrive at the estimated cost to provide psychology services to adults.