

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 symbolology 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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 1—Facility Maintenance and Operation

PROPOSED AMENDMENT

1 CSR 35-1.050 Public Use of State Facilities. The Office of Administration is amending paragraphs (1)(D)1., (1)(D)2., (1)(D)3., (2)(B)9., and (4)(A)12., and adding a new section (5).

PURPOSE: This rule preserves a prohibition against carrying firearms or any other weapon readily capable of lethal use into certain state facilities. Exceptions are provided for law enforcement officers and other specific public officials acting in their official capacities.

(1) Facilities Subject to this Rule; Definitions.

(B) As used in this rule, the term "Capitol Building and grounds" means the first floor of the Capitol rotunda, the museum area, corri-

dors, restrooms and all other common areas on the first floor of the Capitol Building, the south steps of the Capitol Building, the circular drive and the Capitol grounds. The Capitol grounds, as shown on Appendix A included herein, extend to High Street on the south and to Jefferson Street on the east, but do not include Parking Lots Number 1, 2, 4 and 15A, nor the Highway and Transportation Building and its grounds nor the buildings and grounds known as "Lohman's Landing."

(D) Other Public Buildings and Grounds.

1. As used in this rule, the term "other public buildings and grounds" means all property, except the Capitol Building and grounds, and except the Governor's Mansion and its grounds, which is owned, leased or occupied by an agency of the state of Missouri [and is managed by the Office of Administration, Division of Facilities Management].

2. It includes, but is not limited to, the following: the Jefferson Building, the Broadway Building, the Supreme Court Building, the Environmental Control Center, the Harry S Truman Office Building, the E.D.P. Building, the Health Lab, and the Missouri State Information Center, all in Jefferson City; the Wainwright State Office Building and the Midtown State Office Building in St. Louis; the Kansas City State Office Building; the St. Joseph State Office Building; the Springfield State Office Complex; and all parking lots or parking structures on the said sites [which are managed by the Division of Facilities Management]. Drawings showing the property lines of these sites are included herein as Appendix A to this rule.

3. In the case of multi-tenant buildings, the term "other public buildings and grounds" includes only the offices occupied by agencies of the state of Missouri and those portions of the common areas [that are controlled by state agencies].

(2) Public Use of Other Public Buildings and Grounds Occupied by State Agencies.

(B) Prohibited Activities. The following activities and conditions are not permitted in the common areas of any of the other public buildings and grounds which are occupied by a state agency:

1. Purely private social events, such as weddings, regardless of the type or content;

2. Commercial activities, including soliciting the sale of any goods or services and any other activities undertaken for the primary purpose of obtaining a financial return for the benefit of an individual or organization, whether organized for profit or not; except that this paragraph shall not prohibit vendors from soliciting state employees for the purpose of effecting sales of the vendors' products or services, if the products or services are offered to the state, or if they are offered to employees through a state-sponsored program;

3. Solicitation of any kind, including the solicitation of contributions, gifts or donations, the solicitation of signatures on petitions, and the solicitation of support for any political candidate or cause, except as otherwise specifically authorized in this rule;

4. The distribution of any leaflets or other materials, except for such materials as are distributed by the facility manager, and except that certified employee bargaining units may distribute written materials in the common areas of the buildings where the members of their unit are employed, if authorized by the facility manager to do so;

5. Any activity that obstructs the free ingress or egress of those wishing to enter or leave the public building;

6. A sound level, noise, or any other activity that disrupts the business of government in the public building;

7. Camping, including the use of the grounds for living accommodation purposes such as sleeping activities, making preparations for sleeping activities, making preparations to sleep (including the placement of bedding for the purpose of sleeping), storing personal belongings, making any fire, using any tents or other shelters for

sleeping, doing any digging or earth-breaking or carrying on cooking activities;

8. The service or consumption of alcoholic beverages;

9. Guns or weapons of any kind, except as authorized *[by law]* in section (5) of this rule;

10. Wood, metal or plastic poles or standards shall not be used to support signs or banners and shall not be brought into the public building or onto the grounds;

11. Any other activity that presents a significant likelihood of damage to the public building; or

12. Any activity that is a violation of federal, state or local law.

(4) Public Use of the Capitol Building and Grounds.

(A) The following activities and conditions are not permitted in or about the Capitol Building and grounds, as defined in section (1) of this rule:

1. Purely private social events, such as weddings, regardless of the type or content;

2. The service or consumption of alcoholic beverages, except as provided in paragraph (4)(A)3.;

3. Box lunches, buffet style or "sit down" food service, or any other service of food or beverage is prohibited in the rotunda, except that the service of food and beverage, including alcoholic beverages, is permitted if it is part of a state government function and is approved by the Board of Public Buildings. The service of food or beverage on the Capitol grounds is prohibited unless approved by the facility manager and the food or beverage is served without charge;

4. In order to minimize damage to the rotunda floor, dance events, including demonstrations such as clogging, square dancing and other such activity, are prohibited in the rotunda, unless the events are part of a state government function and are approved by the Board of Public Buildings;

5. Commercial activities, including the sale of any goods or services and any other activities undertaken for the primary purpose of obtaining a financial return for the benefit of an individual or organization, whether organized for profit or not, except as otherwise authorized in this rule;

6. The solicitation of contributions, gifts or donations is prohibited in all common areas of the Capitol Building, and the distribution of leaflets or other materials and all other forms of solicitation, including solicitation of support for any political candidate or cause is prohibited in all common areas of the Capitol Building except the rotunda and the south steps.

7. Making any speech or conducting any organized activity involving two (2) or more persons without first obtaining a permit from the facility manager, or distributing leaflets or other materials which have not been provided to the facility manager in conjunction with an application for a permit, or leaving leaflets or other materials unattended;

8. Any activity that obstructs the free ingress or egress of those wishing to enter or leave the rotunda or other portions of the Capitol;

9. A sound level, noise, or any other activity that disrupts the business of government in the Capitol;

10. The use of balloons of any kind in the rotunda;

11. Smoking in any of the common areas inside the Capitol Building, except in those areas that have specifically been designated as "smoking areas";

12. Guns or weapons of any kind, except as authorized *[by law]* in section (5) of this rule;

13. The use, in the rotunda, of lighted candles or other devices which produce flames;

14. Signs, banners and like material shall not be fastened in any way to the walls, surfaces, or railing surrounding the rotunda. Wood, metal or plastic poles or standards shall not be used to support signs or banners and shall not be brought onto the Capitol grounds. Signs displayed during an activity shall not contain any obscene words or symbols;

15. Any other activity that presents a significant likelihood of damage to the rotunda or other portions of the Capitol;

16. Camping, as previously defined in this rule; and

17. Any activity that is a violation of federal, state or local law.

(5) Weapons Capable of Lethal Use Prohibited; Exceptions.

(A) Carrying a firearm or any other weapon readily capable of lethal use into the Capitol Building and grounds as defined in subsection (1)(B), the offices in the Capitol Building occupied by the Governor and the Governor's administration, the offices in the Capitol Building of the Lieutenant Governor, the offices in the Capitol Building of the State Auditor, the offices in the Capitol Building of the State Treasurer, any other building and grounds as defined in subsection (1)(D), or the Governor's mansion and grounds, is prohibited. This prohibition shall not apply to state and federal law enforcement officers, peace officers, probation and parole officers, wardens and superintendents of prisons or penitentiaries, members of the armed forces and national guard, persons vested with judicial authority by the state or federal court, and members of the state General Assembly, acting in their official capacity. Possession of a firearm by a person holding a valid state concealed carry endorsement in a vehicle located in a parking area upon the premises of any area referenced in this rule shall not be prohibited so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

AUTHORITY: sections 8.110, 8.320, [RSMo 1994 and] 34.030, 37.005, 536.023.3 and 536.025, RSMo [Supp. 1997] 2000. Original rule filed April 23, 1998, effective Nov. 30, 1998. Emergency amendment filed Oct. 9, 2003, effective Oct. 19, 2003, expires April 15, 2004. Amended: Filed Oct. 9, 2003

PUBLIC COST: This proposed amendment is expected to cost the Office of Administration—Division of Facilities Management five thousand dollars (\$5,000) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Jacquelyn D. White, Commissioner, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

| | |
|-----------------------|-----------------------------------------------|
| Rule Number and Name: | 1 CSR 35-1.050 Public Use of State Facilities |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| Costs are expected to be incurred by the Office of Administration -- Division of Facilities Management in an estimated amount of \$5,000. | \$5,000.00 |

III. WORKSHEET

500 signs @ \$10 each = \$5,000

IV. ASSUMPTIONS

Signs are expected to be placed at the main entrances of state-owned/leased facilities reflecting the provisions of this rule.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

PROPOSED AMENDMENT

1 CSR 35-2.030 Administration of the Leasing Process. The Office of Administration is adding a new section (4).

PURPOSE: This amendment preserves a prohibition against carrying firearms or any other weapon readily capable of lethal use into real property leased by the state under the authority of the Office of Administration. Exceptions are provided for law enforcement officers and other specific public officials acting in their official capacities.

(4) All leases entered into by the Office of Administration shall prohibit carrying a firearm or other weapon readily capable of lethal use into the leased premises. This prohibition shall not apply to state and federal law enforcement officers, peace officers, probation and parole officers, wardens and superintendents of prisons or penitentiaries, members of the armed forces and national guard, persons vested with judicial authority by the state or federal court, and members of the state General Assembly, acting in their official capacity. Possession of a firearm by a person holding a valid state concealed carry endorsement in a vehicle located in a parking area upon the premises of any area referenced in this rule shall not be prohibited so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

AUTHORITY: sections [34.030, RSMo 1994] 8.110, 8.320, 34.030, 37.005, 536.023.3, and 536.025, RSMo 2000. Original rule filed April 15, 1998, effective Nov. 30, 1998. Emergency amendment filed Oct. 9, 2003, effective Oct. 19, 2003, expires April 15, 2004. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment is expected to cost the Office of Administration—Division of Facilities Management five thousand dollars (\$5,000) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Jacquelyn D. White, Commissioner, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

| | |
|-----------------------|------------------------------------------------------|
| Rule Number and Name: | 1 CSR 35-2.030 Administration of the Leasing Process |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| Costs are expected to be incurred by the Office of Administration -- Division of Facilities Management in an estimated amount of \$5,000. | \$5,000.00 |

III. WORKSHEET

500 signs @ \$10 each = \$5,000

IV. ASSUMPTIONS

Signs are expected to be placed at the main entrances of state-owned/leased facilities reflecting the provisions of this rule.

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

PROPOSED AMENDMENT

3 CSR 10-4.110 General Prohibition; Applications. The commission proposes to amend section (7).

PURPOSE: This amendment removes the word “legally” to provide options for enforcement action in instances where wildlife is taken illegally and then abandoned.

(7) No person who [legally] takes or possesses any wildlife shall wantonly leave or abandon any portion of such wildlife commonly used as human food.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.205 Permits Required; Exceptions. The commission proposes to amend subsection (1)(F).

PURPOSE: This amendment allows resident landowners who are not hunter education certified to accompany youngsters using a Youth Deer and Turkey Hunting Permit, but only on property owned by the landowner.

(1) Any person who chases, pursues, takes, transports, ships, buys, sells, possesses or uses wildlife in any manner must first obtain the prescribed hunting, fishing, trapping or other permit, or be exempted under 3 CSR 10-9.110, with the following exceptions:

(F) Any person at least six (6) [and under sixteen (16)] but not older than fifteen (15) years of age may purchase a Youth Deer and Turkey Hunting Permit without display of a hunter education certificate card, and may take one (1) deer of either sex statewide, during the firearms deer hunting seasons except that only an antlerless deer may be taken in seasons open only to antlerless deer; one (1) male turkey or turkey with visible beard during the spring turkey hunting season; and one (1) turkey of either sex during the fall firearms turkey hunting season; provided, s/he is hunting in the immediate presence of a properly licensed adult hunter who has in his/her possession a valid hunter education certificate card, or who are hunting in the immediate presence of a resident landowner as defined in this Code on lands owned by the resident landowner, provided the resident landowner was born before January 1, 1967. Youth

Deer and Turkey Hunting Permit holders attaining the age of eleven (11) during the prescribed permit year, and who have a valid hunter education certificate card, may surrender unused portion(s) of the Youth Deer and Turkey Hunting Permit and purchase other firearms deer and turkey hunting permits. Deer and turkeys taken under the Youth Deer and Turkey Hunting Permit must be included in the total season limits.

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 Oct. 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.215 Permits and Privileges: How Obtained; Not Transferable. The commission proposes to amend sections (2) and (4).

PURPOSE: This amendment clarifies the requirement for verification of hunter education certification.

(2) A permit for the taking of wildlife may be issued only to an individual and may be used only by the individual to whom it is issued. No permit, application for permit, method exemption, Missouri Conservation Heritage Card or special hunting or fishing tag may be loaned, pre-dated, falsified, altered or misrepresented in any manner, except that a Missouri Conservation Heritage Card may be presented by another to purchase permits on behalf of the person named thereon. No firearms hunting permit shall be issued without containing the hunter education certificate card number **where applicable**; except that a Youth Deer and Turkey Hunting Permit may be issued to persons at least six (6) and [under sixteen (16)] but not older than fifteen (15) years of age without requiring display of a hunter education certificate card.

(4) Any person born on or after January 1, 1967, shall obtain or display an approved hunter education certificate card prior to purchase of any firearms hunting permit, except as exempted in 3 CSR 10-5.205. Any person purchasing a firearms hunting permit for another person who is required to be hunter education certified must display a valid hunter education certificate card bearing the name of the person for whom the permit is being purchased. A hunter education card need not be displayed if certification can be verified through direct access to computer data files. [The hunter education certificate card number shall be entered] **Hunter education certification shall be verified** by permit vendors on all firearms hunting permits, except as exempted in 3 CSR 10-5.205. Hunter education certification shall be limited to persons eleven (11) years of age or older. The Missouri Conservation Heritage Card will be issued

as a replacement for lost or damaged hunter education certificate cards (fee: two dollars (\$2)).

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 Oct. 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.310 Resident Lifetime Conservation Partner Permit. The commission proposes to amend section (1).

PURPOSE: This amendment specifically includes chase as a privilege to mean “without the intent to take” to the lifetime conservation partner permit.

(1) To **chase**, pursue, take, possess and transport fish (including trout), frogs, mussels, clams, turtles, crayfish, live bait, birds (including migratory birds; except wild turkey) and mammals (except deer), and to sell furbearers taken by hunting. Fee:

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed April 30, 2001, effective March 1, 2002. Amended: Filed Oct. 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.320 Resident Lifetime Small Game Hunting Permit. The commission proposes to amend section (1).

PURPOSE: This amendment specifically includes chase as a privilege to mean “without the intent to take” to the lifetime small game hunting permit.

(1) To **chase**, pursue, take, possess and transport birds (including migratory birds; except wild turkey), mammals (except deer) and frogs, and to sell furbearers taken by hunting. Fee:

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed April 30, 2001, effective March 1, 2002. Amended: Filed Oct. 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.330 Resident Hunting and Fishing Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment specifically includes chase as a privilege to mean “without the intent to take” to the combination fishing and small game hunting permit.

To **chase**, pursue, take, possess and transport fish, frogs, mussels, clams, turtles, crayfish, live bait, birds (except wild turkey) and mammals (except deer), and to sell furbearers taken by hunting. Fee: nineteen dollars (\$19).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.230. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

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

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

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.235. This version of rule filed July 22, 1974, effective Dec. 31, 1974. Amended: Filed Aug. 1, 1980, effective Jan. 1, 1981. Amended: Filed Aug. 8, 1989, effective Jan. 1, 1990. Amended: Filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. Costs of the change will be minimal, limited to updating brochures, tables, price lists, etc., all items which are always updated annually.

PRIVATE COST: This proposed amendment will cost private entities approximately \$2,479,525 in the aggregate.

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

FISCAL NOTE PRIVATE ENTITY COST

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3CSR 10-5.340 Resident Fishing Permit

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 495,905 resident fishing permit buyers | N/A | \$2,479,525 |

III. WORKSHEET

495,905 resident fishing permit buyers X \$1.00 increase per permit sold = \$495,905 aggregate cost per year. \$495,905 per year X the assumed 5 year life of the regulation = \$2,479,525 total aggregate cost over the 5 year term.

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

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

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

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

PROPOSED AMENDMENT

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

PURPOSE: This amendment increases the permit fee from nine dollars (\$9) to ten dollars (\$10) and includes chase as a privilege to mean "without the intent to take."

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.255. This version of rule filed July 22, 1974, effective Dec. 31, 1974. Amended: Filed Aug. 1, 1980, effective Jan. 1, 1981. Amended: Filed Nov. 29, 1982, effective March 11, 1983. Amended: Filed Aug. 8, 1989, effective Jan. 1, 1990. Amended: Filed April 28, 1992, effective Jan. 15, 1993. Amended: Filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment will not cost state or political subdivisions more than five hundred dollars (\$500) in the aggregate. Costs of the change will be minimal, limited to updating brochures, tables, price lists, etc., all items which are always updated annually.

PRIVATE COST: This proposed amendment will cost private entities approximately two hundred eighty thousand one hundred eighty dollars (\$280,180) in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

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

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 56,036 resident hunting permit buyers | N/A | \$280,180 |
| | | |

III. WORKSHEET

56,036 resident hunting permit buyers X \$1.00 increase per permit sold = \$56,036 aggregate cost per year. \$56,036 per year X the assumed 5 year life of the regulation = \$280,180 total aggregate cost over the 5 year term.

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

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

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

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

PROPOSED AMENDMENT

3 CSR 10-5.365 Resident Turkey Hunting Permits. The commission proposes to amend section (1).

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

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

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

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.266. This version of rule filed July 22, 1974, effective Dec. 31, 1974. Amended: Filed March 13, 1978, effective June 11, 1978. Amended: Filed Aug. 1, 1980, effective Jan. 1, 1981. Amended: Filed Aug. 8, 1989, effective Jan. 1, 1990. Amended: Filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. Costs of the change will be minimal, limited to updating brochures, tables, price lists, etc., all items which are always updated annually.

PRIVATE COST: This proposed amendment will cost private entities approximately \$1,409,860 in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3 CSR 10-5.365 Resident Turkey Hunting Permits

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 140,986 Turkey hunting permit buyers | N/A | \$1,409,860 |
| | | |

III. WORKSHEET

140,986 turkey hunting permit buyers X \$2.00 increase per permit sold = \$281,972 aggregate cost per year. \$281,972 per year X the assumed 5 year life of the regulation = \$1,409,860 total aggregate cost over the 5 year term.

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

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

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

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

PROPOSED RULE

3 CSR 10-5.375 Resident Cable Restraint Permit

PURPOSE: This rule allows holders to use cable retraining devices (relaxing snares) on land for furbearers during a specified period of time.

To attempt to take or take by cable restraint device only and to possess, transport and sell furbearers. This permit may be issued only to the holder of a Resident Trapping Permit who has successfully completed a cable restraint training course, validated by a certified instructor. Fee: twenty-five dollars (\$25).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 9, 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 cost private entities twelve thousand five hundred dollars (\$12,500) in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed rule

Rule Number and Name: 3 CSR 10-5.375 Resident Cable Restraint Permit.

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 100 trapping permit holders | | \$12,500 |

III. WORKSHEET

100 trappers are estimated to buy this permit. Total cost over the 5 year life for 100 trappers is calculated as 100 trappers X \$25 per permit year X 5 years.

IV. ASSUMPTIONS

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

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

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

PROPOSED AMENDMENT

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

PURPOSE: This amendment clarifies the age requirement and increases the fee from fifteen dollars (\$15) to seventeen dollars (\$17), and allows resident landowners who are not hunter education certified to accompany youngsters using a Youth Deer and Turkey Hunting Permit, but only on property owned by the landowner.

