Volume 29, Number 5
Pages 365–454
March 1, 2004

Matt Blunt

Secretary of State

MISSOURI REGISTER

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

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ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: $56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
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MISSOURI REGISTER

March 1, 2004 Vol. 29 No. 5 **Pages 365–454**

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December 1, 2003	**January 2, 2004**	January 30, 2004	February 29, 2004
December 15, 2003	**January 15, 2004**	January 30, 2004	February 29, 2004
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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

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

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

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

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

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

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

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

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

PROPOSED RESCISSION

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Rate Schedules. This rule prescribed the form and procedures for filing and publishing schedules of rates of all telephone corporations under the jurisdiction of the Public Service Commission.

PURPOSE: This rule is being rescinded to rewrite it in its entirety.

AUTHORITY: sections 386.250 and 392.220, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Jan. 28, 2004.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission 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 April 12, 2004, and should include a reference to Commission Case No. TX-2003-0379. 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.mo.gov/efis.asp>. A public hearing regarding this proposed rescission is scheduled for April 19, 2004, at 10:00 a.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 rescission, 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 3—Filing and Reporting Requirements

PROPOSED RULE

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs

PURPOSE: This rule prescribes the form and procedures for filing tariffs for all telecommunications companies under the jurisdiction of the Missouri Public Service Commission.

(1) Unless otherwise allowed by statute, a telecommunications company as defined in section 386.020, RSMo, shall file with the Missouri Public Service Commission (commission), a tariff as defined in section (8) of this rule.

(2) Every telecommunications company shall maintain for public inspection, and make available at its principal operating office or on its website, a copy of all current tariffs.

(3) A tariff will be considered as continuing in force until amended in the manner provided for in this rule.

(4) A tariff shall bear a number with the following prefix: PSC Mo. No. ___. Tariffs shall be numbered in consecutive order, commencing with a No. 1 and continuing in numerical order.

(5) A tariff should be electronic or printed on loose-leaf paper, which shall be white, eight and one-half inches by eleven inches (8 1/2" × 11"). The commission may accept other formats for the filing of a tariff.

(6) Each sheet of the tariff shall show in the marginal space at the top of the sheet, the name of the telecommunications company, the

PSC Mo. No.__ of the tariff and the number of the sheet. All sheets of the tariff shall have a sheet number in sequential number format. If tariffs include section numbers, each section will begin with the number one and continue sequentially throughout the section.

(7) The name, title and address of the issuing officer shall appear in the marginal space at the bottom of the sheet. The marginal space at the bottom of the sheet shall also include the notation "Issued, _____ 20____; effective, _____ 20_____."

(8) Tariff(s) for all telecommunications services shall contain the following information in the order listed and shall be updated as changes occur:

(A) Company name as registered with the Missouri secretary of state and as certificated by the commission;

(B) Authority granted by the commission, including case number(s);

(C) Waivers of Missouri Statutes and Commission Rules as Granted by the Commission. Include case number(s) if other than case number(s) listed in subsection (8)(B);

(D) The address, telephone number and e-mail address, along with any other suitable means of communications, to which the general public can make requests for information on rates and services;

(E) Table of Contents—Listing of general headings specifying sheet numbers and section numbers, if applicable;

(F) An explanation of reference marks, technical abbreviations and definitions of terms commonly used in the tariff;

(G) For each service, tariffs shall provide the following—

1. The name of the service, which clearly identifies the regulated intrastate offering, as it will be advertised and offered to the customer. Any service name that references a rate will accurately reflect the applicable intrastate rate(s) for the service;

2. A detailed description of the service offered;

3. The specific rates and charges in U.S. dollars and the period of time covered by the rate or charge; and

4. Any terms and customer requirements that affect the rates or charges for the service;

(H) For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange areas served, including state name if other than Missouri. Areas served must follow exchange boundaries of the incumbent local telecommunications company and also be no smaller than an exchange, absent a ruling by the commission under 392.200(4)(2)(b), RSMo 2000.

(9) All original sheets and each subsequent sheet added to a tariff must be designated as an original sheet. All changes to tariffs must be designated "First revised sheet canceling original sheet," "Second revised sheet canceling first revised sheet," etc., and must contain reference marks denoting changes.

(10) A tariff shall be filed with the commission by a duly-designated official of the telecommunications company.

(11) Subject to commission approval, a telecommunications company may concur in the tariff filed by another telecommunications company. The sheet indicating concurrence shall contain language substantially as follows: "The company concurs in the (rules, rates, etc.) governing (name of service) as set forth in (name of company)'s tariff as filed with the Missouri Public Service Commission, including any subsequent changes to (name of company)'s tariff."

(12) Subject to *Missouri Revised Statutes* and commission rules, all telecommunications companies shall file with the commission any changes in rates, charges or rules that affect rates or charges. A proposed change shall be submitted in the form of a revised tariff accompanied by a cover letter and a copy of any customer notice sent or required to be sent as a result of the proposed change. The cover letter should be limited to approximately one hundred (100) words or less. A copy of the cover letter and any proposed change shall be filed with the commission or submitted electronically through the commission's electronic filing and information system (EFIS), shall be served on the Office of the Public Counsel, and shall be made available for public inspection and reproduction at the telecommunications company's principal operating office or on its website. The cover letter shall identify each proposed change, provide a brief summary of each proposed change, and provide the requested effective date of the revised tariff. The summary shall identify each product or service that will be affected by the proposed change and shall identify the change in the terms and conditions that the telecommunications company proposes for that product or service, including any change or adjustment in the price or fee for that product or service. For each change or adjustment in prices or fees, the summary shall identify:

(A) The current price or fee;

(B) The proposed price or fee;

(C) Whether the change or adjustment results in an increase or decrease in price; and

(D) The percentage change in price.

(13) All telecommunications companies are required to provide a clear and concise statement as to the purpose of the filing when submitting any tariff filing electronically through EFIS. This statement is in addition to the cover letter and shall be entered on the appropriate EFIS tariff submission screen.

(14) All telecommunications companies are required to submit revisions to each PSC Mo No. as a separate filing to be assigned a separate tracking number in EFIS.