To pursue, take, possess and transport one (1) deer of either sex statewide, during the firearms deer hunting seasons except that only an antlerless deer may be taken in seasons open only to antlerless deer; one (1) male turkey or turkey with visible beard during the spring turkey hunting season; and one (1) turkey of either sex during the fall firearms turkey hunting season; only by persons at least six (6) *[and under sixteen (16)]* **but not older than fifteen (15)** years of age who are hunting in the immediate presence of a properly licensed adult hunter who has in his/her possession a valid hunter education certificate card, **or who are hunting in the immediate presence of a resident landowner as defined in this Code on lands owned by the resident landowner, provided the resident landowner was born before January 1, 1967.** Fee: *[fifteen]* **seventeen** dollars *[\$15]* **(\$17)**.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed May 6, 1998, effective March 1, 1999. Amended: Filed May 10, 1999, effective March 1, 2000. Amended: Filed Jan. 8, 2003, effective March 1, 2003. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. Costs of the change will be minimal, limited to updating brochures, tables, price lists, etc, all items which are always updated annually.

PRIVATE COST: This proposed amendment will cost private entities approximately one hundred thirty thousand fifty dollars (\$130,050) in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
 Division: 10 Conservation Commission
 Chapter: 5
 Type of Rulemaking: Proposed amendment
 Rule Number and Name: 3 CSR 10-5.420 Youth Deer and Turkey Hunting Permit

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 13,005 Youth deer and turkey hunting permit buyers | N/A | \$130,050 |

III. WORKSHEET

13,005 youth deer and turkey hunting permit buyers X \$2.00 increase per permit sold = \$26,010 aggregate cost per year. \$26,010 per year X the assumed 5 year life of the regulation = \$130,050 total aggregate cost over the 5 year term.

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

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

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

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

PROPOSED AMENDMENT

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

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

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. Costs of the change will be minimal, limited to updating brochures, tables, price lists, etc., all items which are always updated annually.

PRIVATE COST: This proposed amendment will cost private entities approximately seven hundred thirty-four thousand two hundred seventy-five dollars (\$734,275) in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

Rule Number and Name: 3 CSR 10-5.440 Daily Fishing Permit

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 293,709 daily fishing permit buyers | N/A | \$734,275 |
| | | |

III. WORKSHEET

293,709 daily fishing permit buyers X \$0.50 increase per permit sold = \$146,855 aggregate cost per year.
\$146,855 per year X the assumed 5 year life of the regulation = \$734,275 total aggregate cost over the 5 year term.

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

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

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

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

PROPOSED AMENDMENT

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

PURPOSE: This amendment increases the fee from ten dollars (\$10) to eleven dollars (\$11).

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. Amended: Filed April 25, 1996, effective March 1, 1997. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed Oct. 9, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. Costs of the change will be minimal, limited to updating brochures, tables, price lists, etc., all items which are always updated annually.

PRIVATE COST: This proposed amendment will cost private entities approximately fifty-six thousand three hundred ninety-five dollars (\$56,395) in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5

Type of Rulemaking: Proposed amendment

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

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 11,279 daily hunting permit buyers | N/A | \$56,395 |

III. WORKSHEET

11,279 daily hunting permit buyers X \$1.00 increase per permit sold = \$11,279 aggregate cost per year.
\$11,279 per year X the assumed 5 year life of the regulation = \$56,395 total aggregate cost over the 5 year term.

IV. ASSUMPTIONS

Number of permit buyers is based on historic sales data.

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

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

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

PROPOSED RESCISSION

3 CSR 10-5.470 Hound Running Area User Permit. This rule established an annual permit for use on a hound running area by those not possessing a valid Missouri hunting permit or exempt from permit requirements.

PURPOSE: This permit is being rescinded because it is no longer used. It was intended for use on a hound running area, as an alternative to possessing a regular small game hunting permit. Demand for this permit has never been significant, however, and none have been sold for the last three (3) years.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-5.289. Original rule filed Sept. 29, 1994, effective July 1, 1995. Changed to 3 CSR 10-5.470, effective Jan. 1, 1996. Amended: Filed Oct. 9, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.570 Nonresident Furbearer Hunting and Trapping Permit. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment specifically includes chase as a privilege to mean "without the intent to take" to the nonresident furbearer hunting and trapping permit.

To **chase**, pursue, take, possess, transport and sell furbearers. Fee: eighty dollars (\$80).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-5.292. Original rule filed June 29, 1981, effective Oct. 11, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.415 Restricted Zones. The commission proposes to delete section (6).

PURPOSE: This amendment opens the waters of the James River below Lake Springfield Dam to snagging and grabbing.

[(6) Fish may be taken by all prescribed methods except snagging, snaring and grabbing from James River from below Lake Springfield Dam to the Highway 160 bridge.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.505 Black Bass. The commission proposes to amend sections (1) and (4).

PURPOSE: This amendment reduces the daily limit and increases the minimum length limit on black bass on the Elk River in McDonald County, and reduces the daily limit and raises the minimum length limit on smallmouth bass on the Big River in St. Francois County.

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

(C) The daily limit is two (2) black bass on Montrose Lake and the Elk River.

(D) On the Meramec, Big and Bourbeuse rivers and their tributaries, the daily and possession limit for black bass is twelve (12) in the aggregate and may include no more than six (6) largemouth bass and smallmouth bass in the aggregate, except that the daily limit may include no more than one (1) smallmouth bass on the Big River from [the Highway 21 bridge (near Washington State Park)] Leadwood Access to its confluence with the Meramec River, the Meramec River from Scott's Ford to the railroad crossing at Bird's

Nest, and Mineral Fork from the Highway F bridge (Washington County) to its confluence with the Big River.

(4) Length Limits.

(A) Streams: All black bass less than twelve inches (12") in total length must be returned to the water unharmed immediately after being caught from the unimpounded portion of any stream, including Pools 20-26 on the Mississippi River, except as follows:

1. On the Meramac, Big and Bourbeuse rivers and their tributaries, there is no length limit on spotted (Kentucky) bass.

2. On the Big Piney River from Slabtown Access to Ross Access, the Eleven Point River from Thomasville Access to the Arkansas line, the Meramec River from Scott's Ford to the railroad crossing at Bird's Nest, the Big River from [the Highway 21 bridge (near Washington State Park)] **Leadwood Access** to its confluence with the Meramec River, Mineral Fork from the Highway F bridge (Washington County) to its confluence with the Big River, Osage Fork of the Gasconade River from the Skyline Drive bridge (near Orla in Laclede County) to its confluence with the Gasconade River and Tenmile Creek from the Highway B bridge (Carter County) to its confluence with Cane Creek, all smallmouth bass less than fifteen (15") in total length must be returned to the water unharmed immediately after being caught.

3. On the Jacks Fork River from Highway 17 bridge to Highway 106 bridge and the Gasconade River from Highway Y bridge (Pulaski County) to Highway D bridge (Phelps County), all smallmouth bass less than eighteen inches (18") in total length must be returned to the water unharmed immediately after being caught.

4. On the James River from Hooten Town bridge (Stone County Road A-90) to Highway 13 bridge, all smallmouth bass and largemouth bass less than fifteen inches (15") must be returned to the water unharmed immediately after being caught.

5. **On the Elk River, all black bass less than fifteen inches (15") in total length must be returned to the water unharmed immediately after being caught.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.510 Channel Catfish, Blue Catfish, Flathead Catfish. The commission proposes to amend sections (1) and (4).

PURPOSE: This amendment establishes a reduced daily limit and a minimum length limit on flathead catfish at Longview Lake in Jackson County.

(1) Daily Limit: Ten (10) channel catfish and blue catfish in the aggregate and five (5) flathead catfish, except:

(D) On Longview Lake, the daily limit is one (1) flathead catfish.

(4) Length Limits: No length limits, except:

(A) [from] **From** the no fishing zone below Truman Dam downstream throughout the no boating zone, the daily limit of channel catfish, blue catfish and flathead catfish may include only one (1) fish more than twenty-four inches (24") in total length.

(B) All flathead catfish less than twenty-four inches (24") in total length must be returned to the water unharmed immediately after being caught from Longview Lake.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.525 Paddlefish. The commission proposes to amend section (7).

PURPOSE: This amendment prohibits the possession of paddlefish on the banks adjacent to waters where paddlefish snagging and possession are prohibited, and opens the James River from Lake Springfield Dam to the Highway 160 bridge to the harvest of paddlefish.

(7) Paddlefish may not be possessed on [waters] **the water or adjacent banks** from Truman Dam downstream throughout the no-boating zone[, on] and the Little Platte River from Smithville Dam downstream to U.S. Highway 169[, and from James River from below Lake Springfield Dam to the highway 160 bridge].

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.530 Rock Bass (goggle-eye) and Warmouth. The commission proposes to amend sections (1) and (4).

PURPOSE: This amendment eliminates the experimental rock bass harvest regulations on a portion of the Big Piney River and establishes an eight inch (8") minimum length limit on rock bass on the Big Piney River downstream of the Highway 17 bridge in Texas County.

(1) Daily Limit: Fifteen (15) in the aggregate, *except on the Big Piney River from Highway 17 bridge to Sand Shoals bridge on the county road linking Routes AA and E where the daily limit is nine (9).*

(4) Length Limits: No length limits, *except[:] all rock bass less than eight inches (8") in total length must be returned to the water unharmed immediately after being caught on the Big Piney River from Highway 17 bridge (in Texas County) to its confluence with the Gasconade River, the Eleven Point River from Thomasville access to the Arkansas line and the Osage Fork of the Gasconade River from Skyline Drive bridge (near Orla in Laclede County) to its confluence with the Gasconade River.*

[(A) All rock bass less than nine inches (9") in total length must be returned to the water unharmed immediately after being caught on the Big Piney River from Highway 17 bridge to Sand Shoals bridge on the county road linking Routes AA and E.

[(B) All rock bass less than eight inches (8") in total length must be returned to the water unharmed immediately after being caught on the Eleven Point River from Thomasville access to the Arkansas line and the Osage Fork of the Gasconade River from Skyline Drive bridge (near Orla in Laclede County) to its confluence with the Gasconade River.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 10-7.405 General Provisions. The commission proposes to amend section (5).

PURPOSE: This amendment clarifies and strengthens the intent of this rule.

(5) Wildlife, except raccoons or other furbearing animals when treed with the aid of dogs, may not be **searched for**, spotlighted, located, harassed or disturbed in any manner with the aid of an artificial light, headlight or spotlight from any roadway, whether public or private, or in any field, woodland or forest, by any person acting either singly or as one of a group of persons. This rule shall not apply to the use of a light by a landowner or lessee as defined by this Code on property under his/her control.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1964, effective Dec. 31, 1964. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 subsections (1)(K) and (L).

PURPOSE: This amendment allows furbearers to be pursued any time with electronic calls, but without the aid of an artificial light.

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

(K) Cage-Type Trap. **Groundhogs, [R]rabbits and squirrels** may be taken by cage-type trap, the opening of which may not exceed **[ten inches (10") on any side] one hundred forty-four (144) square inches**, during the open hunting season, at any hour, by the holder of a hunting permit. Cage-type traps shall be plainly labeled on a durable material with the user's full name and address and shall be attended daily.

(L) Electronic Calls. Electronic calls may be used *[during daylight hours only]* to pursue and take crows and furbearers, **but without the aid of an artificial light or night vision equipment.**

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 Oct. 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 10-7.425 Squirrels: Seasons, Limits. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment extends squirrel season through February 15.

Squirrels may be taken from the fourth Saturday in May through [January] **February 15**. Daily limit: six (6) squirrels; possession limit: twelve (12) squirrels.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1975, effective Dec. 31, 1975. Amended: Filed July 13, 1976, effective Jan. 1, 1977. Amended: Filed Aug. 29, 1983, effective Jan. 1, 1984. Amended: Filed Aug. 3, 1984, effective Jan. 1, 1985. Amended: Filed Aug. 6, 1985, effective Jan. 1, 1986. Amended: Filed May 30, 1995, effective Jan. 1, 1996. Amended: Filed May 6, 1998, effective March 1, 1999. Amended: Filed April 24, 2000, effective March 1, 2001. Amended: Filed Oct. 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 10-7.450 Furbearers: Hunting Seasons, Methods. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment opens the remainder of the state to bobcat hunting and for registration and tagging bobcat pelts; clarifies wording about the sale of tagged bobcat pelts; adds five (5) days to the front of the hunting for all legal furbearers and twenty-six (26) days to the end of the furbearer hunting season; and, provides for additional time allotted to fur takers to prepare and sell pelts.

Striped skunk, raccoon, opossum, badger, red fox, gray fox and bobcat may be taken in any numbers by hunting from November [20] **15** through [January 20] **February 15** [provided that bobcat may be taken only in that part of the state west and south of a line running west from the Illinois border on Interstate Highway 70 to U.S. Highway 63; north on U.S. Highway 63 to U.S. Highway 36; west on U.S. Highway 36 to U.S. Highway 65; north on U.S. Highway 65 to the Iowa border]. Pelts of furbearers may be possessed, transported, consigned for processing and sold only by the taker from November [20] **15** through [February 4] **March 1**, except that bobcats or their pelts shall be delivered by the taker to an agent of the department [in the county of harvest or any open county] for registration or tagging before selling, transferring, tanning or mounting, but not later than [February 4] **March 1**. Tagged bobcats or their pelts may be possessed **and sold** throughout the year. It shall be illegal to purchase or sell untagged bobcats or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year. Coyotes may be taken by hunting, and pelts and carcasses may be possessed, transported and sold in any numbers throughout the year; except that coyotes may not be chased, pursued or taken during daylight hours from April 1 through the day prior to the beginning of the prescribed spring turkey hunting season, and may not be chased, pursued or taken through the prescribed spring turkey hunting season, and no furbearers may be chased, pursued or taken during daylight hours with the aid of dogs from November 1 through the prescribed November portion of the firearms deer hunting season, during any extended firearms deer hunting season in deer management units open to hunting or with firearms from a boat at night[, or be taken with the aid of an electronic call at night]. The dens or nests of furbearers shall not be molested or destroyed. No person shall accept payment for furbearers taken by another.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1972, effective Dec. 31, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 8—Wildlife Code: Trapping: Seasons, Methods**

PROPOSED AMENDMENT

3 CSR 10-8.510 Use of Traps. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment adds "foot-enclosing type traps" to the list of legal devices, allows colony traps for muskrats, allows the use of electronic calls in conjunction with traps, and adds the use of cable restraint devices as a legal method for taking furbearers.

[Traps shall be metal traps with smooth or rubber jaws only, Egg-type traps, cage-type traps or snares set under water only, but shall not include pitfalls, deadfalls, snares set in a dry-land set, nets and colony traps. Traps and snares shall be plainly labeled, on durable material, with the user's full name and address. Wildlife shall be removed or released from all traps daily, except for killer (Conibear-type) traps set under water, and they shall be attended and wildlife removed at least once every forty-eight (48) hours. Traps may not be set in paths made or used by persons or domestic animals and Conibear-type traps may not be set along public roadways, except under water in permanent waters. Except as provided in 3 CSR 10-4.130, only cage-type traps may be set within one hundred fifty feet (150') of any residence or occupied building located within the established boundaries of cities or towns containing ten thousand (10,000) or more inhabitants. No killer or Conibear-type trap with a jaw spread greater than five inches (5") shall be used in any dry land set but these traps may be set under water and traps with a jaw spread not greater than eight inches (8") may be set six feet (6') or more above ground level in buildings. Snares must have a loop fifteen inches (15") or less in diameter when set and must have a stop device that prevents the snare from closing to less than two and one-half inches (2 1/2") in diameter. Snares must be constructed of cable that is at least five sixty-fourths inch (5/64") and no greater than one-eighth inch (1/8") in diameter, and must be equipped with a mechanical lock and anchor swivel. Homes, dens or nests of furbearers shall not be molested or destroyed.]

(1) Traps shall have smooth or rubber jaws only, and may include foot-hold traps, killing-type (Conibear-type) traps, foot-enclosing-type traps, cage-type traps, colony traps with openings no greater than six inches (6") in height and six inches (6") wide, or snares (as defined in 3 CSR 10-20.805) set under water only, and cable restraint devices (as defined in 3 CSR 10-20.805), but only with the prescribed permit. Use of pitfalls, deadfalls, snares set in a dry land set, and nets are prohibited.

(2) Traps, snares and cable restraint devices shall be plainly labeled, on durable material, with the user's full name and address. Wildlife shall be removed or released from all restraining traps and cable restraint devices daily. Killer (Conibear-type) traps set under water and colony traps set under water shall be attended and wildlife removed at least once every forty-eight (48) hours. Traps may not be set in paths made or used by persons or domestic animals and Conibear-type traps may not be set along public roadways, except under water in permanent waters. Except as provided in 3 CSR 10-4.130, only cage-type traps or foot-enclosing-type traps may be set within one hundred fifty feet (150') of any resident or occupied building located within the established boundaries of cities or towns containing ten thousand (10,000) or more inhabitants. Homes, dens or nests of furbearers

shall not be molested or destroyed. Traps may be used in conjunction with electronic calls.

(3) Use of Conibear-Type or Killing-Type Traps:

(A) No Conibear-type trap with a jaw spread greater than five inches (5") shall be used in any dry land set.

(B) Conibear-type traps with a jaw spread not greater than eight inches (8") may be set six feet (6') or more above ground level in buildings.

(C) Conibear-type traps of any size may be set under water.

(4) Use of Snares and Cable Restraint Devices:

(A) Snares (except as provided in subsection (4)(B)) must be set underwater. Snares (as defined in 3 CSR 10-20.805) must have a loop fifteen inches (15") or less in diameter when set and must have a stop device that prevents the snare from closing to less than two and one-half inches (2 1/2") in diameter.

(B) Furbearers may be taken by trapping through the use of cable restraint devices during specified seasons (3 CSR 10-8.515) by holders of a Cable Restraint Permit, after completing the cable restraint training course. Cable restraint devices (as defined in 3 CSR 10-20.805) must have a loop size of twelve inches (12") diameter or smaller when set, and the bottom of set restraint cable loop must be at least six inches (6") or greater above the ground. Cable restraint devices must be anchored solid or staked in a location not allowing entanglement (such as rooted, woody vegetation greater than one-half inch (1/2") in diameter), and shall not be capable of extending to within twelve inches (12") of a fence, nor shall be set using a drag, or used with a kill-pole. Cable restraint devices may not be used within one hundred fifty feet (150') of any residence, occupied building, or a driveway leading to a residence.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 20, 1957, effective Dec. 31, 1957. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 8—Wildlife Code: Trapping: Seasons, Methods**

PROPOSED AMENDMENT

3 CSR 10-8.515 Furbearers: Trapping Seasons. The commission proposes to amend sections (1), (2), (3), (4) and (7) and add section (8).

PURPOSE: This amendment opens the remainder of the state to bobcat trapping; adds five (5) days to the front of the season and twenty-six (26) days to the end of the season; modifies the existing coyote trapping season to make it consistent with general furbearer trapping season; changes "leghold" traps to "foothold" traps and adds dimensions of traps prohibited during the extended portion of the beaver

season; extends the time allotted to trappers for preparing and selling pelts, allows bobcats to be tagged and registered in any county; clarifies when tagged bobcat and otters may be sold and extends the time requirement for tagging; allows the use of cable restraint devices as a legal method of take and outlines conditions of use; and, makes rule consistent with other revisions.

(1) Raccoon, opossum, striped skunk, badger, **coyote**, red fox, gray fox, bobcat, and mink may be taken in any numbers by trapping from November [20] 15 through [January 20] **February 15**.; provided that bobcat may be taken only in that part of the state west and south of a line running west from the Illinois border on Interstate Hwy. 70 to U.S. Hwy. 63; north on U.S. Hwy. 63 to U.S. Hwy. 36; west on U.S. Hwy. 36 to U.S. Hwy. 65; north on U.S. Hwy. 65 to the Iowa border.] Beaver may be taken in any number by trapping from November [20] 15 through March 31.

(2) Otters and muskrats may be taken by trapping during specified seasons and in specified limits described below:

(A) A season limit of five (5) otters, and muskrats in any numbers may be taken from November [20] 15 through [January 20] **February 15** in Otter Management Zones A, C, and D, described as:

1. Otter Management Zone A—That portion of northwest Missouri from the Iowa border and west of a line running south on Worth County Hwy. F to Mo. Hwy. 46; south on Mo. Hwy. 46 to U.S. Hwy. 136; south on U.S. Hwy. 136 to U.S. Hwy. 169; south on U.S. Hwy. 169 to Mo. Hwy. 31; south on Mo. Hwy. 31 to U.S. Hwy. 36; east on U.S. Hwy. 36 to U.S. Hwy. 69; south on U.S. Hwy. 69 to Mo. Hwy. 10; east on Mo. Hwy. 10 to Mo. Hwy. 13; south on Mo. Hwy. 13 to Interstate Hwy. 70; west on Interstate Hwy. 70 to Mo. Hwy. 131; south on Mo. Hwy. 131 to Mo. Hwy. 2; west on Mo. Hwy. 2 to the Kansas line.

2. Otter Management Zone C—That portion of eastern Missouri east and south of a line running west from the Illinois border on Interstate Hwy. 270 to Interstate Hwy. 44; west on Interstate Hwy. 44 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and north of a line comprised of Mo. Hwy. 32 east to St. Francois County Hwy. OO; south on St. Francois County Hwy. OO to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and west of Mo. Hwy. 51 to the Illinois line.

3. Otter Management Zone D—That portion of southwest Missouri west and south of a line running north from the Arkansas border on Mo. Hwy. 37 to U.S. Hwy. 60; east on U.S. Hwy. 60 to Mo. Hwy. 39; north on Mo. Hwy. 39 to U.S. Hwy. 160; west on U.S. Hwy. 160 to the Kansas line.

(C) A season limit of twenty (20) otters and muskrats in any numbers may be taken from November [20] 15 through [January 20] **February 15** in Otter Management Zone B, described as:

1. Otter Management Zone B—The remainder of the state not in Otter Management Zone A, C, D, or E, as described above.

(3) Except in Otter Management Zone E, killer or Conibear-type traps with a jaw spread less than eight inches (8") and [leghold] foothold traps [smaller than number three (3)] with an inside width at the jaw post less than six inches (6") are prohibited in water sets after [January 20] **February 15**. In Otter Management Zone E, killer or Conibear-type traps with a jaw spread less than eight inches (8") and [leghold] foothold traps [smaller than number three (3)] with an inside width at the jaw post less than six inches (6") are prohibited for trapping beavers after February 20. [Coyotes may be taken in any numbers by trapping from November 20 through February 20.] Traps may not be placed or set before November [20] 15 and must be removed by midnight of the last day of the trapping season.

(4) Pelts of furbearers may be possessed, transported and sold only by the taker from November [20] 15 through [February 4] **March 1**, [except that pelts of coyotes and pelts of muskrats taken in Otter Management Zone E may be possessed, transported, consigned for processing and sold by the taker from November 20 through March 1,] pelts of beaver may be possessed, transported, consigned for processing and sold by the taker from November [20] 15 through April 10, and tagged bobcats and otters or their pelts may be possessed **and sold** throughout the year. Bobcats or their pelts shall be delivered by the taker to an agent of the department [in any open county] for registration or tagging; otters shall be delivered by the taker to an agent of the department only in the Otter Management Zone of harvest for registration or tagging. Bobcats and otters shall be registered or tagged before selling, transferring, tanning or mounting not later than [February 4] **March 1**, except for otters taken in Otter Management Zone E, not later than March 4. It shall be illegal to purchase or sell untagged bobcats and otters or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year. (Certain Department of Health and Senior Services rules also govern how furbearer carcasses might be utilized.)

(7) Red fox, gray fox and coyotes may be taken alive during established seasons by prescribed methods and held in captivity. They may not be exported and may only be sold or given to holders of a valid Hound Running Area Operator's Permit. **Coyotes, [R/red fox and gray fox may not be possessed after [February 4] March 1]; coyotes may not be possessed after February 25].** These animals may be held for no longer than seventy-two (72) hours after capture, except when confined in facilities and cared for as specified in 3 CSR 10-9.220, and after approval by an agent of the department. Complete and current records of all transactions must be maintained showing the county of origin, the species, date captured, date of transfer and name and permit number of the hound running area operator/dealer receiving each individual animal. These records shall be kept on forms provided by the department and submitted to an agent of the department by [March] **April 15**. Records shall be made available for inspection by an authorized agent of the department at any reasonable time.

(8) Furbearers may be taken by trapping through the use of cable restraint devices from December 15 through February 15, by holders of a Cable Restraint Permit. This permit may be issued only to the holder of a Resident Trapping Permit who has successfully completed a cable restraint training course, validated by a certified instructor. Cable restraint devices (as defined in 3 CSR 10-20.805) must have a loop size of twelve inches (12") diameter or smaller when set, and the bottom of set restraint cable loop must be at least six inches (6") or greater above the ground. Cable restraint devices must be anchored solid or staked in a location not allowing entanglement (such as rooted, woody vegetation greater than one-half inch (1/2") in diameter), and shall not be capable of extending to within twelve inches (12") of a fence, nor shall be set using a drag, or used with a kill-pole. Cable restraint devices may not be used within one hundred fifty feet (150') of any dwelling or a driveway leading to a dwelling. All cable restraint devices shall be plainly labeled, on durable material, with the user's full name and address and shall be attended daily.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 23, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 Prohibition; Applications. The commission proposes to amend sections (2) and (3).

PURPOSE: This amendment removes reference to Korean Pheasants; corrects a cross-referencing error and adds the American eel and white sucker to the Approved Aquatic Species List; adds papershell crayfish to the Approved Aquatic Species list; and, clarifies the restrictions on the culture of species not on the Approved Aquatic Species List.

(2) Except for federally-designated endangered species and species listed in 3 CSR 10-9.240, the following may be bought, sold, possessed, transported and exhibited without permit: Asiatic clams (*Corbicula* species) taken from impoundments that are not waters of the state; bison; amphibians, reptiles and mammals not native to Missouri; and those birds (except ring-necked [and Korean] pheasants and gray partridge) not native to the continental United States.

(3) Fish, tiger salamander larvae and crayfish may be bought, sold, transported, propagated, taken and possessed by any person without permit throughout the year in any number or size and by any method, providing—

(D) That the privileges of this section do not apply to taking or possession in, on or from waters of the state, waters stocked by the state, or waters subject to movements of fishes into and from waters of the state, except:

1. Animals defined as live bait and possessed under provisions of this section may be possessed on the waters of the state for use as live bait.

2. Fish cultured by a commercial fish producer that remain in a man-made impoundment following inundation by flooding from waters of the state as defined in this Code shall be considered the property of the impoundment owner; provided the remaining fish species are the same as were present in the impoundment prior to inundation. Any other fish species in the impoundment shall be considered the property of the state and not available for sale, and shall be returned unharmed immediately to the waters of the state when harvested.

3. With the written authorization of the director, a privately-owned impoundment that is entirely confined and located completely upon lands owned or leased by a single person or by two (2) or more persons jointly or as tenants in common or by corporate shareholders, and that is designated as waters of the state, may be used for the commercial production of species listed in the Approved Aquatic Species List in 3 CSR 10-9.110 (3)(E)(F) that were not stocked by the department, provided that:

A. The impoundment owner has in his/her possession a dated, written statement showing the number or weight of each species stocked as proof that such animals were legally obtained from other than waters of the state or from a licensed commercial fisherman.

B. The species being produced may be harvested by the methods and under the conditions specified in the director's written authorization. All other species caught during culture activities must be returned unharmed immediately to the water.

C. Statewide seasons, methods and limits apply for all other species.

(E) That the privileges of this section apply only to the following:

1. [species] Species listed in the Approved Aquatic Species List (including all subspecies, varieties and hybrids of the same bought, sold, transported, propagated, taken and possessed for purposes of aquaculture)[,].

2. [species] Species frozen or processed for sale as food products[,].

3. [species] Species incapable of surviving in fresh water[,].

4. [species] Species held only in aquaria, tanks or other [closed] containers having water discharged only into [approved] septic systems or municipal waste treatment facilities [or on-site waste treatment systems that include sand filtration or chlorination, or with written authorization of the director] that are designed and operated according to guidelines of the Missouri Department of Natural Resources.

5. Species held only in a closed system from which the escape of live organisms (including eggs, parasites and diseases) is not possible. The species to be held and the system to be used must receive prior written approval from the director.

(F) Approved Aquatic Species List.

1. Fishes.

A. Shovelnose sturgeon (*Scaphirhynchus platyrhynchus*)

B. Paddlefish (*Polyodon spathula*)

C. Spotted gar (*Lepisosteus oculatus*)

D. Longnose gar (*Lepisosteus osseus*)

E. Shortnose gar (*Lepisosteus platostomus*)

F. Bowfin (*Amia calva*)

G. American eel (*Anguilla rostrata*)

[G.]/H. Gizzard shad (*Dorosoma cepedianum*)

[H.]/I. Threadfin shad (*Dorosoma petenense*)

[I.]/J. Rainbow trout (*Oncorhynchus mykiss*)

[J.]/K. Golden trout (*Oncorhynchus aquabonita*)

[K.]/L. Cutthroat trout (*Oncorhynchus clarkii*)

[L.]/M. Brown trout (*Salmo trutta*)

[M.]/N. Brook trout (*Salvelinus fontinalis*)

[N.]/O. Coho salmon (*Oncorhynchus kisutch*)

[O.]/P. Northern pike (*Esox lucius*)

[P.]/Q. Muskellunge (*Esox masquinongy*)

[Q.]/R. Goldfish (*Carassius auratus*)

[R.]/S. Grass carp (*Ctenopharyngodon idella*)

[S.]/T. Common carp (*Cyprinus carpio*)

[T.]/U. Bighead carp (*Hypophthalmichthys nobilis*)

[U.]/V. Golden shiner (*Notemigonus crysoleucas*)

[V.]/W. Bluntnose minnow (*Pimephales notatus*)

[W.]/X. Fathead minnow (*Pimephales promelas*)

[X.]/Y. River carpsucker (*Carpiodes carpio*)

[Y.]/Z. Quillback (*Carpiodes cyprinus*)

AA. White sucker (*Catostomus commersoni*)

[Z.]/BB. Blue sucker (*Cycleptus elongatus*)

[AA.]/CC. Bigmouth buffalo (*Ictiobus cyprinellus*)

[BB.]/DD. Black bullhead (*Ameiurus melas*)

[CC.]/EE. Yellow bullhead (*Ameiurus natalis*)

[DD.]/FF. Brown bullhead (*Ameiurus nebulosus*)

[EE.]/GG. Blue catfish (*Ictalurus furcatus*)

[FF.]/HH. Channel catfish (*Ictalurus punctatus*)

[GG.]/II. Flathead catfish (*Pylodictis olivaris*)

[HH.]/JJ. Mosquitofish (*Gambusia affinis*)

/II./KK. White bass (*Morone chrysops*)
/JJ./LL. Striped bass (*Morone saxatilis*)
/KK./MM. Green sunfish (*Lepomis cyanellus*)
/LL./NN. Pumpkinseed (*Lepomis gibbosus*)
/MM./OO. Warmouth (*Lepomis gulosus*)
/NN./PP. Orangespotted sunfish (*Lepomis humilis*)
/OO./QQ. Bluegill (*Lepomis macrochirus*)
/PP./RR. Longear sunfish (*Lepomis megalotis*)
/QQ./SS. Redear sunfish (*Lepomis microlophus*)
/RR./TT. Smallmouth bass (*Micropterus dolomieu*)
/SS./UU. Spotted bass (*Micropterus punctulatus*)
/TT./VV. Largemouth bass (*Micropterus salmoides*)
/UU./WW. White crappie (*Pomoxis annularis*)
/VV./XX. Black crappie (*Pomoxis nigromaculatus*)
/WW./YY. Yellow perch (*Perca lavescens*)
/XX./ZZ. Sauger (*Stizostedion canadense*)
/YY./AAA. Walleye (*Stizostedion vitreum*)
/ZZ./BBB. Freshwater drum (*Aplodinotus grunniens*)

2. Crustaceans.

A. Freshwater prawn (*Macrbrachium rosenbergii*)
 B. Northern crayfish (*Orconectes virilis*)
 C. White river crayfish (*Procambarus acutus*)
 D. Red swamp crayfish (*Procambarus clarkii*)
 E. Papershell crayfish (*Orconectes immunis*)

3. Amphibians.

A. Tiger salamander larvae
 (*Ambystoma tigrinum*)

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 Oct. 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 10-9.565 Licensed Hunting Preserve: Privileges. The commission proposes to amend subsections (1)(A) and (B).

PURPOSE: This amendment will allow persons who purchase a licensed hunting preserve hunting permit to hunt on Game Bird Hunting Preserves without possessing a hunter education certificate card, and clarifies land and area requirements for big game hunting preserves.

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may

release on his/her licensed hunting preserve legally acquired pheasants, exotic partridges, quail and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(A) Game Bird Hunting Preserve.

1. The game bird hunting preserve shall be a single body of land not less than one hundred sixty (160) acres and no more than six hundred forty (640) acres in size. Game bird hunting preserves may be dissected by public roads, and shall be posted with signs specified by the department. Hunting preserve permits will not be issued for areas—

A. Within five (5) miles of any area where there is an ongoing department game bird release program or where the most recent release of department game birds has been made less than five (5) years prior to receipt of the application.

B. In any location where those activities are considered by the department as likely to further jeopardize any species currently designated by Missouri or federal regulations as threatened or endangered wildlife.

2. Any person taking or hunting game birds on a licensed hunting preserve shall have in his/her possession a valid hunting **small game** permit or licensed hunting preserve hunting permit, except that persons fifteen (15) years of age or younger, when accompanied by a properly licensed adult hunter, and residents sixty-five (65) years of age and older, may hunt without permit. **Licensed hunting preserve hunting permits may be issued to persons without requiring display of a hunter education certificate card for use on game bird hunting preserves; provided s/he is hunting in the immediate presence of a properly licensed adult hunter who has in his/her possession a valid hunter education certificate card.**

3. Game birds taken on a hunting preserve may be possessed and transported from the preserve only when accompanied by a receipt listing the date, number and species taken, and name of the hunting preserve; or when accompanied by an approved transportation sticker for each game bird taken. Transportation stickers must be purchased from the department by the hunting preserve permittee. Game birds may be taken in any numbers on these preserves.

4. The permittee must release during the shooting season at least one (1) game bird per acre of hunting preserve, with at least one-half (1/2) of the birds to be bobwhite quail, if quail are to be hunted outside the statewide season. All birds shall be from a source approved by the department.

5. Any propagation facilities contained within or adjacent to the game bird hunting preserve shall meet standards specified in 3 CSR 10-9.220. Breeding enclosures not contained within or adjacent to the hunting preserve are not covered under the privileges of this rule.

(B) Big Game Hunting Preserve.

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

2. All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve shall meet the following requirements:

A. Animals shall be tagged or marked in a method allowing individual animal identification.

B. Animals imported into Missouri must come from a herd that is enrolled and has achieved a status three (3) or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—three (3) years of surveillance, advancement, and successful completion of program requirements.

C. Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease

monitoring program. Effective January 1, 2004, the minimum herd status requirement will annually increase by one (1) level until January 1, 2006 when all introduced animals shall come from herds that have achieved a status three (3) or higher—three (3) years of surveillance, advancement, and successful completion of program requirements.

3. Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause within a big game hunting preserve operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate, except:

A. Big game hunting preserve operations that have not introduced, during the past three (3) years, any elk, elk-hybrids, mule deer or white-tailed deer from a herd having a status less than three (3) as documented through a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—three (3) years of surveillance, advancement, and successful completion of program requirements.

B. Elk, elk-hybrids, mule deer, and white-tailed deer documented through Missouri's Chronic Wasting Disease Monitoring Program as status five (5) herds—five (5) years of surveillance, advancement, and successful completion of program requirements.

4. All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.

5. The permittee may exercise privileges provided in 3 CSR 10-9.353 only for species held within breeding enclosure(s) contained within **or directly adjacent to** the big game hunting preserve. Any such breeding enclosure(s) [contained within the big game hunting preserve] shall meet standards specified in 3 CSR 10-9.220. **Breeding enclosures may be separated from the hunting preserve by a public road, but must be directly adjacent. Other breeding enclosures not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.**

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

7. Animal health standards and movement activities shall comply with all state and federal regulations.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 10-9.575 Hound Running Area: Privileges, Requirements. The commission proposes to amend section (6).

PURPOSE: This amendment removes the Hound Running Area User permit as an allowed permit for this privilege, and clarifies that a small game hunting permit is required.

(6) Any person releasing dogs on a hound running area shall have in his/her possession a valid [Missouri] **small game** hunting permit [or a Hound Running Area User Permit, except that Missouri residents fifteen (15) years of age and under and sixty-five (65) years of age and over are exempt from this requirement].

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 29, 1994, effective July 1, 1995. Amended: Filed June 11, 1997, effective March 1, 1998. Amended: Filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed Oct. 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 10-9.625 Field Trial Permit. The commission proposes to amend section (6) of this rule.

PURPOSE: The proposed change would allow other federally approved methods for marking mallard ducks prior to release.

(6) Designated gunners, under the field trial permit, may shoot only quail, pheasants, chukars and mallard ducks legally obtained. **Quail, pheasants and chukars shall be [and] marked with a permanent avian leg band prior to release. Mallard ducks shall be marked with a permanent avian leg band, removal of the hind toe from the right foot, or tattooing of a readily discernible number or letter or combination on the web of one foot.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 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 10-9.628 Dog Training Area: Privileges. The commission proposes to amend sections (1) and (2).

PURPOSE: This rule clarifies and expands the intended privileges under this permit and increases the maximum acreage size to forty (40) acres.

(1) A dog training area permit is required to operate a dog training area, and to purchase, hold, release and shoot on the training area legally acquired pheasants, exotic partridge and quail [as an aid to dog training]. Receipts for all game birds purchased or held must be maintained, and are subject to inspection by an authorized agent of the department at any reasonable time. Game birds held for more than twenty-four (24) hours must be confined in facilities that meet standards specified in 3 CSR 10-9.220.

(2) Dog training areas shall be a single tract of land not more than [twenty (20)] **forty (40)** acres in size and posted with signs, which sign is included herein, specified by the department. Multiple dog training area permits may be issued for a single tract of land.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-9.627. Original rule filed Aug. 30, 2002, effective March 1, 2003. Amended: Filed Oct. 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 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-10.720 Commercial Fishing Permits. The commission proposes to amend section (4).

PURPOSE: This amendment clarifies that persons exempt from sport fishing permit requirements may assist properly licensed commercial fishermen.

(4) Any person who holds the prescribed sport fishing permit or who is exempted from sport fishing permit requirements in 3 CSR 10-5.205 may accompany and assist a licensed commercial fisherman; provided, that a licensed commercial fisherman must be present in each boat.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 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 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-10.767 Taxidermy; Tanning: Permit, Privileges, Requirements. The commission proposes to add a new section (3), amend the previous section (3) and renumber the sections accordingly.

PURPOSE: This amendment will permit the purchase of legally taken furbearers by licensed taxidermists or tanners; and sales of mounted or tanned furbearers or pelts.