(15) All telecommunications companies are required to submit to the commission with the tariff filing, a copy of the notification of rate increases sent to customers pursuant to 4 CSR 240-33.040(3) and a positive affirmation in writing that the notice was sent to customers at least ten (10) days in advance of the rate's effective date.

(16) Missouri statute 392.500 provides that the commission shall be notified at least ten (10) days in advance of proposed rate increases to competitive telecommunications services and that the commission shall be notified at least seven (7) days in advance of proposed decreases to competitive telecommunications services. The seven (7) or ten (10)-day tariff filings for rate decreases and increases are for changes to existing rates only. No other additional tariff changes, except as directed by commission order or as allowed under section (19) below, are permitted on seven (7) or ten (10) days notice. For example, changes to the terms and conditions of existing services, the introduction of new services, or the elimination of existing services still require a thirty (30)-day tariff filing.

(17) When a telecommunications company files a revised tariff or sheet(s) pursuant to a commission order the cover letter shall state that the filing is in compliance with the commission's order in Case No. ___ and shall indicate the location of the changes in the PSC Mo. No.___.

(18) Except as otherwise provided in this rule, no tariff will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage and allows the full thirty (30) days required by law from date of receipt until effective date requested in the cover letter.

(19) Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. Promotions are allowed to go into effect after seven (7) days prior notice to the commission for competitive companies and after ten (10) days prior notice to the commission for noncompetitive companies (i.e., incum-

bent local exchange carriers). Promotions must be offered under tariff, and prior notification to the commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a nondiscriminatory manner.

(20) In the case of a change of name, the telecommunications company shall issue immediately and file with the commission an adoption notice substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date) or the telecommunications company shall file a new tariff under the new name." Specific requirements for filings regarding telecommunications company name changes are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060. In addition to filing the items in 4 CSR 240-2.060, applicant must notify its customers at or before the next billing cycle of a name change and file a copy of that notice with the adoption notice.

(21) Tariffs sent for filing should be addressed to Secretary, Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102.

(22) All telecommunications companies shall provide and update the Manager of the Telecommunications Department of the Commission with the current name, address, telephone number and e-mail address, along with any other suitable means of communications, for the regulatory contact person within the telecommunications company.

(23) Waivers regarding compliance with the requirements of this rule granted under previously used rule numbers such as 4 CSR 240-30.010(2)(C) will continue in effect unless otherwise ordered by the commission.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded and readopted: Filed Jan. 28, 2004.

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 is estimated to cost private entities approximately sixty-five thousand nine hundred dollars ($65,900) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule and may vary with inflation. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule 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 April 12, 2004, and should include a reference to Commission Case No. TX-2003-0379. 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.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for April 19, 2004, at 10:00 a.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 rule, 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.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Missouri Department of Economic Development
Division: Missouri Public Service Commission
Chapter: Filing and Reporting Requirements
Type of Rulemaking: New Rule
Rule Number and Name: 4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs.

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:
4	Class A Local Telephone Companies	$4,600
37	Class B Local Telephone Companies	$1,000
80	Class C Local Telephone Companies	$34,000
500+	Class Interexchange Companies	$26,300
	All entities	$65,900

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

III. WORKSHEET

1. The proposed rule applies to all classes of telecommunications companies certificated by the Missouri Public Service Commission.

2. The estimated number of entities affected by the proposed rule reflects the total number of companies certificated within Missouri that may submit tariff revisions.

3. The estimate in the aggregate assumes a 20 % annual increase in the number of tariff filings submitted in the Missouri Public Service Commission's Electronic Filing and Information System during fiscal year 2003.

4. For the most part, the proposed rule updates the current rule's processes, terminology and technology. A new requirement was added to provide current regulatory contact information for the companies. The fiscal impact is expected to be minimal because the requirement can be accomplished via e-mail, letter, telephone call, etc.

5. The items to be included in an accompanying cover letter were also modified. The estimate is based on feedback from those entities that submit approximately one-third of the total tariff filings received each year and are expected to continue to submit tariffs in the future. The estimates reflect additional costs those entities expect to incur to complete the additional cover letter requirements.

6. The estimates were compiled and averaged by the Missouri Public Service Commission Staff to determine the annual impact for all entities in a classification. The Staff then extrapolated the estimated increase over the total number of tariff filings received in a year from each classification.

IV. ASSUMPTIONS

1. Fiscal year 2003 dollars were used to estimate costs. No adjustment for inflation is applied.

2. Estimates assume no sudden change in technology that would influence costs.

3. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

PROPOSED AMENDMENT

4 CSR 240-3.555 Telecommunications Company Residential Customer Inquiries. The Public Service Commission is amending this rule to add a new subsection (2)(J).

PURPOSE: This amendment requires telecommunications companies to provide notice of the availability of Lifeline and Link-up services to residential customers.

(2) A telecommunications company shall prepare a statement which in layman's terms describes the rights and responsibilities of both the telecommunications company and its customers under this chapter. This statement shall appear in the front part of the telephone directory or the telecommunications company will mail or otherwise deliver such statement to its existing and new customers. If multiple telecommunications companies are represented in a directory, and each has identical statements of rights and responsibilities, the information need only appear once. Upon request the statement shall be submitted to the commission, its staff, or Office of the Public Counsel. The statement shall include descriptions of:

(H) The telephone number and address of all offices of the Missouri Public Service Commission and the statement that this company is regulated by the Missouri Public Service Commission; *[and]*

(I) The address and telephone number of the Office of the Public Counsel and a statement of the function of that office*[.]***; and**

(J) Where provided, a prominent description of Lifeline and Link-up services.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Jan. 28, 2004.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the ***Missouri Register****, and should include a reference to Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 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 33—Service and Billing Practices for Telecommunications Companies

PROPOSED AMENDMENT

4 CSR 240-33.010 General Provisions. The Public Service Commission is amending section (4) of this rule to delete the requirement to notify the commission upon compliance with the proposed rule revisions.

PURPOSE: This amendment removes the requirement to notify the commission upon compliance with the proposed revisions to Chapter 33.

(4) All telecommunications companies shall be in compliance with this chapter within six (6) months after the effective date of this rule *[and shall notify the commission of such compliance]*.