(3) Legally taken and possessed furbearers may be purchased by licensed taxidermists or tanners only for mounting or tanning, and only mounted or tanned specimens may be sold.

[[3]] (4) All licensed taxidermists and tanners shall keep accurate, up-to-date records of the number and species of all wildlife received, the full name and address of the consignor (or seller of furbearers) and the dates of all transactions and disposition of all wildlife on a form approved or provided by the department. These records and wildlife shall be available for inspection by an authorized agent of the department at any reasonable time. All completed records required by this rule shall be retained for three (3) years. Renewal of a permit shall be conditioned upon compliance with this rule.

[[4]] (5) Pelts held under this permit after possession season for pelts shall not enter the raw fur market. All wildlife held by a licensed taxidermist or tanner shall be identifiable to the consignor. Unused parts of wildlife may be disposed of or sold by licensed taxidermists or tanners, but not for human consumption. Federal regulations apply to the mounting of migratory birds and endangered species.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 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 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-10.768 Sales and Possession of Wildlife Parts and Mounted Specimens. The commission proposes to amend sections (1) and (2).

PURPOSE: This amendment adds groundhog pelts to the list of species which may be bought and sold throughout the year and relaxes the requirement for a signed statement from sellers of deer heads and/or antlers attached to skull plates.

(1) Subject to federal regulations, legally obtained feathers, squirrel pelts, rabbit pelts, **groundhog pelts**, turkey bones, turkey heads and deer heads, antlers, hides or feet may be bought, sold or bartered when accompanied by a bill of sale showing the seller's full name, address and the number and species of these parts, and the full name and address of the purchaser. Legally taken wildlife and wildlife parts, after mounting or tanning, may be bought and sold.

(2) The recipient or purchaser of deer heads and/or antlers attached to the skull plate must retain a **dated** bill of sale [for the period] **identifying the seller while** the heads or antlers are in his/her possession. [The bill of sale shall include the transaction date and a signed statement from the seller attesting that the deer heads and/or antlers were, to his/her knowledge, taken according to the regulations of the state or country where taken.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 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 section (14) of this rule.

PURPOSE: This amendment increases spring turkey hunting opportunity on Drury-Mincy Conservation Area.

(14) On Caney Mountain Conservation Area (fenced portion) [and Drury-Mincy Conservation Area (Drury portion)], spring turkey hunting is permitted only with a longbow.

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. For intervening history, please contact the *Code of State Regulations*. Amended: Filed Oct. 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 section (3) and add two sections.

PURPOSE: This amendment clarifies method restrictions at Coot Lake (James A. Reed Memorial Wildlife Area) during the November 1 through February 19 catch-and-release trout fishing season, restricts the use of aquatic education ponds on two (2) conservation areas to groups participating in aquatic education programs, and prohibits fish harvest on two (2) aquatic education ponds on the Platte Falls Conservation Area.

(3) On James A. Reed Memorial Wildlife Area:

(B) On Coot Lake, from November 1 through February 19, only flies[,] and artificial lures [and soft plastic baits (unscented)] may be used and fish must be returned to the water unharmed immediately after being caught.

(D) On Prairie Hollow Lake, fishing is permitted only by reservation by educational groups, and fish must be returned to the water unharmed immediately after being caught except as provided by special use permit.

(11) On the Burr Oak Woods Conservation Area aquatic education pond, fishing is permitted only by reservation by educational groups, and fish must be returned to the water unharmed immediately after being caught except as provided by special use permit.

(12) On the Platte Falls Conservation Area aquatic education ponds, fish must be returned to the water unharmed immediately after being caught.

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, effective Oct. 30, 2003. Amended: Filed Oct. 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 10-11.210 Fishing, Daily and Possession Limits. The commission proposes to amend sections (5) and (10).

PURPOSE: This amendment establishes a more restrictive daily limit on white bass, striped bass and their hybrids at Perry County Community Lake.

(5) [On August A. Busch Memorial Conservation Area, Harmony Mission Lake (Harmony Mission Conservation Area) and James A. Reed Memorial Wildlife Area, the] **The** daily limit for white bass, striped bass and their hybrids in the aggregate shall be four (4) [; on James A. Reed Memorial Wildlife Area, the aggregate daily limit for all other fish shall be ten (10).] **on the following department areas or individually named lakes:**

- (A) August A. Busch Memorial Conservation Area
- (B) Harmony Mission Lake (Harmony Mission Conservation Area)
- (C) Perry County Community Lake
- (D) James A. Reed Memorial Wildlife Area

(10) On Bellefontaine Conservation Area, [and] Port Hudson Lake Conservation Area **and James A. Reed Memorial Wildlife Area**, the daily limit for other fish as designated in 3 CSR 10-6.550 shall be ten (10) in the aggregate.

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 March 1,

2003. Amended: Filed July 31, 2002, effective June 30, 2003. Amended: Filed Oct. 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 10-11.215 Fishing, Length Limits. The commission proposes to amend section (3).

PURPOSE: This amendment establishes a minimum length limit on white bass, striped bass and their hybrids at Perry County Community Lake.

(3) [On August A. Busch Memorial Conservation Area, Harmony Mission Lake (Harmony Mission Conservation Area) and James A. Reed Memorial Wildlife Area, all white] **White** bass, striped bass and their hybrids less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught [.] **on the following department areas or individually named lakes:**

- (A) August A. Busch Memorial Conservation Area
- (B) Harmony Mission Lake (Harmony Mission Conservation Area)
- (C) Perry County Community Lake
- (D) James A. Reed Memorial Wildlife 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 March 1, 2003. Amended: Filed Oct. 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 (2), (5) and (6).

PURPOSE: This amendment changes restrictions on outboard motor use at Williams Creek Lake in Watkins Mill State Park and Historic Site; adds St. Charles (Kluesner Lake) to the list of lakes where boats are prohibited; and, changes the name of the lake owned by the City of Fayette.

(2) Boats are prohibited on the following areas:

- (R) **St. Charles (Kluesner Lake)**
/(R)/(S) St. Louis County (Bee Tree Lake)
- /(S)/(T) Sedalia (Clover Dell Park Lake, Liberty Park Pond)
- /(T)/(U) University of Missouri (South Farm R-1 Lake)

(5) Outboard motors not in excess of ten (10) horsepower may be used on the following areas:

- (B) Fayette (D.C. Rogers Lake, [Fayette City Lake No. 2] **Peters Lake**)
/(I) Watkins Mill State Park Lake]

(6) Outboard motors in excess of ten (10) horsepower may be used but must be operated at slow, no-wake speed on the following areas:

- (N) **Watkins Woolen Mill State Park and Historic Site (Williams Creek 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 March 1, 2003. Amended: Filed May 9, 2003, effective Oct. 30, 2003. Amended: Filed Oct. 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 10-12.115 Bullfrogs and Green Frogs. The commission proposes to amend subsection (1)(B).

PURPOSE: This amendment adds St. Charles (Kluesner Lake) to the list of lakes where frogs can only be taken by pole and line.

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, gig, longbow, snagging, snaring, grabbing or pole and line except as further restricted by this chapter.

- (B) Only pole and line may be used to take frogs on the following areas:
 - 1. Bridgeton (Kiwanis Lake)

- 2. Butler City Lake
- 3. Kirkwood (Walker Lake)
- 4. Mineral Area College (Quarry Pond)
- 5. Overland (Wild Acres Park Lake)
- 6. Potosi (Roger Bilderback Lake)
- 7. **St. Charles (Kluesner Lake)**
/7./8. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)
- /8./9. Sedalia (Clover Dell Park Lake, Liberty Park Pond)
- /9./10. Warrensburg (Lion's Lake)
- /10./11. Wentzville (Community Club Lake)
- /11./12. Windsor (Farrington 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 Oct. 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 10-12.125 Hunting and Trapping. The commission proposes to amend subsection (1)(B).

PURPOSE: This amendment prohibits hunting on St. Charles (Kluesner Lake).

(1) Hunting, under statewide permits, seasons, methods and limits, is permitted except as further restricted in this chapter.

- (B) Hunting is prohibited on the following areas:
 - 1. Thomas S. Baskett Wildlife Research and Education Center
 - 2. Bethany (Old Bethany City Reservoir)
 - 3. Bridgeton (Kiwanis Lake)
 - 4. California (Proctor Park Lake)
 - 5. Carthage (Kellogg Lake)
 - 6. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake)
 - 7. Dexter City Lake
 - 8. Farmington City Lake
 - 9. Hamilton City Lake
 - 10. Harrisonville (North Lake)
 - 11. Jackson (Rotary Park Lake)
 - 12. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
 - 13. James Foundation (Scioto Lake)
 - 14. Jamesport City Lake
 - 15. Lawson City Lake
 - 16. Mexico (Lakeview Lake, Kiwanis Lake)
 - 17. Mineral Area College (Quarry Pond)
 - 18. Moberly (Rothwell Park Lake, Water Works Lake)

19. Mount Vernon (Williams Creek Park Lake)

20. Overland (Wild Acres Park Lake)

21. Potosi (Roger Bilderback Lake)

22. Rolla (Schuman Park Lake)

23. St. Charles (Kluesner Lake)

[23.] 24. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)

[24.] 25. Savannah City Lake

[25.] 26. Sedalia (Clover Dell Park Lake)

[26.] 27. Springfield City Utilities (Lake Springfield)

[27.] 28. Warrensburg (Lion's Lake)

[28.] 29. Windsor (Farrington 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 May 9, 2002, effective Oct. 30, 2002. Amended: Filed Oct. 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 section (3).

PURPOSE: This amendment changes the name of a lake owned by the City of Fayette.

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

(D) Fayette (D.C. Rogers Lake, [Fayette City Lake No. 2] Peters 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, effective Oct. 30, 2003. Amended: Filed Aug. 1, 2003, effective Nov. 1, 2003. Amended: Filed Oct. 9, 2003.

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

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**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 (2) and (12).

PURPOSE: This amendment establishes daily limits for black bass and for "other fish combined" at St. Charles (Kluesner Lake).

(2) The daily limit for black bass is two (2) on the following lakes:

(S) St. Charles (Kluesner Lake)

[[S]] (T) St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

[[T]] (U) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

[[U]] (V) Unionville (Lake Mahoney)

[[V]] (W) University of Missouri (South Farm R-1 Lake)

[[W]] (X) Warrensburg (Lion's Lake)

[[X]] (Y) Watkins Mill State Park Lake

[[Y]] (Z) Wentzville (Community Club Lake)

[[Z]] (AA) Windsor (Farrington Park Lake)

(12) The daily limit for other fish as designated in 3 CSR 10-6.550 is twenty (20) in the aggregate, except on the following lakes where the daily limit in the aggregate is ten (10), and except for those fish included in (4), (5), (9), (10) and (11) of this rule:

(H) St. Charles (Kluesner Lake)

[[H]] (I) St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

[[I]] (J) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

[[J]] (K) Wentzville (Community Club 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, effective Oct. 30, 2003. Amended: Filed Aug. 1, 2003, effective Nov. 1, 2003. Amended: Filed Oct. 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 10-12.145 Fishing, Length Limits. The commission proposes to amend section (2).

PURPOSE: This amendment changes the length limit on black bass at Fourche Lake in Ripley County, and establishes an eighteen inch (18") minimum length limit on largemouth bass at St. Charles (Kluesner Lake).

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

(B) Black bass less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Arrow Rock State Historic Site (Big Soldier Lake)
2. Bethany (Old Bethany City Reservoir)
3. Big Oak Tree State Park (Big Oak Lake)
4. Butler City Lake
5. California (Proctor Park Lake)
6. Cameron (Reservoirs No. 1, 2 and 3, Grindstone Reservoir)
7. Carthage (Kellogg Lake)
8. Columbia (Stephens Lake)
9. Concordia (Edwin A. Pape Lake)
10. Confederate Memorial State Historic Site lakes
11. Dexter City Lake
12. Hamilton City Lake
13. Harrison County Lake
14. Higginsville City Lake
15. Holden City Lake
16. Iron Mountain City Lake
17. Jackson (Rotary Park Lake)
18. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
19. Jefferson City (McKay Park Lake)
20. Lancaster (New City Lake)
21. Macon (Blees Lake)
22. Maysville (Willow Brook Lake)
23. Mark Twain National Forest (*[Fourche Lake,]* Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake)
24. Mineral Area College (Quarry Pond)
25. Pershing State Park ponds
26. Potosi (Roger Bilderback Lake)
27. University of Missouri (Dairy Farm Lake No. 1 and McCredie Lake)
28. Warrensburg (Lion's Lake)
29. Watkins Mill State Park Lake
30. Windsor (Farrington Park Lake)

(C) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Ballwin (New Ballwin Lake, Vlasis Park Lake)
2. Bridgeton (Kiwani's Lake)
3. Columbia (Twin Lake)
4. Ferguson (January-Wabash Lake)
5. Kirksville (Hazel Creek Lake)
6. Kirkwood (Walker Lake)

7. Overland (Wild Acres Park Lake)

8. St. Charles (Kluesner Lake)

[8.] 9. St. Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

[9.] 10. St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes, No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

[10.] 11. Unionville (Lake Mahoney)

[11.] 12. University of Missouri (South Farm R-1 Lake)

[12.] 13. Wentzville (Community Club 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 Oct. 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 20—Wildlife Code: Definitions**

PROPOSED AMENDMENT

3 CSR 10-20.805 Definitions. The commission proposes to add new sections (5) and (48), amend section (21), and renumber the remaining sections accordingly.

PURPOSE: This amendment adds definitions for cable restraint device and snare, and changes the definition of flies, lures and baits.

(5) Cable restraint device: A device for the live-capture of certain furbearers in a non-water set by use of a cable loop made of non-stainless, multi-strand steel cable, not greater than five feet (5') long (not including extensions), with a diameter of not less than five sixty-fourths inch (5/64") and equipped with a commercially manufactured breakaway rated at two hundred eighty-five pounds (285 lbs.) or less, a relaxing-type lock, a stop device that prevents it from closing to less than two and one-half inches (2 1/2") in diameter, and an anchor swivel, but shall not be equipped with a compression-type choke spring, or be otherwise mechanically-powered.

[[5]] (6) Cervid: All species of the deer family (family *Cervidae*) including those commonly known as white-tailed, mule, fallow, sika, red, musk, Pere David's deer, moose, caribou, reindeer, elk, or wapiti, and all deer-hybrids.

[[6]] (7) Chase or chased: The act of using dogs to follow wildlife for the purpose of recreation or dog training, but not for the purpose of catching or taking that wildlife.

[[7]] (8) Circus: A scheduled staged event in which entertainment includes performances by trained wildlife, either native or nonnative to the continental United States, and in which physical contact between wildlife and humans is restricted to the handlers, performers or other circus employees.

[[8]] (9) Closed season: That period of time during which the pursuit or taking of wildlife is prohibited by this Code.

[[9]] (10) Commercial establishment: Any place of business, owned or operated by any person or group of persons, or business concern of any kind, where ordinary trade or business practices are conducted. This term shall include, but is not restricted to, any club, association or society where meals, lodging or other services or facilities are furnished for a consideration, price or fee.

[[10]] (11) Commercial fish: All fish except shovelnose sturgeon more than thirty inches (30") in length (measured from tip of snout to fork of tail), pallid and lake sturgeon and game fish as defined in this rule. Includes those species for which sale is permitted when legally obtained. For purposes of this Code, packaged salt water species or freshwater species not found in waters of this state, when the processed fish are truly labeled as to content, point of origin and name and address of the processor, are exempt from restrictions applicable to native commercial fish. Commercial fish include common snapping and soft-shelled turtles and crayfish taken from waters open to commercial fishing. In the Mississippi River and that part of the St. Francis River which forms the boundary between the states of Arkansas and Missouri, commercial fish also include channel, blue and flathead catfish at least fifteen inches (15") in total length. In the Mississippi River only, commercial fish include paddlefish at least twenty-four inches (24") in length (measured from eye to fork of tail).

[[11]] (12) Commercial waters: The flowing portions of the Missouri River, the Mississippi River except in Sand Chute below the mouth of the Salt River in Pike County, and that part of the St. Francis River which forms a boundary between the states of Arkansas and Missouri, and also waters which exist temporarily through overflow from the Mississippi River east of the Missouri Pacific Railroad between Cape Girardeau and Scott City, and east of the Mississippi River mainline and setback levees between Commerce and the Arkansas state line.

[[12]] (13) Commission: The Conservation Commission as specified in Section 3, Reorganization Act of 1974, pursuant to Article IV, Section 40(a) of the *Constitution of Missouri* (see also Article IV, Section 12).

[[13]] (14) Crossbow: A device for discharging quarrels or bolts, formed of a bow set crosswise on a stock, usually drawn by means of a mechanism and discharged by release of a trigger.

[[14]] (15) Days or dates: All days and dates shall be inclusive. A day shall begin or end at midnight, unless otherwise specified.

[[15]] (16) Department: The Department of Conservation as specified in Section 3, Reorganization Act of 1974, pursuant to Article IV, Section 40(a) of *Constitution of Missouri* (see also Article IV, Section 12).

[[16]] (17) Director: The director of the Department of Conservation.

[[17]] (18) Ditch: Any artificial drainageway, tributary to a stream or body of water, and containing sufficient water to support fish.

[[18]] (19) Domicile: The place where a person has his/her true, fixed and permanent home and principal establishment and to which

whenever s/he is absent s/he has the intention of returning. It is his/her legal residence, as distinguished from his/her temporary place or abode; or his/her home, as distinguished from a place to which business or pleasure may temporarily call him/her.

[[19]] (20) Field: An organized event, contest, demonstration or trial of dogs whether or not prizes or awards of any kind are offered and where dogs may be used to chase, locate, pursue or retrieve wildlife.

[[20]] (21) Firearms: Pistols, revolvers and rifles propelling a single projectile at one (1) discharge including those powered by spring, air or compressed gas, and shotguns not larger than ten (10) gauge.

[[21]] (22) Flies, lures and baits: The following are authorized for use except where restricted in 3 CSR 10-6.415, 3 CSR 10-6.535, 3 CSR 10-11.205, [and] 3 CSR 10-12.135 [.] and **3 CSR 10-12.150:**

[[A] Fly—A lure constructed on a single-point hook, of feathers, tinsel, chenille, yarn, fur, hair, silk, rayon or nylon thread or floss, with or without spinner.

[[B] Artificial lure—A manufactured lure other than a fly or soft plastic bait (unscented).

[[C] Soft plastic bait (unscented)—Synthetic eggs, synthetic worms, synthetic grubs and soft plastic lures.

[[D] Natural and scented baits—A natural fish food such as bait fish, crayfish, frogs permitted as bait, grubs, insects, larvae, worms, salmon eggs, cheese, corn and other food substances not containing any ingredient to stupefy, injure or kill fish. Does not include flies or artificial lures. Includes dough bait, putty or paste-type bait, any substance designed to attract fish by taste or smell and any fly, lure or bait containing or used with such substances.]

[[A] Natural and scented baits—A natural fish food such as bait fish, crayfish, frogs permitted as bait, grubs, insects, larvae, worms, salmon eggs, cheese, corn and other food substances not containing any ingredient to stupefy, injure or kill fish. Does not include flies or artificial lures. Includes dough bait, putty or paste-type bait, any substance designed to attract fish by taste or smell and any fly, lure or bait containing or used with such substances.

[[B] Soft plastic bait (unscented)—Synthetic eggs, synthetic worms, synthetic grubs and soft plastic lures.

[[C] Artificial lure—A lure constructed of any material excluding soft plastic bait and natural and scented bait as defined in (A) or (B) above.

[[D] Fly—An artificial lure constructed on a single-point hook, using any material except soft plastic bait and natural and scented bait as defined in (A) or (B) above, that is tied, glued or otherwise permanently attached.