AUTHORITY: sections 386.040, [RSMo 1994] 386.250 ***RSMo 2000*** *and 392.200, RSMo [2000]* ***Supp. 2003****. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the ***Missouri Register****, and should include a reference to Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 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 33—Service and Billing Practices for Telecommunications Companies

PROPOSED AMENDMENT

4 CSR 240-33.020 Definitions. The Public Service Commission is amending sections (3), (18) and (25), adding new sections and renumbering the sections accordingly.

PURPOSE: This amendment adds definitions for casual calling customer, cyclical billing, passcode, presubscribed customer, traffic aggregator and transient customer. The amendment incorporates minor text corrections.

(3) Basic local telecommunications service is basic local telecommunications service as defined in section 386.020(4), RSMo *[Supp. 1998]* **2000**.

(7) Casual calling customer is an unidentifiable customer that accesses the telephone network by a dial around pattern such as 10-10-XXX.

[(7)] **(8)** Complaint is a complaint as defined in 4 CSR 240-2.070.

[(8)] **(9)** Customer is any individual that accepts financial and other responsibilities in exchange for telecommunications service.

(10) Cyclical billing results when the bill is rendered on or about the same day of each month.

[(9)] **(11)** Delinquent account is an account which has undisputed charges that are not paid in full by the due date.

[(10)] **(12)** Deposit is a money advance to a telecommunications company for the purpose of securing payment for telecommunications services.

[(11)] **(13)** Discontinuance of service or discontinuance is a cessation of service not requested by a customer.

[(12)] **(14)** Guarantee is a written promise from a responsible party to assume liability.

[(13)] **(15)** In dispute is any matter regarding a charge or service which is the subject of an unresolved inquiry.

[(14)] **(16)** Inquiry is any written, electronic or oral comment or question regarding a charge or service.

[(15)] **(17)** Letter of agency is a letter or other document sent by a customer to a telecommunications company authorizing the telecommunications company to change the telecommunications service provider for that customer.

[(16)] **(18)** New customer is any customer who has no prior service history with the telecommunications company with whom service is being requested.

[(17)] **(19)** Operator services is operator services as defined in section 386.020(37), RSMo *[Supp. 1998]* **2000**.

(20) Passcode is a valid password or personal identification number that must be entered to access toll services.

[(18)] **(21)** Pay telephone is a coin or non-coin telephone installed or use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

[(19)] **(22)** Preferred payment date plan is a plan in which the due date for the charges stated on a bill is the same date in each billing period as selected by the customer.

(23) Presubscribed customer is any customer of record of the telecommunications company.

[(20)] **(24)** Prospective customer is any individual with whom or by whom service is being requested.

[(21)] **(25)** Rendition of a bill is the date a bill is mailed, posted electronically or otherwise sent to a customer.

[(22)] **(26)** Settlement agreement is an agreement between a customer and a telecommunications company which resolves any matter in dispute between the parties or provides for the payment of undisputed charges over a period longer than the customer's normal billing period.

[(23)] **(27)** Tariff is a statement by a telecommunications company that sets forth the services offered by that company, and the rates, terms and conditions for the use of those services.

[(24)] **(28)** Telecommunications company is a telephone corporation as defined in section 386.020(51), RSMo *[Supp. 1998]* **2000**.

[(25)] **(29)** Termination of service or termination is a cessation of service requested by a customer.

(30) Traffic aggregator is an entity that provides transient customer access to telecommunications services, i.e., a hotel owner or a payphone owner.

(31) Transient customer is a user that is an unidentifiable customer that accesses telecommunications services through the use of a traffic aggregator such as payphones or hotels.

*AUTHORITY: sections 386.040, [RSMo 1994] 386.250, **RSMo 2000** and 392.200, RSMo [Supp. 1998] **Supp. 2003**. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the **Missouri Register**, and should include a reference to Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 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 33—Service and Billing Practices for Telecommunications Companies

PROPOSED RESCISSION

4 CSR 240-33.030 Minimum Charges Rule. This rule required all telephone utilities to inform prospective customers at the time service was requested and at the time a contract for service was entered into of the lowest cost service available and the lowest cost one party service available and the lowest equipment cost available for such types of service so that prospective customers are aware of the lowest cost service and equipment available.

PURPOSE: This rule is being rescinded because with the many services and bundles of services that are offered in the telecommunications industry, it is no longer feasible for a telecommunications company to inform prospective customers of the lowest cost service and equipment available.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Jan. 28, 2004.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the ***Missouri Register****, and should include a reference to Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 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 33—Service and Billing Practices for Telecommunications Companies

PROPOSED AMENDMENT

4 CSR 240-33.040 Billing and Payment Practices for Residential Customers. The Public Service Commission is amending this rule to add new sections (1) and (4) and to amend subsection (8)(F), and renumber all sections accordingly.

PURPOSE: This amendment adds billing and payment practices and customer notification requirements to be observed by telecommunications companies for residential customers.

(1) A telecommunications company, when discussing regulated service plans and packages with customers and/or potential customers, shall clearly identify the exact name and rates associated with that plan or package as advertised and as tariffed pursuant to 4 CSR 240-3.545(8)(G)1.

[(1)] **(2)** A telecommunications company, after the initial bill for new service is rendered, shall render a bill during each billing period except when the bill has a "00" balance.

[(2)] **(3)** Except where otherwise authorized by these rules, a telecommunications company may render bills on a cyclical basis if the bill is rendered on or about the same day of each month or as otherwise agreed to by the customer.

(4) A company proposing to increase rates for a regulated telecommunications service must provide at least ten (10) days advance written notice, or thirty (30) days advance written notice in the case of a small telephone company as defined in section 392.230.5, RSMo, to affected customers with whom the company has an on-going business relationship. This requirement includes written notification to a presubscribed customer if a company proposes to increase rates for any service available to the presubscribed customer. Increases in billing increments are considered rate increases and are subject to section 392.500, RSMo. Written notification must be provided to the presubscribed customer for services available to that presubscribed customer but billed to another party such as collect calls or calls billed to a third number. Bill inserts, bill messages and direct mailings are acceptable forms of customer notice. Written notification is not required if the affected service with the proposed rate increase regularly announces the applicable rate prior to each time the customer uses the service. Written notification is also not required if the affected service is solely provided to the transient or casual calling customer.

[(3)] **(5)** If a telecommunications company does not expressly offer a preferred payment date plan, a customer shall have at least twenty-one (21) days from the rendition of a bill to pay the charges stated. If the charges remain unpaid for twenty-one (21) days from rendition of the bill such charges will be deemed delinquent.

[(4)] **(6)** If a telecommunications company has a preferred payment date plan which it has expressly offered to all its customers, the charges are due on or before the due date under the plan. Charges not paid by the due date may be deemed delinquent.

[(5)] **(7)** A telecommunications company may assess a penalty charge upon a delinquent account. Such charge shall be specifically stated in the company's tariff.

[(6)] **(8)** Every bill shall clearly state—

(A) The number of access lines for which charges are stated;

(B) The beginning or ending dates of the billing period for which charges are stated;

(C) A statement of the date the bill becomes delinquent if not paid;

(D) Penalty fees and advance payments, if any;

(E) The unpaid balance, if any;

(F) The amount due for basic **local** service **or the packaged rate if basic local service is bundled with other services in a package**;

(G) An itemization of the amount due for all other regulated or nonregulated services including the date and duration (in minutes or seconds) of each toll call if such service is provided as an individual service;

(H) The amount due for all other regulated or nonregulated services offered at a packaged rate and an itemization of each service included in the package;

(I) An itemization of the amount due for taxes, franchise fees and other fees and/or surcharges which the telecommunications company, pursuant to its tariffs, bills to customers;

(J) The total amount due;

(K) A toll free telephone number where inquiries and/or dispute resolutions may be made for each company with charges appearing on the customer's bill;

(L) The amount of any deposit, advance payments and/or interest accrued on a deposit which has been credited to the charges stated; and

(M) Any other credits and charges applied to the account during the current billing period.

[(7)] **(9)** The amount of any deposit held by the company and the interest accrual rate shall be stated on the first bill for which a customer received service and on the last bill for which the customer received service.

[(8)] **(10)** During the first billing period in which a customer receives service, a customer must receive a bill insert or other written notice that contains an itemized account of the charges for the equipment and service for which the customer has contracted.

*AUTHORITY: sections 386.040, [RSMo 1994], 386.250, **RSMo 2000** and 392.200, RSMo [Supp. 1998] **Supp. 2003**. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004.*

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

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

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Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

PROPOSED AMENDMENT

4 CSR 240-33.060 Residential Customer Inquiries. The Public Service Commission is adding a new section (1), renumbering old section (1) to section (2) and adding new sections (3)–(7).

PURPOSE: This amendment establishes procedures to be followed when residential customers make inquiries of telecommunications companies so that such inquiries are handled in a reasonable manner and adds language to allow residential customers to block certain types of calls. Additional requirements pertaining to this subject matter are also found at 4 CSR 240-3.555.

(1) All bills shall clearly identify the company name associated with the toll free number the customers will be calling for billing inquiries and/or to cancel their previously granted consent to certain services that will be charged on the telephone bill.

[(1)] **(2)** A telecommunications company shall establish personnel procedures which ensure that personnel shall be available during normal business hours to accept customer inquiries within a reasonable time after such inquiries are made by telephone or in person. Within a reasonable time after accepting such an inquiry, a telecommunications company will make available appropriate personnel to handle the inquiry. A telecommunications company shall provide a toll free telephone number for customer inquiries.

(3) Upon request of a customer by electronic communications or by writing, all telecommunications carriers shall restrict all 900 numbers from that customer's number at no charge to that customer.

(4) Upon request of a customer by electronic communications or by writing, the telecommunications carrier providing service to state correctional facilities shall restrict all calls from state correctional facilities to that customer's number at no charge to that customer.

(5) Upon request of a customer by electronic communications or by writing, all interexchange telecommunications carriers shall restrict all toll calls without a valid passcode from that customer's number.

(6) Upon request of a customer by electronic communications or by writing, and where technically feasible, local telecommunications carriers shall restrict all calls using a 10-10-XXX dialing pattern from that customer's number.

(7) Customers shall be notified of their rights in sections (3), (4), (5) and (6) above at the time of application for service. Additional notice shall be provided annually thereafter by bill insert, statement on customer bills or annually in the telephone directory. Each time a customer notifies a telecommunications carrier or its billing agent that the customer's bill contains charges for products or services that the customer did not order or that were not received, the customer will be informed of their rights in sections (3), (4), (5) and (6) at the time the customer notifies the telecommunications carrier or its billing agent.

*AUTHORITY: sections 386.040, 386.250, **RSMo 2000** and 392.200, RSMo [2000] **Supp. 2003**. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Jan. 28, 2004.*

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 two thousand dollars ($2,000).

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Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Missouri Department of Economic Development
Division: Missouri Public Service Commission
Chapter: Service and Billing Practices for Telecommunications Companies
Type of Rulemaking: Revision
Rule Number and Name: 4 CSR 240-33.060 Residential Customer Inquiries

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:
4	Class A Local Telephone Companies	$0
37	Class B Local Telephone Companies	$2000
80	Class C Local Telephone Companies	$0
500+	Class Interexchange Companies	$0
	All entities	$2000

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

III. WORKSHEET

1. The proposed rule applies to all classes of telecommunications companies certificated by the Missouri Public Service Commission. These companies have reviewed the proposed rule and have provided fiscal impact projections. The above information is based on those projections and is a one time cost to make modifications to existing network equipment.

IV. ASSUMPTIONS

1. Fiscal year 2003 dollars were used to estimate costs. No adjustment for inflation is applied.

2. Estimates assume no sudden change in technology that would influence costs.

3. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

PROPOSED AMENDMENT

4 CSR 240-33.070 Discontinuance of Service to Residential Customers. The Public Service Commission is removing subsection (1)(C) and amending section (3), adding new sections (8)–(10) and renumbering the remaining sections.

PURPOSE: This amendment modifies procedures for blocking calls due to illegal or unauthorized use. This amendment adds the ability to provide electronic notice to residential customers that service will be discontinued.