[[22]] (23) Furbearing animals: Furbearers: Mink, muskrat, opossum, river otter, striped skunk, spotted skunk, badger, beaver, raccoon, long-tailed weasel, red fox, gray fox, bobcat, mountain lion, black bear and coyote.

[[23]] (24) Game birds: Geese, ducks, ring-necked pheasant, gray partridge, ruffed grouse, wild turkey, northern bobwhite quail, Virginia rail, sora rail, American coot, American woodcock, common snipe, mourning dove, Eurasian collared-dove, white-winged dove and crows.

[[24]] (25) Game fish: Shall include the following in which the common names are to be interpreted as descriptive of, but not limiting, the classification by Latin names:

[[A] *Ambloplites*, all species of rock bass, commonly known as goggle-eye, redeye, shadow bass, Ozark bass.

[[B] *Lepomis gulosus*, commonly known as warmouth bass.

(C) *Esox*, all species commonly known as muskellunge, tiger muskie, muskie-pike, hybrid, northern pike, chain pickerel, grass pickerel.

(D) *Ictalurus*, all species except bullheads, commonly known as channel catfish, blue catfish, Mississippi cat, Fulton cat, spotted cat, white cat, willow cat, fiddler cat.

(E) *Micropterus*, all species of black bass and their hybrids, commonly known as largemouth bass, lineside bass, smallmouth bass, brown bass, Kentucky bass, spotted bass.

(F) *Polyodon*, all species, commonly known as paddlefish, spoon-bill.

(G) *Pomoxis*, all species, commonly known as crappie, white crappie, black crappie.

(H) *Pylodictis*, commonly known as flathead catfish, goujon, yellow cat, river cat.

(I) *Morone*, all species and their hybrids, commonly known as white bass, yellow bass, striped bass.

(J) *Oncorhynchus* and *Salmo*, all species commonly known as salmon and trout.

(K) *Stizostedion*, all species and their hybrids, commonly known as walleye, pike perch, jack salmon, sauger.

[[25]] (26) Game mammals: Deer, fox squirrel, gray squirrel, groundhog (woodchuck), cottontail rabbit, swamp rabbit, jack rabbits, and furbearers as defined.

[[26]] (27) Grab: The act of snagging or attempting to snag a fish by means of a pole, line and hook manipulated by hand.

[[27]] (28) Hook: Single- or multiple-pronged hooks and the ordinary artificial lures with attached single- or multiple-pronged hooks and dropper flies. A multiple-pronged hook or two (2) or more hooks employed to hold a single bait, shall be considered a single hook in counting the allowable total in use.

[[28]] (29) Length of fish: Total length is measured from the tip of the snout to the end of the tail, with the fish laid flat on the rule with mouth closed and tail lobes pressed together. The length of paddlefish is measured from the eye to the fork of the tail. The length of sturgeon is measured from the tip of the snout to the fork of the tail.

[[29]] (30) Lessee: Any Missouri resident who resides on at least five (5) acres of land in one (1) continuous tract owned by others, or any member of the immediate household whose legal residence and domicile is the same as the lessee's for at least thirty (30) days last past.

[[30]] (31) Limit: The maximum number or quantity, total length, or both, of any wildlife permitted to be taken or held in possession by any person within a specified period of time according to this Code.

[[31]] (32) Longbow: A bow drawn and held by hand and not fastened to a stock nor to any other device which maintains the bow in a drawn position. This definition includes compound bows.

[[32]] (33) Managed deer hunt: A prescribed deer hunt conducted on a designated area for which harvest methods, harvest quotas and numbers of participants are determined annually and presented in the deer hunting rule (3 CSR 10-7.435).

[[33]] (34) Mouth of stream or ditch: The point at which a line projected along the shore of a main stream or ditch at the existing water level at time of measurement crosses any incoming stream or ditch.

[[34]] (35) Mussels: All species of freshwater mussels and clams. Includes all shells and alive or dead animals. Two (2) shell halves (valves) shall be considered one (1) mussel.

[[35]] (36) Muzzleloading firearm: Any firearm capable of being loaded only from the muzzle.

[[36]] (37) Night vision equipment: Optical devices (that is, binoculars or scopes) using light amplifying circuits that are electrical or battery powered.

[[37]] (38) Nonresident landowner: Any nonresident of Missouri who is the owner of at least seventy-five (75) acres in one (1) continuous tract in the state of Missouri, or any member of the immediate household whose legal residence and domicile is the same as the nonresident landowner's for at least thirty (30) days last past. Corporate ownerships do not apply under this definition.

[[38]] (39) Open season: That time when the pursuing and taking of wildlife is permitted.

[[39]] (40) Other fish: All species other than those listed as endangered in 3 CSR 10-4.111 or defined in this rule as game fish.

[[40]] (41) Poisons, contaminants, pollutants: Any substances that have harmful effect upon wildlife.

[[41]] (42) Pole and line: Fishing methods using tackle normally held in the hand, such as a cane pole, casting rod, spinning rod or fly rod, to which not more than three (3) hooks with bait or lures are attached. This fishing method does not include snagging, snaring, grabbing or trotlines or other tackle normally attached in a fixed position.

[[42]] (43) Possessed and possession: The actual and constructive possession and control of things referred to in this Code.

[[43]] (44) Public roadway: The right of way which is either owned in fee or by easement by the state of Missouri or any county or municipal entity, or which is used by the general public for travel and is also regularly maintained by Department of Transportation, federal, county or municipal funds or labor.

[[44]] (45) Pursue or pursued: Includes the act of trying to find, to seek or to diligently search for wildlife for the purpose of taking this wildlife.

[[45]] (46) Resident landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) continuous tract, or any member of the immediate household whose legal residence or domicile is the same as the landowner's for at least thirty (30) days last past. Except as provided in 3 CSR 10-7.435, in the case of corporate ownership, this definition shall apply only to those corporate shareholders who reside on lands held by the corporation.

[[46]] (47) Sell: To exchange for compensation in any material form and the term shall include offering for sale.

(48) Snare: A device for the capture of furbearers in a water-set by use of a cable loop. Snares must be constructed of cable that is at least five sixty-fourths inch (5/64") and no greater than one-eighth inch (1/8") in diameter, and must be equipped with a mechanical lock and anchor swivel.

[[47]] (49) Speargun: A mechanically powered device that propels a single- or multiple-pronged spear underwater.

[[48]] (50) Store and storage: Shall also include chilling, freezing and other processing.

[[49]] (51) Take or taking: Includes killing, trapping, snaring, netting or capturing in any manner, any wildlife, and also refers to pursuing, molesting, hunting, wounding; or the placing, setting or use

of any net, trap, device, contrivance or substance in an attempt to take; and every act of assistance to every other person in taking or attempting to take any wildlife.

[(50)] (52) Transport and transportation: All carrying or moving or causing to be carried or moved from one (1) point to another, regardless of distance, vehicle or manner, and includes offering or receiving for transport or transit.

[(51)] (53) Underwater spearfishing: The taking of fish by a diver while underwater, with the aid of a manually or mechanically propelled, single- or multiple-pronged spear.

[(52)] (54) Ungulate: Hoofed animals.

[(53)] (55) Waters of the state: All rivers, streams, lakes and other bodies of surface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned or leased by a single person or by two (2) or more persons jointly or as tenants in common or by corporate shareholders, and including waters of the United States lying within the state. Waters of the state will include any waters which have been stocked by the state or which are subject to movement of fishes to and from waters of the state.

[(54)] (56) Zoo: Any publicly-owned facility, park, building, cage, enclosure or other structure or premises in which live animals are held and exhibited for the primary purpose of public viewing.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-II.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed Aug. 30, 2002, effective Feb. 28, 2003. Amended: Filed Oct. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 3—Filing and Reporting Requirements

PROPOSED AMENDMENT

4 CSR 240-3.190 [Electric Utility] Reporting Requirements for Electric Utilities and Rural Electric Cooperatives. The commission is proposing to amend the title of the rule, the purpose section and sections (1)–(4) of the rule, add a new section (4) and renumber sections (4)–(8) accordingly.

PURPOSE: The changes proposed in this amendment update and clarify the reporting requirements for electric utilities. It also adds a reporting requirement for accidents involving any energy supply facility. This requirement applies to both electric utilities and electric cooperatives that serve in the state of Missouri. Terminology refer-

ring to the Public Service Commission and electric utilities is changed to be consistent with the definitions in 4 CSR 240-3.010.

PURPOSE: This rule prescribes requirements and procedures for the reporting of certain events by [electrical corporations] electric utilities to the [Public Service C]commission to inform the commission of developments which may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain events, which may have an impact in future electric rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities incident reporting requirements for electric cooperatives.

(1) Commencing on September 1, 1991, every [electrical corporation as defined in section 386.020, RSMo, subject to the jurisdiction of the Public Service Commission (PSC)] **electric utility** shall accumulate the following information and transmit it to the manager of the [e]Energy [d]Department of the [PSC] **commission**, or his/her designee, no later than the last business day of the month following the month to be reported and after that on a monthly basis:

(A) All generating unit outages and derates, excluding hydroelectric generating units and units whose capacity comprises less than one and one-half percent (1 1/2%) of the [electrical corporation's] **electric utility's** installed capacity;

(C) **Monthly as-burned fuel report for each generating unit, including the amount of each type of fuel consumed, the British thermal unit (Btu) value of each fuel consumed, and the blending percentages (if applicable);**

(D) **Net system input for the electric utility;**

[(C)](E) Net hourly generation for each generating unit;

[(D)](F) **Megawatt amount and delivery prices of [H]hourly purchases and sales of electricity from or to other [utility companies] electrical services providers**, independent power producers or cogenerators, including the parties to purchases and sales, and the terms of purchases and sales;

1. If adjustments are made to the price of hourly purchases after the purchase is made, provide the amount of the adjustment and the time period over which the adjustment was made.

[(E)](G) Capacity purchases of longer than seven (7) days' duration;

[(F)](H) Planned outages of power production facilities, as they are scheduled or rescheduled. Changes from the planned outage schedule must be reported by telephone or electronic transmission to the manager of the energy department of the [PSC] **commission** or his/her designee prior to the initiation of the outage, if the changes result in the planned outage schedule being different from the schedule in the most recently submitted monthly report;

[(G)](I) Planned fuel test burns, unit heat-rate tests and accreditation runs as they are scheduled or rescheduled. Changes from previously planned fuel test burns, unit heat-rate tests and accreditation runs must be reported by telephone or electronic transmission to the manager of the [e]Energy [d]Department of the [PSC] **commission** or his/her designee prior to their initiation, if these changes result in the schedule for fuel test burns, unit heat-rate tests and accreditation runs being different from the schedule in the most recently submitted monthly report;

[(H)](J) Citations or notices of violation related to power production facilities received from any state or federal utility regulatory agency or environmental agency including, but not limited to, the FERC, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Natural Resources (DNR) and the Department of Energy (DOE);

[(I)](K) The terms of new contracts or existing contracts which will be booked to Accounts 310–346 or Accounts 502–546 of the FERC's Uniform System of Accounts requiring the expenditure by

the [electrical corporation] electric utility of more than [fifty] one hundred thousand dollars [(\$50,000)] (\$100,000) including, but not limited to, contracts for engineering, consulting, repairs and modifications or additions to an electric plant; and

[(J)](L) Copies of all written reports on forced generating unit outages of longer than three (3) days, test burns of fuel, heat-rate tests, accreditation runs and responses to state or federal utility regulatory agencies or environmental agencies including, but not limited to, the FERC, the NRC, the EPA, the DNR and the DOE, concerning any alleged infractions, deviations or noncompliance with those agencies' rules or standards related to power production facilities.

(2) [The] Any of the information required in [sub]section[s] (1)[(C) and (D)] of this rule may be provided to the manager of the [e]Energy [d]Department of the [PSC] commission or his/her designee [on computer diskette or by electronic transmission. If the information required in subsections (1)(C) and (D) is provided on computer diskette or by electronic transmission, the data reported and the software program used to record the data shall be clearly identified and shall be accompanied by a statement as required in subsection (4)(A) of this rule.] in electronic format. The electronic files may be submitted through the commission's Electronic Filing and Information System (EFIS).

(3) [In addition to the reporting requirements in sections (1) and (2) of this rule, e]Every [electrical corporation] electric utility[, as defined in section 386.020, RSMo, subject to the jurisdiction of the PSC,] shall report to the manager of the [e]Energy [d]Department of the [PSC] commission or his/her designee by telephone or [electronic transmission] through EFIS by the end of the first business day following discovery, the information described in subsections (3)(A)-(E) below. [If the report is initially made by telephone, t]The electric utility shall submit, [a written description] either by mail or [electronic transmission] through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report./:

(A) Details of any accident at a power plant involving serious physical injury or death or property damage in excess of [fifty] one hundred thousand dollars [(\$50,000)](\$100,000);

(C) Forced outages of any fossil-fuel fired generating unit(s) which constitutes twenty percent (20%) or more of the [electrical corporation's] electric utility's accredited capacity that reasonably could be anticipated to last longer than three (3) days, when the unit(s) is forced out due to a common occurrence;

(4) Every electric utility and rural electric cooperative shall report to the manager of the Energy Department of the commission or his/her designee, by telephone or through EFIS, a brief description of an accident by the end of the first business day following the discovery of any accident resulting from contact with its energized electrical supply facilities which results in the fatality of an employee or other person, admission to a hospital, ten thousand dollars (\$10,000) in damages to the property of the utility or others or any other accident considered significant by the utility. The electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.

[(4)](5) All reports and information submitted by [electrical corporations] electric utilities and rural electric cooperatives pursuant to this rule shall be [—

(A) S]ubscribed by the president, treasurer, general manager,

receiver or other authorized representative of the [electrical corporation] electric utility or rural electric cooperative having knowledge of the subject matter and shall be stated to be accurate and complete, and contain no material misrepresentations or omissions, based upon facts of which the person subscribing the report or information has knowledge, information or belief.]; and] Any information submitted through EFIS will bear the electronic signature of the utility representative who is submitting it.

[(B) Sent to the Energy Department Manager, Public Service Commission, P.O. Box 360, 200 Madison St., Suite 700, Jefferson City, MO 65102 or submitted electronically through the commission's electronic filing system.]

[(5)](6) The reporting requirements prescribed by this rule shall be in addition to all other reporting requirements prescribed by law.

[(6)](7) The information contained in the reports filed pursuant to this rule shall be subject to the provisions of section 386.480, RSMo and the use of that information in any proceeding before the commission shall be governed by the terms of any protective order issued by the commission in the proceeding, if a protective order has been issued.

[(7)](8) The receipt by the commission or commission staff of reports prescribed by this rule shall not bind the commission or commission staff to the approval or acceptance of, or agreement with any matter contained in the reports for the purpose of fixing rates or in determining any other issue that may come before the commission.

[(8)](9) Upon proper application and after notice and an opportunity for hearing, the commission, in its discretion, may waive any provision of this rule for good cause shown.

AUTHORITY: sections 386.250 and 394.160, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Oct. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2003, and should include a reference to Commission Case No. EX-2003-0489. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 30, 2003, at 1:30 p.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 18—Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-18.010 Safety Standards [—]for Electric Utilities, [and Telephone Utilities] Telecommunications Companies and Rural Electric Cooperatives. The commission is proposing to amend the title of the rule, the purpose section of the rule and all existing sections of the rule, and to add a new section to the end of the rule.

PURPOSE: The changes proposed in this amendment update the safety standards and change the reference to telephone utilities to telecommunications companies to be consistent with other commission rules.

PURPOSE: This rule prescribes minimum safety standards relating to the operation of electric [and telephone utilities] utilities, telecommunications companies and rural electric cooperatives. Adoption of this rule will not only inform the regulated utilities, to which it applies, of the minimum safety standards required by the commission but will also be of assistance to the commission staff in carrying out its assigned duties.

(1) The commission adopts as its rule and incorporates by reference, Parts 1, 2 and 3 and Sections 1, 2 and 9 of the *American National Standard, National Electrical Safety Code (NESC); [1997] 2002* Edition as approved by the American National Standards Institute on June [6, 1996] 14, 2001. The NESC is published by the Institute of Electrical and Electronics Engineers, Inc., as the minimum safety standards relating to the operation of electric utilities and [telephone utilities] telecommunications companies and rural electric cooperatives. The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms and Section 9 requires certain grounding methods for electric and communications facilities.

(2) All electric utilities and [telephone utilities] telecommunications companies and rural electric cooperatives subject to regulation by this commission pursuant to Chapters 386, 392–394, RSMo shall be required to adhere to the safety standards established by this rule.

(3) Incident reporting requirements for electric utilities and rural electric cooperatives are found in 4 CSR 240-3.190(4).

AUTHORITY: sections 386.310 [RSMo Supp. 1998] and 394.160, RSMo [1994] 2000. Original rule filed March 15, 1978, effective Oct. 2, 1978. Amended: Filed April 8, 1981, effective Oct. 15, 1981. Amended: Filed Feb. 9, 1984, effective June 15, 1984. Amended: Filed June 12, 1987, effective Sept. 15, 1987. Amended: Filed Jan. 5, 1990, effective April 13, 1990. Amended: Filed March 23, 1993, effective Oct. 10, 1993. Amended: Filed Aug. 27, 1999, effective Feb. 29, 2000. Amended: Filed Oct. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 17, 2003, and should include a reference to Commission Case No. EX-2003-0368. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 30, 2003, at 1:00 p.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 1—Organization**

PROPOSED AMENDMENT

8 CSR 30-1.010 Organization of the Division of Labor Standards. The division is amending section (1).

PURPOSE: This amendment updates references to the *Missouri Revised Statutes*.

PURPOSE: This rule describes the organization of the Division of Labor Standards as required by section 536.023, RSMo [1986] 2000.