(1) Telecommunications service may be discontinued for any of the following reasons:

[(C) Unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment;]

[(D)] **(C)** Failure to comply with terms of a settlement agreement;

[(E)] **(D)** Refusal after reasonable notice to permit inspection, maintenance or replacement of telecommunications company equipment;

[(F)] **(E)** Material misrepresentation of identity in obtaining telecommunications company service; or

[(G)] **(F)** As provided by state or federal law.

(3) A telecommunications company may place global toll blocking and eliminate any optional, non-basic calling features and functions for customer nonpayment of delinquent charges for other than basic local telecommunications service. **Nonpayment of the Missouri USF surcharge shall be considered nonpayment of basic local telecommunications services for the purposes of this rule.**

(8) In lieu of the written notice referenced in sections (6) and (7) above, and upon customer request, a telecommunications company may provide the information contained in the written notice of discontinuance of basic local telecommunications service in electronic format.

(9) Service may be immediately blocked or discontinued in the case of:

(A) Suspected illegal use; or

(B) Unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment.

(10) If service is immediately blocked or discontinued pursuant to section (9) above, the telecommunications carrier will provide immediate written notification of such blocking or discontinuance to the customer by certified, overnight mail or door hanger.

[(8)] **(11)** Notwithstanding any other provision of this chapter, a telecommunications company shall postpone a discontinuance for at least twenty-one (21) days if service is necessary to obtain emergency medical assistance for a person who is a member of the household where the telephone service is provided and where such person is under the care of a physician. Any person who alleges such emergency, if requested, shall provide the telecommunications company with reasonable evidence of such necessity.

[(9)] **(12)** Upon the customer's request, a telecommunications company shall restore service consistent with all other provisions of this chapter when the cause of discontinuance has been eliminated.

[(10)] **(13)** Payment by personal check may be refused if the customer, within the last twelve (12) months, has tendered payment in this manner and the check has been dishonored, except when the dishonor is due to bank error.

*AUTHORITY: sections 386.040, 386.250, **RSMo 2000** and 392.200, RSMo [2000] **Supp. 2003**. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 28, 2004.*

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

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

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Division 240—Public Service Commission
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PROPOSED AMENDMENT

4 CSR 240-33.080 Disputes by Residential Customers. The Public Service Commission is amending this rule to add a new section (1) and subsequent renumbering.

PURPOSE: This amendment establishes a requirement that all bills clearly identify the name of the company that will be contacted for billing inquiries.

(1) All bills shall clearly identify the company name associated with the toll free number the customer will be calling for billing inquiries.

[(1)] **(2)** A customer shall advise a telecommunications company that all or part of a charge is in dispute by written notice, in person or by a telephone message directed to the telecommunications company during normal business hours. A dispute must be registered with the

utility prior to the delinquent date of the charge for a customer to avoid discontinuance of service as provided by these rules.

[(2)] **(3)** When a customer advises a telecommunications company that all or part of a charge is in dispute, the telecommunications company shall record the date, time and place the inquiry is made; investigate the inquiry promptly and thoroughly; and attempt to resolve the dispute in a manner satisfactory to both parties.

[(3)] **(4)** Failure of a customer to cooperate with the telecommunications company in efforts to resolve an inquiry which has the effect of placing charges in dispute shall constitute a waiver of the customer's right to continuance of service under this chapter.

[(4)] **(5)** If a customer disputes a charge, the customer shall pay an amount to the telecommunications company equal to that part of the total bill not in dispute. The amount not in dispute shall be mutually determined by the parties. The parties shall consider the customer's prior usage, the nature of the dispute and any other pertinent factors in determining the amount not in dispute. The telecommunications company shall not discontinue service to a customer for nonpayment of charges in dispute while that dispute is pending.

[(5)] **(6)** If the parties are unable to mutually determine the amount not in dispute, the customer shall pay to the telecommunications company, at the company's option, an amount not to exceed fifty percent (50%) of the charge in dispute or an amount based on usage during a like period under similar conditions which shall represent the amount not in dispute. The telecommunications company shall not discontinue service to a customer for nonpayment of charges in dispute while that dispute is pending.

[(6)] **(7)** Failure of the customer to pay to the telecommunications company the amount not in dispute within four (4) working days from the date that the dispute is registered or by the delinquent date of the disputed bill, whichever is later, shall constitute a waiver of the customer's right to continuance of service and the telecommunications company may then proceed to discontinue service as provided in this rule.

[(7)] **(8)** If the dispute is ultimately resolved in the favor of the customer in whole or in part, any excess moneys paid by the customer shall be refunded promptly.

[(8)] **(9)** If the telecommunications company does not resolve the dispute to the satisfaction of the customer, the telecommunications company representative shall notify the customer that each party has a right to make an informal complaint to the commission, and of the address and telephone number where the customer may file an informal complaint with the commission. If a customer files an informal complaint with the commission prior to advising the telecommunications company that all or a portion of a bill is in dispute, the commission shall notify the customer of the payment required by sections (5) and (6) of this rule.

[(9)] **(10)** After resolution of the customer complaint, a telecommunications company may treat a customer complaint or dispute involving the same question or issue based upon the same facts as already determined and is not required to comply with these rules more than once prior to discontinuance of service.

*AUTHORITY: sections 386.040[, RSMo 1994] **and** 386.250, **RSMo 2000** and 392.200, RSMo [Supp. 1998] **Supp. 2003**. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the **Missouri Register**, and should include a reference to Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 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 33—Service and Billing Practices for Telecommunications Companies

PROPOSED AMENDMENT

4 CSR 240-33.150 Verification of Orders for Changing Telecommunications Service Provider. The Public Service Commission is amending section (3), adding a new section (4) and renumbering the remaining sections accordingly.

PURPOSE: This amendment addresses the change of a customer's preferred telecommunications carrier in the case of mergers, consolidations or the sale, assignment, lease or transfer of assets.

(3) Verification of Orders for Telecommunications Service.

(B) The telecommunications carrier has obtained the subscriber's written authorization in a form that meets the requirements of 4 CSR 240-33.150*[(4)]***(5)**.

(C) The telecommunications carrier has obtained the subscriber's electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information required in section *[(4)]***(5)** of this rule. Telecommunications carriers electing to confirm sales electronically shall establish one (1) or more toll free telephone numbers exclusively for that purpose. Calls to the number(s) shall connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the originating automatic numbering identification.