(1) The Division of Labor Standards is an administrative division created by the Labor and Industrial Relations Commission to satisfy the requirements of section 8, paragraph 5, of the Omnibus State Reorganization Act. This act created an inspection section which is now named the Division of Labor Standards (hereinafter referred to as the division) of the Department of Labor and Industrial Relations. Along with all powers, duties and functions as vested by law, the Reorganization Act transferred to the Division of Labor Standards—the Division of Industrial Inspection and the Division of Mine Inspection. The division also has the responsibility of administering the Prevailing Wage Law. The division has the responsibility of carrying out all the functions and duties contained in the following sections of the Revised Statutes of Missouri:

[[A)] Sections 196.270–196.305—*Sanitation in Bakeries and Confectioneries;*

[[B)] (A) Section 205.920—*Power of Director to Deputize Agents;*

[[C)] Sections 289.010–289.130—*Private Employment Agencies;*

[[D)](B) Sections 290.010–290.340 and 290.500–290.580—*Wages Hours and Dismissal Rights, [Including] Prevailing Wages on Public Works, Minimum Wage, and Public Works During Excessive Unemployment;*

[[E)](C) Sections 291.010–291.130/150—*Industrial Inspection;*

[[F)](D) Sections 292.010–292.570—*Health and Safety of Employees;*

[[G)](E) Sections 293.010–293.690—*[Mining] Mine and Cave Regulations; and*

*[(H)](F) Sections 294.[011]005-294.[140]150—Child Labor;
[(I) Sections 564.670-564.710—Employment of Children
in Occupations Hazardous to Safety or Morals Prohibited;
and*

*(J) Sections 421.010-421.120—Mattresses and Bedding
Manufacturing.]*

*AUTHORITY: Omnibus State Reorganization Act of 1974, section 8,
paragraph 5. Original rule filed Dec. 18, 1975, effective Dec. 28,
1975. Amended: Filed Oct. 8, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in
support of or in opposition to this proposed amendment with the
Division of Labor Standards; Attn: Colleen Baker, Director; PO Box
449; Jefferson City, MO 65102-0449. To be considered, comments
must be received within thirty (30) days after publication of this
notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED AMENDMENT

8 CSR 30-4.010 Definitions. The division is amending subsection
(1)(B).

*PURPOSE: This amendment updates the reference to the Fair Labor
Standards Act of 1938.*

(1) As used in 8 CSR 30-4.010-8 CSR 30-4.050, unless the context
clearly indicates otherwise, the following terms shall mean:

(B) Employee—an individual employed by an employer, except
that the term employee shall not include:

1. Any individual employed in a bona fide executive, adminis-
trative or professional capacity;

2. Any individual engaged in the activities of an educational,
charitable, religious or nonprofit organization where the employer
employee relationship in fact, does not, exist or where the services
rendered to the organizations are on a voluntary basis;

3. Any individual standing in *loco parentis* to foster children in
his/her care;

4. Any individual who receives a minimum wage pursuant to the
Fair Labor Standards Act of 1938, as amended as of *[February 26,
1993] October 1, 1996*, including individuals employed by an
employer covered by 29 USC 203 or other applicable federal law;

5. Any individual employed for less than four (4) months in any
year in a resident or day camp for children or youth, or any individ-
ual employed by an educational conference center operated by an
educational, charitable or not-for-profit organization;

6. Any individual engaged in the activities of an educational
organization where employment by the organization is in lieu of the
requirement that the individual pay the cost of tuition, housing or
other educational fees of the organization or where earnings of the
individual employed by the organization are credited toward the pay-
ment of the cost of tuition, housing or other educational fees of the
organization;

7. Any individual employed on or about a private residence on
an occasional basis for six (6) hours or less on each occasion;

8. Any disabled person employed in a sheltered workshop, cer-
tified by the Department of Elementary and Secondary Education;

9. Any person employed on a casual basis in domestic service
employment to provide baby-sitting services, any person employed in
the domestic service of any family or person at his/her home and any
employee employed in domestic service employment to provide com-
panionship services for individuals who, because of age or infirmity,
are unable to care for themselves;

10. Any individual employed by an employer subject to the pro-
visions of Part I of the Interstate Commerce Act;

11. Any individual employed on a casual or intermittent basis
as a golf caddy, newsboy or in a similar occupation;

12. Any individual whose earnings are derived in whole or in
part from sales commissions and whose hours and places of employ-
ment are not substantially controlled by the employer;

13. Any individual subject to the minimum wage provisions of
applicable federal law or any individual who is employed in any gov-
ernment position defined in 29 USC 203(2)(c)(i) and (ii);

14. Any individual employed by a retail or service business
whose annual gross volume sales made or business done is less than
five hundred thousand dollars (\$500,000);

15. Any individual who is an offender, as defined in section
217.010, RSMo, who is incarcerated at any correctional facility
operated by the Department of Corrections, including offenders who
provide labor or services on the grounds of that correctional facility
pursuant to section 217.550, RSMo; and

16. Any individual described by the provisions of section 29
U.S.C. 213(a)(8);

*AUTHORITY: sections 290.512, 290.515 and 290.517, RSMo [Supp.
1990] 2000. Original rule filed July 22, 1992, effective Feb. 26,
1993. Amended: Filed Oct. 8, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in
support of or in opposition to this proposed amendment with the
Division of Labor Standards; Attn: Colleen Baker, Director; PO Box
449; Jefferson City, MO 65102-0449. To be considered, comments
must be received within thirty (30) days after publication of this
notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules**

PROPOSED AMENDMENT

8 CSR 30-4.020 Minimum and Subminimum Wage Rates. The
division is amending sections (1), (2) and (4).

*PURPOSE: This amendment deletes references to wage amounts and
updates the reference to the Fair Labor Standards Amendments.*

(1) Effective August 28, 1990 employers who employ individuals
who are covered under the Missouri minimum wage law are required
to pay to each such individual wages at the same rate as established
as the federal minimum wage under the Fair Labor Standards Act
(FLSA). *[The Missouri minimum wage shall be as follows:*

*(A) Effective August 28, 1990 the minimum wage shall be
not less than three dollars and eighty cents (\$3.80) an hour;
and*

(B) Effective April 1, 1991 the minimum wage shall be not less than four dollars and twenty-five cents (\$4.25) an hour.]

(2) Learners and apprentices shall be paid the same rate as established under the provisions of federal law as the federal subminimum wage applicable to new workers. The Fair Labor Standards Amendments of [1989] 1996 to the FLSA established training wages for certain eligible workers. *[These rates, which shall be the subminimum wage rates applicable to learners and apprentices, are as follows:*

(A) Effective August 28, 1990 the learner and apprentice rate shall be not less than three dollars and thirty-five cents (\$3.35) an hour; and

(B) Effective April 1, 1991 the learner and apprentice rate shall be not less than eighty-five percent (85%) of the federal minimum wage of four dollars and twenty-five cents (\$4.25) per hour, which shall be \$3.6125 per hour (if rounded, must be rounded up to three dollars and sixty-two cents (\$3.62) per hour).]

(4) Tipped employees shall receive at least the applicable minimum wages as set forth in this rule, except that the employer may claim gratuities as a credit toward the payment of the required minimum wage. The maximum amount of gratuities that the employer can claim as a credit is fifty percent (50%) of the applicable minimum wage rate. *[For example, if after April 1, 1991 a tipped employee is entitled to a minimum wage of three dollars and sixty-two cents (\$3.62) an hour and receives in one (1) day the equivalent of two dollars (\$2) per hour in tips, the employer can claim up to fifty percent (50%) of the minimum wage one dollar and eighty-one cents (\$1.81) as a tip credit, and shall only be required to pay the employee one dollar and eighty-one cents (\$1.81) per hour in wages for that day.]* In no event shall the amount of wages and gratuities equal less than the applicable minimum wage, with the difference between the gratuities and the minimum wage being paid by the employer.

AUTHORITY: sections 290.512, 290.515 and 290.517, RSMo [Supp. 1990] 2000. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 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 Division of Labor Standards; Attn: Colleen Baker, Director; PO Box 449; Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED AMENDMENT

12 CSR 10-23.424 Leasing Company Registration. The director proposes to amend sections (2), (3), and (6) and remove the form that follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to allow leasing companies to apply for biennial registration and for consistency and clarity.

(2) To apply for registration as a leasing company, the applicant shall submit a completed application *[annually]* on a **biennial basis** as prescribed by the director. *[The initial application shall be accompanied by a]* A copy of the applicant's Missouri sales tax license **shall accompany the initial application**. The applicant also shall be properly registered with the Office of the Missouri Secretary of State and shall furnish proof of that registration upon request.

(3) Renewal applications for registration as a leasing company shall be filed with the director prior to December 1 of each *[year]* **registration period**. Leasing company registrations shall expire on December 31 of each *[year]* **registration period**. Leasing companies with expired registrations shall not be entitled to the sales tax option provided by section 144.070, RSMo, but shall pay all state and local sales tax on the purchase price of any units acquired while the registration is expired.

(6) The director shall deny application for, or recall any permit to operate as a leasing company, if *[s/he learns that]* the applicant—

(C) Is no longer properly registered with the **Office of the Missouri** *[s/Secretary of s/State/'s office]*.

AUTHORITY: sections 144.010, RSMo Supp. [1990] 2003 and 144.070, RSMo [1986] 2000. Emergency rule filed Oct. 28, 1991, effective Nov. 7, 1991, expired March 6, 1992. Emergency rule filed Feb. 26, 1992, effective March 7, 1992, expired July 5, 1992. Original rule filed Oct. 28, 1991, effective May 14, 1992. Amended: Filed Oct. 10, 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED AMENDMENT

12 CSR 10-24.040 Completion [Date] Requirement for Driving While Intoxicated (DWI) Rehabilitation Program. The director proposes to amend the title, section (1), and delete section (2).

PURPOSE: This amendment is necessary because the authority to approve comparable programs is now the responsibility of the Division of Alcohol and Drug Abuse, Department of Mental Health, rather than the director of revenue.

(1) Prior to reinstatement, any person whose driver[s] license has been suspended or revoked pursuant to sections **302.304**, 302.500–302.540, or **577.041**, RSMo shall successfully complete a substance abuse traffic offender education or rehabilitation program approved by the Department of Mental Health. Completion of the program shall be accepted only if completed after the date of arrest for which the license was suspended or revoked pursuant to sections **302.304**, 302.500–302.540, or **577.041**, RSMo.

[(2) The department may waive this requirement only upon evidence of the following:

(A) Completion of a comparable program as determined by the director of revenue. Completion of the program shall be accepted only if it contains professional assessment of the individual needs of the person suspended and is completed after the date of arrest for which the license was suspended pursuant to sections 302.500–302.540, RSMo; or

1. Each program must contain a professional assessment of the person and must include recommendations for a particular type or level of program based on the assessment and driving record of the person. Completion of the items and recommendations in the assessment must be demonstrated to the Department of Revenue before the program will be considered comparable to Substance Abuse Traffic Offender Programs (SATOPs). Each level of recommendation may include, but is not limited to, the following:

A. First Level: A ten to fifteen (10–15) hour education course which is designed to assist first-time offenders in understanding the choices they made that led to their intoxication and arrest. Education must include ways to take responsibility for actions, relate the course to their lives, and make changes in their thinking, belief, and behavior;

B. Second Level: A program designed primarily for repeat offenders or “high risk” first-time offenders with intensive education and counseling intervention methods throughout with at least forty-eight (48) continuous hours of structured activities. Activities must be designed to encourage the offender to confront his/her harmful behavior and take responsibility for his/her life. The program must be conducted in a restrictive environment;

C. Third Level: A program consisting of intensive outpatient counseling for three to six (3–6) weeks based on the needs of the persistent or “high risk” offender. Each offender must participate in and complete a minimum of fifty (50) total hours of treatment activity consisting of individual counseling, group counseling and group education at a certified treatment facility. These programs must be certified by the appropriate agency in the state in which they are conducted and/or be accredited by the Joint Commission on Accreditation of Health Care Organization (JCAHO), the Commission on the Accreditation of Rehabilitation Facilities (CARF), or the American Osteopathic Association (AOA); and

D. Fourth Level: A minimum of two hundred (200) treatment hours of either hospitalization and/or outpatient counseling for persons with alcoholism and/or drug abuse prior to or in conjunction with the assessment. These programs must be accredited by the appropriate agency in the state in which they are conducted and/or the Joint Commission on Accreditation of Health Care Organizations (JCAHO), the Commission on the Accreditation of Rehabilitation Facilities (CARF), or the American Osteopathic Association (AOA).

(B) Establishment of residency in another state; provided, the person has applied for a drivers license in that state.]

AUTHORITY: sections 302.304, 302.540 and 577.041, RSMo [1994] Supp. 2003 and 302.342, RSMo 2000. Original rule filed Jan. 15, 1985, effective June 13, 1985. Amended: Filed Nov. 12, 1991, effective March 9, 1992. Amended: Filed July 2, 1992, effective Feb. 26, 1993. Amended: Filed March 9, 1995, effective Sept. 30, 1995. Amended: Filed Oct. 10, 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 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 24—Drivers License Bureau Rules

PROPOSED AMENDMENT

12 CSR 10-24.200 Driver/s] License Classes. The director proposes to amend sections (2), (3), (6), (8) and delete sections (17) and (18).

PURPOSE: This proposed amendment is required as a result of the passage of House Bill 371, as enacted by the 92nd General Assembly, 2003.

(2) Class A—The holder of a Class A license may drive any combination of vehicles with a Gross Combination Weight Rating (GCWR) [or a registered gross] of twenty-six thousand one pounds (26,001 lbs.) or more, provided the Gross Vehicle Weight Rating, (GVWR) of the vehicle(s) being towed is ten thousand one pounds (10,001 lbs.) or more; provided, the license bears the proper endorsement(s), if any, required for the type of vehicle being driven. A holder of a Class A license may drive all vehicles which may be driven by a holder of a Class B, Class C, Class E or Class F license, but not motorcycles or vehicles which require an endorsement(s) unless the proper endorsement(s) appears on the license.

(3) Class B—The holder of a Class B license may drive any single vehicle with a GVWR [or a registered gross weight] of twenty-six thousand one pounds (26,001 lbs.) or more, or any such vehicle towing a vehicle with a GVWR of ten thousand pounds (10,000 lbs.) or less; provided, the license bears the proper endorsement(s), if any, required for the type of vehicle being driven. A holder of a Class B license may drive all vehicles which may be driven by a holder of a Class C, Class E or Class F license, but not motorcycles or vehicles which require an endorsement(s) unless the proper endorsement(s) appears on the license.

(6) Class F—The holder of a Class F license may drive any motor vehicle other than one requiring the driver to hold a Class A, Class B, Class C or Class E license, including any recreational vehicle being used solely for personal use, except that the holder of a Class F license may not drive motorcycles or vehicles which require an endorsement(s) unless the proper endorsement(s) appears on the license. Nothing in this section shall be construed to prevent operators of recreational motor vehicles for personal use from operating those vehicles with a Class F license. The holder of a Class F intermediate license may drive the same types of vehicles as those driven by the holder of a Class F driver/s] license except that the holder of a Class F intermediate license cannot operate a motor vehicle on the highways of the state between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person who is at least twenty-one (21) years of age. The licensee is not required to be accompanied by someone twenty-one (21) years of age or older if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations. An emergency situation is defined as any sudden or unexpected event in which a potential injury or death may occur to a living being that requires the operation of a motor vehicle.

(8) In addition to holding the appropriate class of license as prescribed, a driver of a motor vehicle used to transport hazardous material in a type, quantity, or both, as to require placarding under the Hazardous Material Transportation Act (46 U.S.C. section 1801) and the Hazardous Materials Regulations (49 CFR part 172, subpart F) must have qualified for and obtained an H endorsement. Any applicant for a commercial driver/s/ license requiring a hazardous material endorsement shall be at least twenty-one (21) years of age.

[(17) In addition to any other restrictions prescribed by the director, a person who takes the skills test for a Class A license in a vehicle whose combined registered gross weight is twenty-six thousand one (26,001) pounds or more, but whose combined gross vehicle weight rating as specified by the manufacturer is twenty-six thousand (26,000) pounds or less, towing a unit(s) whose gross vehicle weight rating as specified by the manufacturer is greater than ten thousand (10,000) pounds, shall be restricted to operating vehicle combinations or single vehicles with a manufacturer's specified gross vehicle weight rating of twenty-six thousand (26,000) pounds or less.

(18) In addition to any other restrictions prescribed by the director, a person who takes the skills test for a Class B license in a vehicle whose gross registered weight is twenty-six thousand one pounds (26,001 lbs.) or more, but whose gross vehicle weight rating as specified by the manufacturer is twenty-six thousand pounds (26,000 lbs.) or less, shall be restricted to operating vehicles with a manufacturer's specified gross vehicle weight rating of twenty-six thousand pounds (26,000 lbs.) or less.]

AUTHORITY: sections 302.015[, RSMo 1994] and 302.700, RSMo [Supp. 1999] 2000. Original rule filed Jan. 16, 1990, effective May 11, 1990. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED RESCISSION

12 CSR 10-24.450 Staggering Expiration Dates of Driver/Non-Driver Licenses. This rule outlined the procedures for staggering the expiration date of driver/nondriver licenses being issued or renewed over a six (6)-year period as outlined in section 302.177, RSMo.

PURPOSE: This rule is being rescinded as the six (6)-year license expiration transition cycle is complete.

AUTHORITY: section 302.177, RSMo Supp. 1999. Original rule filed March 27, 2000, effective Sept. 30, 2000. Rescinded: Filed Oct. 10, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 1—Organization**

PROPOSED RESCISSION

15 CSR 30-1.010 General Organization. This rule described the general organization and functions of the Office of the Secretary of State to comply with the requirements of section 536.023, RSMo 2000.

PURPOSE: This rule is being rescinded so the new organization and functions of the Office of the Secretary of State may be described in a new proposed rule.

AUTHORITY: section 536.023.3, RSMo 1994. Original rule filed Dec. 5, 1975, effective Dec. 31, 1975. Amended: Filed July 15, 1985, effective Dec. 26, 1985. Amended: Filed Nov. 15, 1989, effective March 11, 1990. Amended: Filed Feb. 16, 1995, effective Sept. 30, 1995. Rescinded: Filed Oct. 28, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of the Secretary of State, Administrative Rules Division, Lynne C. Angle, Director, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 1—Organization**

PROPOSED RULE

15 CSR 30-1.010 General Organization

PURPOSE: This rule describes the general organization and functions of the Office of the Secretary of State to comply with the requirements of section 536.023, RSMo 2000.

(1) The Office of Secretary of State has many diverse responsibilities, all linked by the common theme of information. The office collects, compiles, stores and publishes a variety of state documents. The Missouri secretary of state is the chief elections official. The secretary of state oversees several areas relating to state commerce,

such as administration of the Uniform Commercial Code and registration of corporations and securities. In addition, the secretary of state is the keeper of the Great Seal of the State of Missouri and authenticates official acts of the governor. Except where otherwise noted, the general mailing address is: 600 West Main Street, PO Box 1767, Jefferson City, MO 65102. Functions of the office are divided into seven divisions: Elections, Securities, Business Services, Library Services, Records Services, Administrative Rules and Administrative Services. The executive deputy secretary of state is second-in-command and is charged by law with implementing the policies and procedures of the secretary of state and supervising the day-to-day operations of certain phases of the office. The executive deputy secretary of state shall possess all the powers and perform any of the duties prescribed by law to be performed by the secretary of state when and for such period of time as the secretary of state may designate. The divisions of the office are as follows:

(A) State Library. The State Library is composed of the state librarian and three (3) sections: Library Development, Reference Services and Wolfner Library for the Blind and Physically Handicapped. The State Library promotes and encourages library services, continuing education, resource sharing, technology, program planning, needs assessment, and evaluation; provides counsel, advice, and continuing education to library boards; and ensures library and information services to diverse populations through libraries. It also receives federal grants including Library Services and Technology Act (LSTA) program, prepares reports, keeps records, and directs information about federal programs to libraries in the state. Information may be obtained from the state librarian in person on the second floor of the James C. Kirkpatrick State Information Center, by written request to PO Box 387, Jefferson City, MO 65102, through the Internet at SOSMain@sos.mo.gov, by fax at (573) 751-3612, or by telephone at (573) 751-3615 or (800) 325-0131.

1. The State Library Development section produces regular and informative publications, brochures, newsletters, and other publications for the Missouri library community, coordinates all activities of the Missouri Center for the Book, works with statewide and local literacy organizations and consults with libraries on the development of literacy programs. It administers federal and state grants and the privately funded grants or projects. Other programs include library automation and technology; library administration and management; state and community partnerships; youth and senior services; and the State Census Data Center. Information may be obtained from this section in person on the second floor of the James C. Kirkpatrick State Information Center, by written request, through the Internet at SOSMain@sos.mo.gov, by fax at (573) 751-3612 or by telephone at (573) 751-3615 or (800) 325-0131.

2. The State Library Reference Services section provides library and information services, reference services and research to government officials, agencies and employees. It also administers the federal and state documents programs. Information may be obtained from this section in person on the second floor of the James C. Kirkpatrick State Information Center, by written request to PO Box 387, Jefferson City, MO 65102, through the Internet at libref@sos.mo.gov, by fax at (573) 526-1142 or by telephone at (573) 751-3615.

3. Wolfner Library for the Blind and Physically Handicapped provides public library services and administers library materials, equipment, and information services to those persons unable to use standard print. Information may be obtained from this section in person on the first floor of the James C. Kirkpatrick State Information Center, by written request to PO Box 387, Jefferson City, MO 65102, through the Internet at Wolfner@sos.mo.gov, by fax at (573) 526-2985 or, by telephone at (573) 751-8720; in-state toll free: (800) 392-2614 or TTY or TTD at (800) 347-1379.

(B) Records Services. The Records Services Division fulfills the constitutional duty of the secretary of state for the management and safekeeping of state records. Under the state and local records law,

the secretary of state administers the section providing for the efficient and economical application of management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official records.

1. The State Archives is the officially designated repository for all state records of permanent value. Its mission is to identify, collect, preserve, and make available to elected officials, state government, historians, students, genealogists, and the general public, the permanent and historically valuable records of Missouri's state and local governments. The Missouri Historical Records Advisory Board (MHRAB) is the central advisory body for historical records planning and for projects relating to historic records, developed and carried out within the state. The MHRAB provides state-level appraisal of grant proposals submitted to the National Historical Publications and Records Commission by Missouri repositories and serves as the review and award panel for grant applications submitted to the Missouri Historical Records Grant Program and the Local Records Preservation Program. Information about these services may be obtained from the State Archives in person in Room 119, James C. Kirkpatrick State Information Center, by written request to PO Box 1747, Jefferson City, MO 65101-1747, by telephone at (573) 751-3280, by fax at (573) 526-7333, or through the Internet at archref@sos.mo.gov.

2. The Missouri State Archives Local Records Preservation Program, provides assistance to units of local government by advising and educating the local records custodians in the use of sound records management and archival practices. The program's conservation laboratory provides treatment and advisory services on all aspects of records care, preservation, and disaster recovery. The Local Records Grant Program offers local governments, or political subdivisions with taxing authority, grant funding for approved records management or preservation projects. Grants may be funded up to seventy percent (70%) of the total project cost. Information on these services may be obtained from the Local Records Program in person in Room 112, James C. Kirkpatrick State Information Center, by written request to PO Box 1747, Jefferson City, MO 65101-1747, by telephone at (573) 751-9047, by fax at (573) 526-3867, or through the Internet at lorecc@sos.mo.gov.

3. The Records Management Program assists state agencies in the development of their records management programs. Such programs include a planned and coordinated set of policies, procedures, and activities needed to ensure the efficient and effective management of an agency's records regardless of the media on which the information is recorded (i.e., electronic, paper, microfilm, etc.). The State Records Commission determines the retention and disposition of state agency records based on administrative, legal, fiscal, or historical values. Records Management provides a host of services to agencies, including consultation and technical advice, microfilm processing, duplicating and quality control, and off-site storage of documents. Information on the Records Management Program may be obtained in person in Room 153, James C. Kirkpatrick State Information Center, by written request to PO Box 1747, Jefferson City, MO 65101-1747, by telephone at (573) 751-3319, by fax at (573) 526-5327, or through the Internet at recman@sos.mo.gov.

(C) Securities. The Securities Division administers the Missouri Uniform Securities Act through an appointed commissioner of securities. The commissioner also oversees the enforcement and licensing responsibilities of this division of the Office of Secretary of State. Information may be obtained from this division in person in Room 229, James C. Kirkpatrick State Information Center, by written request, through the Internet at SOSMain@sos.mo.gov, by fax at (573) 526-3121, or by telephone at (573) 751-4136 for securities questions.

1. The Securities Division administers the Missouri Uniform Securities Act through an appointed commissioner of securities. The division processes applications for registration and registers securities, broker-dealers, agents and investment advisers.

A. Information may be obtained from the division in person in Room 229, James C. Kirkpatrick State Information Center, by written request to PO Box 1276, Jefferson City, MO 65102.

B. Telephone requests may be directed to (573) 751-4136 for registration of securities; (573) 751-2302 for registration of broker-dealers, agents and investment advisers; and (573) 751-4704 for enforcement, exemptions, exceptions and exclusions or through the Internet at: SOSMain@sos.mo.gov.

2. The Enforcement section of the Securities Division conducts enforcement activities, including responses to suspected violations or complaints. In the case of suspected violations, the Enforcement section may conduct investigations. The Enforcement section may seek administrative sanctions from the commissioner prohibiting or conditioning the further sale of securities; denying, suspending or revoking the registration of broker-dealers, agents, investment advisers, and investment adviser representatives; or censuring any registrant. The commissioner may seek an injunction, writ of mandamus, the appointment of a receiver or conservator, and other equitable relief in a circuit court. The commissioner may refer cases for criminal prosecution to prosecuting attorneys and the attorney general, and the commissioner or the Enforcement section may assist in those prosecutions. The Enforcement section may coordinate with the enforcement efforts of the attorney general, prosecuting attorneys and any state or federal law enforcement agencies.

3. The Registration section reviews applications for securities registrations, notice filings for state exemptions and federal covered securities and applications for broker-dealers, agents, investment advisers and investment adviser representatives and may recommend action on any such application to the commissioner. It also makes recommendations to the commissioner for determinations of whether a specific security or certain transactions would be exempt from registration. The Registration section may also refer matters to the Enforcement section. The Registration section, upon proper request from any person, shall propose interpretive opinions for issuance by the commissioner.

(D) Business Services. The Business Services Division is composed of three (3) sections. The deputy secretary for business services is responsible for overseeing the day-to-day functions of each section, and for the direct supervision of the management staff of each section. The Business Services Division also oversees branch offices for corporate filings in St. Louis, Kansas City and Springfield.

1. The Corporations section administers the laws and filings of business entities organized under the laws of Missouri and business organizations from other jurisdictions having certificates of authority to do business in the state of Missouri. Corporations are required to file articles of incorporation and amended articles, instruments affecting mergers or consolidations and articles of dissolution and termination. Each corporation must file an annual registration report and pay annual registration fees to remain in good standing. This section processes dissolutions, terminations, and forfeitures. The section also administers all registration of fictitious names and provides certified copies of documents relating to the organization of business entities. In addition to these basic functions, this section handles daily communications from attorneys and individuals requesting information contained in the respective entity files. Another service of this section is to furnish and regulate the availability of entity names so that those names are protected and distinguishable from one another.

A. The public may obtain information from this section in person in Room 322 of the James C. Kirkpatrick State Information Center, 600 West Main Street, Jefferson City, Missouri, or by fax at (573) 751-5841; or Room 225, Wainwright State Office Building, St. Louis, Missouri, or by fax at (314) 340-7500; or Room 513, Kansas City State Office Building, Kansas City, Missouri, or by fax at (816) 889-2879; or the Landers State Office Building, Springfield, Missouri, or by fax at (417) 895-6537, or through the Internet at SOSMain@sos.mo.gov.

B. The public may also obtain information from this section by written request to PO Box 778, Jefferson City, MO 65102.

C. Telephone inquiries may be directed as follows: corporate and fictitious name information, (573) 751-4153; new corporation filings, (573) 751-2359 or (573) 751-4544; amendments, (573) 751-4609; mergers and rescissions, (573) 751-4178; certified copies, (573) 751-4100; dissolutions, liquidations and withdrawals, (573) 751-3230; corporate forms, (573) 751-3827; cashier, (573) 751-2793; annual registration forms, (573) 751-2300; and registration of fictitious names, name availability and name reservation, (573) 751-3317; or, through the Internet at SOSMain@sos.mo.gov, by fax at (573) 751-5841.

2. The Uniform Commercial Code (UCC) section has the duty of perfecting liens or security interests for many loans in Missouri. These loans are perfected by the filing of a financing statement which when filed shows the date, hour and file number.

A. The public may obtain information from this section in person in Room 322, James C. Kirkpatrick State Information Center, Jefferson City, Missouri.

B. The public may also obtain information from this section by written request to PO Box 1159, Jefferson City, MO 65102.

C. Telephone inquiries may be directed to (573) 751-4179, or, through the Internet at SOSMain@sos.mo.gov, or by fax at (573) 522-2057.

3. The Commissions section performs the constitutional duties of the secretary of state relating to affixing the Great Seal of the State of Missouri and authenticating all official acts of the governor, except the approval of laws. The section maintains a record of the governor's proclamations, executive orders, commissions and appointments, extraditions, domestic requisitions, commutations and restorations of citizenship and also prepares certificates of appointments and commissions. Commissions staff of the secretary of state's office sign and seal requests for extradition, domestic requisitions, commutations and restoration of citizenship. Commissions also receives, reviews and maintains all notary public applications, oaths, bonds and commissions. This section processes trademark and service mark registrations, furnishes certificates of registration and maintains a register of the marks. Service of process is received, processed and forwarded from this section.

A. Information may be obtained from the section by written request to PO Box 784, Jefferson City, MO 65102, by telephone at (573) 751-2783, by fax at (573) 751-8199, or through the Internet at SOSMain@sos.mo.gov, in person in Room 367, James C. Kirkpatrick State Information Center, Jefferson City, Missouri.

(E) Elections. The Elections Division administers all statewide elections for both candidates and issues. The division administers the filing of candidates for governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, United States senators and congressmen, Missouri state senators and representatives and certain judicial candidates. The division also prepares ballots, certifies lists of candidates for primary elections to the county clerks and election boards, certifies nominees following the primary election, prepares ballots for the general election, canvasses returns, and publishes returns. Also initiative and referendum petitions and petitions to place new political parties on the ballot are filed with the secretary of state. The division and the secretary determine if the petitions have a sufficient number of qualified signatures to be placed on the ballot. Before the convening of each general assembly the division prepares a list of the duly elected members for the secretary of state to present to the speaker of the house and the secretary of the senate. The division accepts and maintains a file of annual reports from county clerks on fees and salaries of elected county officials, coordinates the implementation of the National Voter Registration Act in Missouri, and administers the centralized voter registration database. The operations of this division are supervised by two (2) co-directors, one (1) republican and one (1) democrat. Information may be obtained from this division in person in Room 337, James C. Kirkpatrick State Information Center, by written request to PO Box

1767, Jefferson City, MO 65102, through the Internet at Elections@sos.mo.gov, by fax at (573) 526-3242 or by telephone at (573) 751-2301.

(F) Administrative Services. The Administrative Services Division is responsible for certain statutory and public service requirements of the secretary of state's office.

1. The Budget Office section supports the secretary of state's office in matters involving budgets and funding for expense and equipment and personal service appropriations.

2. The Fiscal Office processes payments to vendors, and administers the requirements of contracts for purchase and lease of equipment established by the office.

3. The Human Resources Office supports the following functions: staff payroll processing, employee benefits, training, performance evaluation and personnel recruitment.

4. Information may be obtained from the division by written request to PO Box 1767, Jefferson City, MO 65102, by telephone at (573) 751-3246, through the Internet at SOSMain@sos.mo.gov, by fax at (573) 522-6289 or in person in Room 337, James C. Kirkpatrick State Information Center.

(G) Administrative Rules. The Administrative Rules Division is the central filing office for the administrative rules of all state agencies. Chapter 536, RSMo, mandates that this division of the Office of Secretary of State publish the *Missouri Register*, which contains the text of all new proposed rules, amendments and rescissions. This publication is currently published twice-monthly. Once finalized and adopted, the rule becomes part of the permanent volumes of the *Code of State Regulations*, which is a compilation of the final rules and consists of printed loose-leaf volumes containing all of the Titles and Divisions of all state agencies. The updates to the *Code of State Regulations* are published once a month. Additionally, section 536.023, RSMo requires the Administrative Rules Division to set forth in writing the policies and procedures for the uniform standards for preparing and filing rules. The Administrative Rules Division publishes a guide to administrative rulemaking, commonly known as *Rulemaking 1-2-3, Missouri Style*.

1. Information may be obtained from the division by written request to PO Box 1767, Jefferson City, MO 65102, or by telephone at (573) 751-4015, through the Internet at rules@sos.mo.gov, by fax at (573) 751-3032, or in person in Room 337, James C. Kirkpatrick State Information Center, 600 West Main Street, Jefferson City, Missouri.

2. All rules filed are open to public inspection during normal business hours. Copying service and certified copies of rules are available for a fee as set forth in the statutes.

3. The *Code of State Regulations* and the *Missouri Register* are also posted, free of charge, on the Internet at <http://www.sos.mo.gov/moreg/moreg.asp> (*Missouri Register*) or <http://www.sos.mo.gov/csr/csr.asp> (*Code of State Regulations*), and the uniform standards and procedures for rulemaking, *Rulemaking 1-2-3, Missouri Style* at: <http://www.sos.mo.gov/adrules/manual/manual.asp>.

(H) The Publications section publishes the *Constitution of Missouri*, the *Official Manual State of Missouri* and *Missouri Election Laws*. It also publishes and distributes official returns of primary and general elections; a roster of state, district and county officers; a roster of democratic and republican party candidates and committee members; corporation laws, securities laws, *Uniform Commercial Code Manual*; and laws relating to notaries public and other bulletins. The section prepares materials for publication and awards printing and binding contracts on a competitive basis. All publications are available for distribution to the general public on request.

1. Requests for publications may be made by written request to Room 112, James C. Kirkpatrick State Information Center, 600 West Main Street, Jefferson City, MO 65101, by telephone request to Publications section at (573) 526-4218, through the Internet at SOSMain@sos.mo.gov, or by fax at (573) 526-2970.

2. Publications generally are available free of charge, or in some cases, for the cost of printing and mailing.

(I) The Information Technology section provides computer hardware, software, and network support, new system development, web development, and technology planning, implementation, support and maintenance for computer and information systems throughout the Office of Secretary of State. Information may be obtained from this section in person in Room 262, James C. Kirkpatrick State Information Center, by written request or through the Internet at SOSMain@sos.mo.gov, by fax at (573) 751-3612 by telephone at (573) 751-3005.

(J) Mailroom and Office Support section: This unit is responsible for opening and distributing mail, shipping and receiving for the entire office, messenger service, keeping office supplies, and vehicle maintenance and reservations. Information may be obtained from this unit in person in Room 281, James C. Kirkpatrick State Information Center, by written request to PO Box 778, Jefferson City, MO 65102 or through the Internet at SOSMain@sos.mo.gov, by fax at (573) 522-1945.

(2) All divisions and sections of the Office of the Secretary of State make every effort to insure program accessibility to those with disabilities. The secretary of state's Americans with Disabilities Act (ADA) Self Evaluation and Transition Plan is available for inspection in the Administrative Services Division. All divisions and sections are accessible by telephone to those with speech or hearing impairments by contacting Missouri Relay at (800) 735-2466 and using the telephone numbers listed above. In addition, the Wolfner Library for the Blind and Physically Handicapped is equipped with either TTD or TTY equipment and may be contacted at (800) 347-1379.

AUTHORITY: section 536.023.3, RSMo 2000. Original rule filed Dec. 5, 1975, effective Dec. 31, 1975. Amended: Filed July 15, 1985, effective Dec. 26, 1985. Amended: Filed Nov. 15, 1989, effective March 11, 1990. Amended: Filed Feb. 16, 1995, effective Sept. 30, 1995. Rescinded and readopted: Filed Oct. 28, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, Administrative Rules Division, Lynne C. Angle, Director, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 45—Records Management**

PROPOSED RESCISSION

15 CSR 30-45.040 Missouri Historical Records Advisory Board (MHRAB) Regrant Program Administration. This rule outlined the management plan of the grants-in-aid program for historical records preservation.

PURPOSE: The rule is being rescinded to comply with new Missouri Historical Records Advisory Board Regrant Program Guidelines.

AUTHORITY: sections 109.221.3 and 109.221.5, RSMo Supp. 1999. Original rule filed Oct. 6, 2000, effective April 30, 2001. Rescinded: Filed Oct. 6, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of the Secretary of State, Missouri State Archives Division, Kenneth H. Winn, State Archivist, PO Box 1747, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 45—Records Management**

PROPOSED RULE

15 CSR 30-45.040 Missouri Historical Records Advisory Board (MHRAB) Regrant Program Administration

PURPOSE: This rule outlines the authority of the grants-in-aid program for historical records preservation through the Office of the Secretary of State.

(1) The Missouri Historical Records Grant Program, administered by the Office of the Secretary of State, on behalf of the Missouri Historical Records Advisory Board, provides financial assistance to historical records repositories to support cooperative strategies, education for records keepers, and preservation and expanded access to records. This grants-in-aid program is a significant effort in the overall mission of the agency to enhance the quality of archival preservation and public access to records of historical value.

(A) Eligible applicants include historical, ethnic and religious societies, museums, libraries, colleges, universities, and others whose archival collections or records of historical value are open to the public on equal terms for everyone.

(B) Local government entities are ineligible as the Local Records Preservation Program (initiated in 1991) offers direct help for records preservation and management to all jurisdictions supported by tax levies.

(C) Procedures and Evaluation of Applications.

1. The Missouri Historical Records Advisory Board (MHRAB) recommends grant:

A. Activities, requirements and objectives;

B. Cost-sharing contributions, budget structure, payment benchmarks and accounting guidelines;

C. Calendars.

2. The MHRAB reviews and evaluates applications, and makes awards in the program.

3. The process to be followed in writing and submitting a grant proposal is found in the *Missouri Historical Records Grant Program Guidelines and Application 2003-2004* available on the secretary of state website: www.sos.mo.gov. Paper copies are available from the Missouri Historical Records Grant Program, PO Box 1747, Jefferson City, MO 65102, (573) 751-4303.

AUTHORITY: sections 109.221.3 and 109.221.5, RSMo 2000. Original rule filed Oct. 6, 2000, effective April 30, 2001. Rescinded and readopted: Filed Oct. 6, 2003.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions ninety-four thousand, five hundred ninety-five dollars, and seventy cents (\$94,595.70) in the aggregate.

PRIVATE COST: This proposed rule will cost the Missouri State Documents Preservation Fund twenty-five thousand dollars (\$25,000) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, Missouri State Archives Division, Kenneth H. Winn, State Archivist, PO Box 1747, Jefferson City MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE

PUBLIC COST

I. Rule Number

Title: 15 ELECTED OFFICIALS
Division: 30 – Secretary of State
Chapter: 45 – Records Management

Type of Rulemaking: PROPOSED RULE

Rule Number and Name: 15 CSR 30-45.040 Missouri Historical Records Advisory Board Regrant Program

II. Summary of Fiscal Impact

Affected Agency or Political Subdivision: Missouri State Archives, a division of the Office of the Secretary of State

Estimated Cost of Compliance in the Aggregate: \$94,595.70 for the life of the rule, April 1, 2004 through June 30, 2005.

III. Worksheet

| | |
|--------------------|-----------|
| Salaries and Wages | \$28,113 |
| Fringe Benefits | 9,558 |
| Travel | 1,740 |
| Regrant Funds | 55,184.70 |

IV. Assumptions

During the 2002-2003 legislative session, the Missouri General Assembly re-appropriated \$55,184.70 state funds remaining from an appropriation of \$300,000 (1999-2000) for support of the Missouri Historical Records Advisory Board Regrant Program. Also during the 2002-2003 session, the General Assembly re-appropriated use of \$52,422.65 federal funds (granted by the National Historical Publications and Records Commission, the grant-awarding arm of the National Archives and Records Administration) remaining from the federal matching grant of \$300,000 originally approved during 1999-2000.

The remaining \$39,411 is a redirection of previously appropriated operating funds and cost shared contributions.

Additional support for this program came in 2002-2003 with the General Assembly's approval to receive and expend \$55,332 federal grant funds from the National Historical Publications and Records Commission.

A state agency's cost to develop and submit an application to the program should not exceed \$100. The Missouri Historical Records Advisory Board does not expect to receive a significant number of state agency applications, as most often state agencies seek in excess of \$20,000, the maximum award in this program. At increased levels of assistance, agencies would most likely pursue federal award programs.

FISCAL NOTE**PRIVATE COST****I. Rule Number**

Title: 15 -- ELECTED OFFICIALS
Division: 30 -- Secretary of State
Chapter: 45 -- Records Management

Type of Rulemaking: PROPOSED RULE

Rule Number and Name: 15 CSR 30-45.040 Missouri Historical Records
Advisory Board Regrant Program

II. Summary of Fiscal Impact

Affected Entity: Missouri State Documents Preservation Fund

Estimated Cost of Compliance in the Aggregate: \$25,000 for the life of the rule, April 1, 2004 through June 30, 2005.