(4) Changes in subscriber carrier selections as a result of merger or consolidation or the sale, assignment, lease or transfer of assets.

(A) A telecommunications carrier may submit or execute a change in a subscriber's provider of telecommunications service

on behalf of the subscriber without obtaining authorization and verification in accordance with the procedures prescribed in 4 CSR 240-33.150(2) and 4 CSR 240-33.150(3) when such change is a result of merger or consolidation or the sale, assignment, lease or transfer of assets approved by the commission.

(B) A telecommunications carrier will notify all subscribers of such change through a notice in each subscriber's bill at least thirty (30) days prior to the effective date of the change.

(C) A telecommunications carrier will notify all subscribers of the right to switch to another service provider.

[(4)] **(5)** Letter of Agency Form and Content.

(A) A telecommunications carrier may use a letter of agency to obtain written authorization and/or verification of a subscriber's request to change his or her preferred carrier selection. A letter of agency that does not conform with this section is invalid for purposes of 4 CSR 240-33.150.

(B) The letter of agency shall be a separate document (or an easily separable document) containing only the authorizing language described in subsection (E) of this section having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the preferred carrier change.

(C) The letter of agency shall not be combined on the same document with inducements of any kind.

(D) Notwithstanding subsections (B) and (C) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in subsection (E) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(E) At a minimum, the letter of agency shall be printed with a type of sufficient size and readable type to be clearly legible and shall contain clear and unambiguous language that confirms—

1. The subscriber's billing name and address and each telephone number to be covered by the preferred carrier change order;

2. The decision to change the preferred carrier from the current telecommunications carrier to the soliciting telecommunications carrier;

3. That the subscriber designates the submitting carrier to act as the subscriber's agent for the preferred carrier change;

4. That the subscriber understands that only one (1) telecommunications carrier may be designated as the subscriber's interstate or interLATA preferred interexchange carrier for any one (1) telephone number. The letter of agency shall contain separate statements regarding intraLATA/intrastate and interLATA/interstate, although a separate letter of agency for each choice is not necessary; and

5. That the subscriber understands that any preferred carrier selection the subscriber chooses may involve a charge to the subscriber for changing the subscriber's preferred carrier.

(F) Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the subscriber.

(G) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications carrier.

(H) If any portion of a letter of agency is translated into another language then all portions of the letter of agency shall be translated into that language. Every letter of agency shall be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

[(5)] **(6)** Preferred Carrier Freezes.

(A) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(B) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(C) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(D) Solicitation and Imposition of Preferred Carrier Freezes.

1. All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

A. An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

B. A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the commission's verification rules in sections 4 CSR 240-33.150(2) and (3) for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and

C. An explanation of any charges associated with the preferred carrier freeze.

2. No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one (1) of the following procedures:

A. The local exchange carrier has obtained the subscriber's written and signed authorization in a form that meets the requirements of 4 CSR 240-33.150*[(4)]***(5)**; or

B. The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth) and the information required in section *[(4)]***(5)**. Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more tollfree telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

C. An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth) and the information required in section *[(4)]***(5)**. The independent third party must—1) not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; 2) must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and 3) must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

3. Written authorization to impose a preferred carrier freeze. A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred carrier freeze.

A. The written authorization shall comply with section *[(4)]***(5)** of the commission's rules concerning the form and content for letters of agency.

B. At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms—

(I) The subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(II) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(III) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(IV) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(E) Procedures for Lifting Preferred Carrier Freezes. All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

1. A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written and signed authorization stating her or his intent to lift a preferred carrier freeze; and

2. A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three (3)-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth) and the subscriber's intent to lift the particular freeze.

[(6)] **(7)** Carrier Liability for Charges. Any submitting telecommunications carrier that fails to comply with the procedures prescribed in 4 CSR 240-33.150 shall be liable to the subscriber's properly authorized carrier in an amount equal to all charges paid to the submitting telecommunications carrier by such subscriber after such violation. The remedies provided in 4 CSR 240-33.150 are in addition to any other remedies available at law.

AUTHORITY: sections 386.040 [1994], 386.250, [392.200,] and 392.540, [Supp. 1998] RSMo 2000 ***and 392.200, RSMo Supp. 2003****. Emergency rule filed Oct. 21, 1998, effective Jan. 1, 1999, expired June 29, 1999. Emergency rule filed June 17, 1999, effective June 30, 1999, terminated Nov. 30, 1999. Original rule filed July 8, 1999, effective Nov. 30, 1999. Amended: Filed Jan. 28, 2004.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the ***Missouri Register****, and should include a reference to Commission Case No. TX-2001-512. 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.mo.gov/efis.asp>. A public hearing is scheduled for April 23, 2004, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 1—Organization; *General Provisions*

PROPOSED RULE

7 CSR 10-1.020 Subpoenas

PURPOSE: Senate Bill 1202, 91st General Assembly, 2nd Regular Session, 2002, transferred to the commission and MoDOT all powers, duties and functions of the Division of Motor Carrier and Railroad Safety, including those specifically provided for under section 622.360, RSMo, to issue subpoenas to compel the attendance of witnesses and the production of documents and other evidence in furtherance of investigations into alleged unlawful activity within its jurisdiction. This rule provides the procedure for requesting such subpoenas.

(1) A request for a subpoena as authorized by section 622.360, RSMo, requiring a person to appear and give sworn testimony, or to appear and produce documents, records, or other physical evidence, shall be by signed writing directed to either the director of administrative services, motor carrier services, or multimodal operations. The signed, written request shall include the name and address of the witness to be served, propose a suitable time and place for the witness's appearance, and reasonably describe the documents, records, or other physical evidence to be produced. In the case of corporate entities, the request may name the corporation and its registered agent for service of process, and defer to the corporation the designation of the person to appear to so testify or produce the particular documents, or records, or other physical evidence to be produced.

(2) Upon receipt of a request under section (1) of this rule, the director of administrative services, motor carrier services, or multimodal operations may sign and issue a subpoena. A subpoena may be served by Missouri Department of Transportation (MoDOT) employees and such other persons authorized by law to serve process. Service shall be by personal service on the named witness or service on the registered agent of any named corporation. Within ten (10) days of service of a subpoena, a return of service shall be made to the director that signed and issued the subpoena.