III. Worksheet

Regrant Funds \$25,000

IV. Assumptions

During the 2002-2003 legislative session, the Missouri General Assembly appropriated expenditure of \$25,000 from the State Documents Preservation Fund to support the Missouri Historical Records Advisory Board Regrant Program. These private funds were matched (two-to-one) with a \$55,332 grant award from the National Historical Publications and Records Commission, a division of the National Archives and Records Administration (\$50,000 regrant funds plus \$5,332 in administrative support funds for the Missouri Historical Records Advisory Board).

The cost to a community history organization to develop and submit an application to the program should not exceed \$100.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities

PROPOSED RULE

15 CSR 30-54.175 Solicitation of Interest

PURPOSE: This rule prescribes the procedures and the record that needs to be provided to offerees to comply with section 409.2-202(17) of the Missouri Securities Act of 2003.

(1) Scope of the Exemption. The solicitation of interest exemption under section 409.2-202(17) of the Missouri Securities Act of 2003 (the Act) is only available to issuers that are eligible and relying on an exemption under the Securities Act of 1933.

(2) Form and Content. The record to offerees shall consist of a preliminary offering document that meets the following requirements:

(A) The outside front cover page shall comply with subsection 230.255(a)(1) of regulation A under the Securities Act of 1933 or shall state—

A registration statement pursuant to the Missouri Securities Act of 2003 relating to these securities has been filed with the Missouri Securities Division. This Preliminary Offering Document is being distributed pursuant to the exemption under section 409.2-202(17) of the Missouri Securities Act of 2003.

Information contained in this Preliminary Offering Document is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time an offering document which is not designated as a Preliminary Offering Document is delivered and the offering statement filed with the Division becomes qualified. This Preliminary Offering Document shall not constitute an offer to sell or the solicitation of an offer to buy. Under no circumstances shall the issuer collect any funds for the securities while relying upon the exemption under section 409.2-202(17) of the Missouri Securities Act of 2003.

and

(B) The preliminary offering document shall contain substantially the information required in an offering circular under the form 1-A or form U-7.

(3) Filing. The issuer shall file the preliminary offering document and all related documents with the Securities Division as part of the registration statement prior to making any solicitations of interest under the exemption of section 409.2-202(17).

(4) No funds can be collected by the issuer for the securities while relying upon the exemption under section 409.2-202(17).

AUTHORITY: sections 409.2-202(17), 409.6-605 and 409.6-608, RSMo Supp. 2003. Emergency rule filed Oct. 10, 2003, effective Nov. 3, 2003, expires April 30, 2004. Original rule filed Oct. 10, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after

publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities

PROPOSED RESCISSION

15 CSR 30-54.230 Exemption for Certain Unit Investment Trust Units. This rule prescribed the circumstances under which certain transactions in unit investment trust were exempt from section 409.301, RSMo.

PURPOSE: The commissioner of securities is proposing to rescind this rule for the transactions exempted under this rule involve federal covered securities.

AUTHORITY: sections 409.402(c) and RSMo 1986. Original rule filed Oct. 16, 1986, effective Feb. 12, 1987. Rescinded: Filed Oct. 10, 2003.

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

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

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

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities

PROPOSED RESCISSION

15 CSR 30-54.240 Missouri Issuer Exemption. This rule exempted certain transactions in securities from section 409.301, RSMo.

PURPOSE: The commissioner of securities is proposing to rescind this rule for the transactions exempted under this rule are available under other exemptions or designated as federal covered securities and the exemption is no longer used by issuers.

AUTHORITY: sections 409.402(c) and 409.413(a), RSMo 1986. Original rule filed June 2, 1986, effective Oct. 27, 1986. Amended: Filed Oct. 15, 1987, effective Jan. 29, 1988. Amended: Filed March 27, 1989, effective June 12, 1989. Amended: Filed Jan. 3, 1990, effective March 11, 1990. Rescinded: Filed Oct. 10, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of

Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities

PROPOSED RESCISSION

15 CSR 30-54.280 Tax Credit Exemption. This rule facilitated the issuance of tax credits pursuant to section 135.400, RSMo.

PURPOSE: The commissioner of securities is proposing to rescind this rule for there has not been funding for the issuance of tax credits under this section for many years. In addition, if funding were to become available under this section, the commissioner will adopt a new rule that complies with the Missouri Securities Act of 2003 that became effective September 1, 2003.

AUTHORITY: section 409.413(a), RSMo 1986. Emergency rule filed Dec. 21, 1992, effective Dec. 31, 1992, expired April 29, 1993. Emergency rule filed April 14, 1993, effective April 30, 1993, expired Aug. 27, 1993. Original rule filed Feb. 5, 1993, effective July 8, 1993. Rescinded: Filed Oct. 10, 2003.

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

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

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Health Standards and Licensure
Chapter 82—General Licensure Requirements

PROPOSED AMENDMENT

19 CSR 30-82.060 Hiring Restrictions—Good Cause Waiver. The department proposes to amend sections (1)–(16), add new sections (5), (15) and (18), renumber sections accordingly and remove the forms that follow the rule in Code.

PURPOSE: This amendment sets forth the amended procedures for an employee or prospective employee of an in-home services provider agency or home health agency to request a waiver of the hiring restrictions imposed by section 660.317.7, RSMo, as included in Senate Bill No. 4 passed by the Second Extraordinary Session of the 92nd General Assembly. These amended procedures supplement the existing procedures to request a waiver of the hiring restrictions set forth in section 660.317.6, RSMo.

(1) Definitions.

(A) Applicant means a person who has been or would be rejected for employment by a provider due to the hiring restrictions found in section 660.317, RSMo [Supp. 1998].

(B) Department means the Department of Health and Senior Services.

[[B]] (C) Determination means the decision issued by the director of the [division] Department of Health and Senior Services or the director's designee based on the factual, procedural or causal issues of the request for waiver.

[[C]] (D) Director means the director of the [Division of Aging] Department of Health and Senior Services.

[[D]] Division means the Division of Aging of the Missouri Department of Social Services.]

(E) Good cause waiver means a finding that it is reasonable to believe that the restrictions imposed by section 660.317, RSMo [Supp. 1998], on the employment of an applicant may be waived after an examination of the applicant's prior work history and other relevant factors is conducted and demonstrates that such applicant does not present a risk to the health or safety of residents, patients or clients if employed by a provider.

(F) Provider means any person, corporation or association who—

1. Is licensed as an operator pursuant to Chapter 198, RSMo;
2. Provides in-home services under contract with the Department of [Social] Health and Senior Services;
3. Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;
4. Is an entity licensed pursuant to Chapter 197, RSMo; [or]
5. Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the Department of Mental Health[.]; or
6. Is a licensed adult day care provider.

(2) Any person who is not eligible for employment by a provider due to the hiring restrictions found in section 660.317, RSMo [Supp. 1998], may apply to the [division] director for a good cause waiver. If the [division] director, or the director's designee, determines that the applicant has demonstrated good cause, such restrictions prohibiting such persons from being hired by a provider shall be waived and such persons may be so employed unless rejected for employment on other grounds. Hiring restrictions based on the Department of Health and Senior Services' employee disqualification list established pursuant to section 660.315, RSMo, are not subject to a waiver.

(3) The [division] director, or the director's designee, shall accept an application for a good cause waiver only if the application—

(A) Is submitted in writing by the applicant on the form provided by the [division] department;

(C) Is signed by the applicant [under oath or affirmation];

(D) Includes an indication of the type of waiver that is being requested;

(E) Includes a complete history of residency since the earliest disqualifying offense or incident;

(F) Includes a complete employment history since the age of eighteen (18) years;

[[D]] (G) Includes an attached explanation written by the applicant as to why the applicant believes he or she no longer poses a risk to the health, safety or welfare of residents, patients or clients;

(H) Includes an attached description written by the applicant of the events that resulted in each disqualifying offense or incident;

[[E]] (I) Includes attached documentation on the applicant's professional, vocational or occupational licensure, certification or registration history and current status, if any, in this state and any other state; [and]

[[F]] (J) Includes at least one (1) reference letter from a sponsor. If the applicant is not able to obtain a sponsor, the applicant shall so state, shall identify those potential sponsors who have been approached by the applicant, and shall submit three (3) reference letters from individuals knowledgeable of the applicant's character or work history who are not related to or residing with the applicant[.];

(K) Includes a criminal history record from the Missouri State Highway Patrol if requesting a waiver of disqualifying criminal offenses;

(L) Includes a certified court document for each disqualifying criminal offense. If such document is not obtainable, a written and signed statement from the court indicating that no such record exists must be submitted;

(M) Includes certified investigative reports from the Department of Social Services if requesting a waiver of child abuse or neglect findings or a waiver of foster parent license denial, revocation, or involuntary suspension;

(N) Includes certified investigative reports or other documentation of the incident(s) which resulted in the applicant's inclusion on all other lists in the Family Care Safety Registry for which waiver is requested; and

(O) If in addition to the criminal offense(s) for which the applicant is requesting a waiver the applicant has any pending felony or misdemeanor charges, includes a statement explaining the circumstances and certified copies of the charging documents for all pending criminal charges; and, in the case of an applicant seeking a position with an in-home services provider agency or home health agency, if in addition to the circumstances related to the listing on any of the background checklists of the Family Care Safety Registry for which the applicant is requesting a waiver the applicant has any pending circumstances which if established would lead to an additional listing on any of the background check lists of the Family Care Safety Registry, includes a statement explaining the circumstances and certified copies of documents relating to those circumstances.

(4) The *[division]* director, or the director's designee, will not consider any application for a good cause waiver unless it is fully completed, *[properly attested to or affirmed]* signed by the applicant, and contains all required attachments.

(5) Each completed application will be reviewed by a good cause waiver committee of two (2) or more employees of the department. The director shall determine the size of the committee and shall, from time to time, appoint members to serve on the committee.

(A) If the applicant seeks a good cause waiver of placement on the disqualification list maintained by the Department of Mental Health, the director shall appoint an employee of the Department of Mental Health recommended by the director of the Department of Mental Health to serve on the good cause waiver committee.

(B) A member of the good cause waiver committee shall recuse himself or herself in a good cause waiver review in which the member's impartiality might reasonably be questioned, including but not limited to instances where the committee member has a personal bias or prejudice concerning the applicant, or personal knowledge of evidentiary facts concerning the application for good cause waiver.

[(5)] (6) The *[division]* department may, at any time during the application process or review thereof, request additional information from the applicant. If the applicant fails to supply any requested additional information within thirty (30) calendar days of the date of the request, unless the applicant requests and the *[division]* department grants an extension, the *[division]* department will consider the application for good cause waiver to be withdrawn by the applicant.

[(6)] (7) The *[division]* shall review each completed application and department may request the applicant, prior to the completion of the review, to appear in person to answer questions about his or her application. If the applicant is requested to appear in person, the department, in its sole discretion, shall determine the loca-

tion for the appearance and may conduct any such proceedings using electronic means, including but not limited to telephonic or video conferencing. The *[division]* department shall review and may investigate the information contained in each application for completeness, accuracy and truthfulness. The burden of proof shall be upon the applicant to demonstrate that he or she no longer poses a risk to the health, safety or welfare of residents, patients or clients. The following factors shall be considered in determining whether a good cause waiver should be granted:

(A) The applicant's age at the time the crime was committed or at the time the incident occurred that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry;

(B) The circumstances surrounding the crime or surrounding the incident that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry;

(C) The length of time since the conviction or since the occurrence of the incident that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry;

(D) The length of time since the applicant completed his or her sentence for the disqualifying conviction(s), whether or not the applicant was confined, conditionally released, on parole or probation;

(E) The applicant's entire criminal history and entire history of all incidents that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry, including whether *[it]* that history shows a repetitive pattern of offenses or incidents;

(F) The applicant's prior work history;

(G) Whether the applicant had been employed in good standing by a provider but subsequently became ineligible for employment due to the hiring restrictions in section 660.317, RSMo *[Supp. 1998]*;

(H) Whether the applicant has been convicted or found guilty of, or pled guilty or *nolo contendere* to any offense displaying extreme brutality or disregard for human welfare or safety;

(I) Whether the applicant has omitted a material fact or misrepresented a material fact pertaining to his or her criminal or employment history or to his or her history of incidents that resulted in his or her being listed on the background checklists in the Family Care Safety Registry;

(J) Whether the applicant has ever been listed on the Employee Disqualification List maintained by the *[division]* department as provided in section 660.315, RSMo *[1994]*;

(K) Whether the applicant's criminal offenses were committed, or the incidents that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry occurred, during the time he or she was acting as a provider or as an employee for a provider;

(L) Whether the applicant has, while disqualified from employment by a provider, obtained employment by fraud, deceit, deception or misrepresentation, including misrepresentation of his or her identity;

(M) Whether the applicant has ever had a professional or occupational license, certification, or registration revoked, suspended, or otherwise disciplined;

[(M)] (N) Any other information relevant to the applicant's employment background or past actions indicating whether he or she would pose a risk to the health, safety or welfare of residents, patients or clients; and

[(N)] (O) Whether the applicant has supplied all information requested by the *[division]* department.

[(7)] (8) If, at the time of an application for a waiver, or during the waiver consideration process, the applicant has been charged or indicted for, but not convicted of, any of the crimes covered under the provisions of section 660.317, RSMo, the *[division]* department will hold the request for waiver in abeyance while such charges

are pending or until a court of competent jurisdiction enters a judgment or order disposing of the matter.

[[8]] (9) Each applicant who submits a waiver application meeting the requirements of section (3) of this rule shall be notified in writing by the director, [of the division] or the director's designee, as to whether his or her application has resulted in a determination of good cause or no good cause. Such notification shall be effective if sent to the applicant's address given on the application.

[[9]] (10) Any good cause waiver granted to an applicant applies only to:

(A) [t]The specific disqualifying conviction(s), finding(s) of guilt, plea(s) of guilty or *nolo contendere*, as contained in the certifying copies of the court documents which are required in the [A]application [for a Good Cause Waiver (MO Form 886-3654).]; and/or

(B) **The incident(s) that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry, as contained in the investigative reports or other supporting documentation required in the application or subsequently requested by the department.**

[[10]] (11) Any good cause waiver granted to an applicant applies only to those disqualifying criminal convictions or incidents that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry, as covered under the provisions of section 660.317, RSMo [Supp. 1998], and shall not apply to any other hiring restriction or exclusion imposed by any other federal or state laws or regulations.

[[11]] (12) The [division] director, or the director's designee, may withdraw a good cause waiver if it receives information or finds that—

(A) The applicant has omitted a material fact or misrepresented a material fact in seeking a good cause waiver;

(B) The applicant has been subsequently convicted or found guilty of, or pled guilty or *nolo contendere* to any class A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or section 568.020, RSMo, in this state or any other state;

(C) **Such applicant is a prospective or current employee of an in-home services provider or home health agency and has been subsequently involved in an incident that results in the applicant being listed on any of the background checklists in the Family Care Safety Registry;**

[[C]] (D) The applicant has omitted, misrepresented or failed to disclose or provide any of the information required by section 660.317, RSMo [Supp. 1998], or the provisions of this rule; or

[[D]] (E) There has been a material change in the circumstances upon which the good cause waiver was granted.

[[12]] (13) If the good cause waiver is withdrawn by the [division] department, the notice of such withdrawal shall be mailed by the [division] department to the applicant's last known address, with a copy of the notice sent to the applicant's last known employer, if any.

[[13]] (14) No applicant may be employed in a direct care or direct service position with a provider during the pendency of a request for waiver unless the applicant has been continuously employed by that provider prior to August 28, [1997] 2003. **If an applicant is employed on or after August 28, 2003, he or she may be employed following submission of a completed waiver application on a conditional basis to provide in-home services or home health services to any in-home services client or home health patient during the pendency of that waiver application if:**

(A) **The disqualifying crime is not one that would preclude employment pursuant to subsection 6 of section 660.317, RSMo; and**

(B) The applicant is not listed on the Department of Health and Senior Services' employee disqualification list established pursuant to section 660.315, RSMo.

(15) If a waiver is denied to an applicant employed on or after August 28, 2003, on a conditional basis, the conditional employment shall immediately terminate.

[[14]] (16) Applicants who have been denied a good cause waiver, or who have had their good cause waivers withdrawn by the [division] department, may reapply one (1) time every twelve (12) months, or whenever the circumstances related to the disqualifying conviction(s) have changed.

[[15]] (17) Each provider shall be responsible for—

(A) Requesting criminal background checks on all [employment applicants] prospective employees, regardless of waiver status, in accordance with the provisions of sections 660.317 and 43.540, RSMo [Supp. 1998]; and

(B) Contacting the [division] department to confirm the validity of a[n applicant's] prospective employee's good cause waiver prior to hiring the [applicant] prospective employee if the prospective employee reveals the existence of a good cause waiver or reveals the existence of an otherwise disqualifying circumstance.

(18) Each in-home services provider or home health provider shall also be responsible for—

(A) **Requesting Family Care Safety Registry background screenings on all prospective employees, regardless of waiver status, in accordance with the provisions of section 660.317.7, RSMo; and**

(B) **Contacting the department to confirm the validity of a prospective employee's good cause waiver prior to hiring the prospective employee if the prospective employee reveals the existence of a good cause waiver or reveals the existence of an otherwise disqualifying circumstance.**

[[16]] (19) All applications for good cause waivers and related documents shall become permanent records maintained by the [division] department.

AUTHORITY: sections 660.017, RSMo 2000, 660.050, and 660.317, RSMo Supp. [1998] 2003. This rule was originally filed as 13 CSR 15-10.060. Emergency rule filed March 1, 1999, effective March 30, 1999, expired Jan. 10, 2000. Original rule filed March 1, 1999, effective Sept. 30, 1999. Moved to 19 CSR 30-82.060, effective Aug. 28, 2001. Emergency amendment filed Oct. 15, 2003, effective Oct. 26, 2003, expires April 22, 2004. Amended: Filed Oct. 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 cost private entities an estimated forty thousand dollars (\$40,000) during the first year of implementation and an estimated one thousand three hundred sixty dollars (\$1,360) annually for the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Health and Senior Services, Division of Senior Services and Regulation, David S. Durbin, Director, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 19 – Department of Health and Senior Services

Division: 30 -- Division of Health Standards and Licensure

Chapter: 82 -- General Licensure Requirements

Type of Rule Making: Proposed Amendment

Rule Number and Name: 19 CSR 30-82.060 - Hiring Restrictions – Good Cause Waiver

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 type 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. |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 500 | In-home services providers and home health agencies | \$40,000/first year \$1,360 annually thereafter |
| | | |
| | | |

III. WORKSHEET

First year: 500 additional good cause waiver requests filed X \$80 per waiver request = \$40,000 cost for first year

Annually thereafter: 17 additional good cause waiver requests filed X \$80 per waiver request = \$1,360 cost annually thereafter

IV. ASSUMPTIONS

Based on information obtained from the in-home services and home health industries, we estimate that during the first year of implementation of the amended rule, approximately 500 good cause waiver requests would be submitted due to the new requirements. The vast majority of these would be for existing employees requesting waivers of inclusion on listings in the Family Care Safety Registry.

The Good Cause Waiver program has received 77 requests for waiver since the program began on March 30, 1999 (approximately 4 ½ years ago). This is an average of 17 requests a year. The assumption is made that implementation of this rule amendment would increase the average number of waiver requests submitted each year by 100 percent, or 17 additional requests a year.

The \$80 estimated cost per waiver request is based on information from the in-home services and home health industries. They estimate that an in-home services provider or home health agency provider will spend approximately two (2) hours on each good cause waiver request and will have other expenses associated with each application, such as obtaining court and Department of Social Services documents.