(3) A subpoena may be enforced by application by the chief counsel to the circuit court of Cole County or any other county in this state where the named witness or corporation shall reside or be found.

AUTHORITY: section 226.008, RSMo Supp. 2003. Original rule filed Jan. 27, 2004.

PUBLIC COST: This proposed rule is estimated to cost the department one thousand seven hundred nine dollars ($1,709) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost motor carriers three thousand four hundred seventy-nine dollars ($3,479) 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 Department of Transportation, Mari Ann Winters, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days (30) after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 1 – Organization; General Provisions

Rule Number and Name:	7 CSR 10-1.020 Subpoenas
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	**Estimated Cost in the Aggregate.**
Missouri Department of Transportation	Total Estimated Cost per year $1,709.00

III. WORKSHEET

MO Dept. of Transportation Employees	**Cost Involved**
Field Inspector	$180.31
Regional Supervisor	$15.29
Program Supervisor	$7.00
Senior Secretary	$0.95
Enforcement Manager	$4.50
Chief Counsel Legal Staff	$76.78

Motor Carrier Safety Staff:

Field Inspector

- (consult with Regional Supervisor) 30 min.
- (e-mail report) 30 min.
- (personally deliver subpoena to carrier) Total = 3.5 hrs. and 126 miles with state vehicle
    - (receive subpoena written by CCO & forwarded by Senior Secretary) 5 min.
    - (drive to carrier's place of business (average two 63 mile round trips) 3 hrs.
    - (contact with carrier official) 15 minutes (to include wait time)
    - (document service of subpoena) 5 min.
    - (mail to MCS – for Senior Secretary to distribute) 5 min.
- Time spent in meeting with Carrier complying with subpoena 8 hours

Regional Supervisor

- (consult with Field Inspector) 30 min.
- (forward e-mailed report to Program Supervisor) 15 min.

Program Supervisor

- (review and forward e-mailed report to Enforcement Mgr) 10 min.
- (forward e-mailed report to CCO) 5 min.
- (receives delivered subpoena documentation and forwards to CCO) 5 min.

Enforcement Manager

- (approval of need for subpoena) 10 min.

Senior Secretary

- (mail completed subpoena from CCO to Field Inspector) 5 min.
- (receives completed documentation and delivers to Prog. Spvsr.)5 min

Chief Counsel's Office Staff:

- Assistant Counsel time (one attorney and one support staff together) 2 hours

Total Estimated Costs for FY 2004 and Subsequent Years $1,709.00
($284.83 per subpoena)

IV. ASSUMPTIONS

1. All salary figures are based upon the present pay grade of employees involved in the operation of the Motor Carrier Services Unit.
2. Supplies and equipment costs are based on FY'03 calculations and existing equipment available.
3. Mileage cost for Inspectors delivering the subpoena is taken from an average of miles driven for field Inspectors.
4. The number of subpoenas per year was estimated by calculating the percentage of subpoenas obtained as compared to the number of Compliance Reviews (CRs) conducted in a year. Over the last four (4) years, an average 1% of all CRs involved obtaining a subpoena. Accordingly, the more Compliance Reviews conducted the more subpoenas issued. Last year 534 CRs were conducted with six (6) subpoenas issued. With current staffing, the number of CRs should not increase.
5. Any other costs not identified in this fiscal note are unforeseeable.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 1 – Organization; General Provisions

Rule Number and Name:	7 CSR 10-1.020 Subpoenas
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the Number of Entities by class which would likely be affected by the adoption of the rule:	Classification by types of business entities which would be affected:	Estimated Cost in the Aggregate.
6	Carriers regulated by Motor Carrier Services	**Total Estimated Cost per year** $3,479.00

III. WORKSHEET

- Meet with Field Inspector (5 minutes)
- Read Subpoena (20 minutes)
- Legal Review: Read and forward to Attorney (20 minutes)
  - Attorney Review and response (1.5 hours)
- Prepare items requested by subpoena (4 hours)
- Travel to regional office (in rare occasions to Jefferson City) (115 miles on personal vehicle & 2.5 hours)
- Time spent in meeting (8 hours)

Total Estimated Costs for FY 2004 and Subsequent Years $3,479.00
($579.83 per subpoena)

IV. ASSUMPTIONS

1. Carrier costs were estimated using data from the Missouri Department of Economic Development, Missouri Economic Research and Information Center. The annual mean was based on the Missouri Occupational Employment and Wage Data using the "First-Line Supervisors/Managers of Transportation and Material-Moving Machine and Vehicle Operators" category.
2. Legal review was estimated by contacting and calculating an average of three transportation attorney's time and charges for reviewing and dispensing guidance regarding the compliance with the subpoena.
3. The number of subpoenas per year was estimated by calculating the percentage

of subpoenas obtained as compared to the number of Compliance Reviews (CRs) conducted in a year. Over the last 4-years, an average 1% of all CRs involved obtaining a subpoena. Accordingly, the more Compliance Reviews conducted the more subpoenas issued. Last year 534 CRs were conducted with 6 subpoenas issued. With current staffing, the number of CRs should not increase.

4. Any other costs not identified in this fiscal note are unforeseeable.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 1—Organization and Administration

PROPOSED AMENDMENT

11 CSR 45-1.020 Commission Meetings. The commission is adding a new section (4).

PURPOSE: The commission proposes to amend this rule by adding a provision whereby the commissioners may delegate to the chairman of the commission limited authority to extend existing licenses for up to sixty (60) days.

(4) The commission may delegate to the chairman of the commission the limited authority to extend any existing license for up to sixty (60) days without a prior vote of the commission. Any action taken by the chairman pursuant to such delegation of authority shall have the full force and effect of a majority vote of the commission, but must be ratified by a subsequent majority vote of the commission at the next public meeting. If such action is not ratified by the commission as provided herein, such action shall be cancelled, withdrawn or rescinded as of the date of the public commission meeting at which the ratification failed. Such delegation of commission authority to the chairman shall expire twelve (12) months after its adoption by a majority of the commission, unless rescinded or renewed by the commission prior to its expiration.

*AUTHORITY: sections 313.004 and 313.805, RSMo [Supp. 1993] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 23, 2004.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10 a.m. on April 20, 2004, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED AMENDMENT

11 CSR 45-10.030 Licensee's Duty to Report and Prevent Misconduct. The commission is adding new sections (4) and (5).

PURPOSE: The commission proposes to amend this rule by adding requirements that licensees take reasonable actions to safeguard assets and information.

(4) Licensees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.

(5) Licensees shall take reasonable actions to safeguard from loss, tampering, alteration, destruction, and unauthorized access to all gaming-related reports, records, files, automated data, and data systems.

*AUTHORITY: sections 313.004, 313.800, 313.805, 313.807 and 313.812, RSMo [Supp. 1993] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 23, 2004.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10 a.m. on April 20, 2004, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division

PROPOSED AMENDMENT

11 CSR 50-2.400 Emission Test Procedures. The division proposes to amend paragraph (2)(B)6., subsection (3)(B), add new paragraphs (3)(B)1. and (3)(B)2., amend paragraph (3)(E)1., amend paragraph (3)(F)1., amend subparagraphs (3)(F)2.A and (3)(F)2.B., delete paragraph (5)(E)2., and amend subparagraph (7)(A)2.A.

PURPOSE: This amendment is being made to comply with Senate Bill 54, effective August 28, 2003, as it pertains to the frequency of motor vehicle emissions inspections in Franklin County. Sections (2), (3), (5) and (7) are amended to reflect that the vehicle emissions inspections for Franklin County are biennial instead of annual.

(2) Applicability.

(B) The following vehicles are exempt from this rule:

1. Motor vehicles with a manufacturer's GVWR in excess of eight thousand five hundred (8,500) pounds;
2. Motorcycles and motor tricycles;
3. Model-year vehicles prior to 1971;
4. School buses;
5. Diesel-powered vehicles;
6. New **and unused** motor vehicles *[not previously titled or registered, prior to the initial motor vehicle registration or the next succeeding registration which is required by law]* **of model years of the current calendar year and of any calendar year within two (2) years of such calendar year, which have an odometer reading of less than six thousand (6,000) miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user**; and
7. Motor vehicles registered in the area covered by this section, but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of the vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area.

(3) General Requirements.

(B) Vehicle Emission Inspection Interval. *[Vehicles subject to this rule shall have their vehicle emission inspected on an annual basis except for those owners that elect to have their vehicle emission inspected on a biennial basis.]*

1. Vehicles subject to this rule, manufactured as an odd-numbered model year vehicle are required to be inspected by the basic emission inspection program in each odd-numbered calendar year. Vehicles subject to this rule, manufactured as an even-numbered model year vehicle are required to be inspected by the basic emission inspection program in each even-numbered calendar year.

2. At the time of registration transfer, subject vehicles are required by section 307.380.1, RSMo to be inspected by the basic emission inspection program, regardless of the vehicle model year. At the time of registration transfer, prior to sale of a vehicle, sellers of vehicles are required to provide the purchaser with an emission inspection compliance certificate or compliance waiver that is valid for registering the vehicle.

(E) Emission Inspection Fee.

1. The vehicle owner or driver shall pay *[ten dollars and fifty cents ($10.50)]* **twenty-four dollars ($24)** to the centralized emission inspection station.

2. This fee shall also include free reinspections, provided the vehicle owner or driver complies with all reinspection requirements as required in subsection (3)(G) of this rule, and the reinspections are conducted within twenty (20) consecutive days of the initial inspection excluding Saturday, Sunday and holidays.

(F) Vehicle Inspection Process. The emission inspection shall consist of emission tests and functional tests, which shall be subject to the following requirements:

1. *[Annual]* **Biennial basic** inspection process.

A. If a subject vehicle is targeted for a voluntary or mandatory manufacturer's emission recall notice issued after July 1, 1995, the vehicle owner or operator shall present to the emission inspection station proof of compliance with the recall notice.

B. A vehicle shall not be inspected if all or part of the exhaust system is missing, leaking, or if the vehicle is in an unsafe condition. If a motor vehicle is refused for inspection then the inspector shall give the motorist a form that identifies the reasons for inspection refusal. No fee shall be charged for this inspection.

C. The vehicle owner or driver shall have access to an area in the inspection station that permits observation of the entire official inspection procedure of the vehicle tested. This access may be limited, but it shall not prevent observation.

D. Vehicles shall be inspected in as-received condition. An official inspection, once initiated, shall be performed in its entirety regardless of immediate outcome, except in the case of an invalid test condition, or unsafe conditions.

E. The initial inspection shall be performed without repair or adjustment at the emission inspection station prior to commencement of any tests, except as provided for in the evaporative system pressure and purge tests. Emission inspections performed after the initial inspection in an inspection cycle shall be considered a reinspection and are subject to provisions of subsection (3)(G) of this rule.

F. If a subject vehicle passes all emission inspection requirements within a complete inspection cycle, the emission inspection station shall issue the vehicle owner or driver an emission inspection certificate of compliance certifying that the vehicle has passed the emission inspection, and place an emission inspection sticker on the windshield of the subject vehicle. The positioning of the sticker on the windshield of the vehicle shall take place on the premises of the emission inspection station.

G. If a subject vehicle fails any phase of the emission inspection requirements, the emission inspection station shall provide the vehicle owner or driver with an emission inspection test report indicating which part(s) of the emission inspection that the vehicle failed, a list of repair facilities employing at least one (1) qualified repair technician, a repair data sheet, and a copy of the customer complaint procedure.

H. If a subject vehicle fails any part of the emission inspection, the vehicle owner must have the vehicle repaired and complete a repair data sheet before submitting the vehicle for reinspection.

I. If the subject vehicle fails a reinspection, the vehicle owner can apply for a compliance waiver. If all waiver requirements as prescribed in subsection (3)(H) of this rule are met, a waiver shall be issued by the DNR approved inspector at the emission inspection station; and

2. Biennial **enhanced** inspection process.

A. *[All biennial]* **Enhanced** emissions inspections shall be performed in counties that have an emission inspection program pursuant to sections 643.300-643.350, RSMo.

B. The vehicle owners who have chosen a**n** *[biennial]* **enhanced** emission inspection shall take their vehicle to an emission inspection station in any county meeting the criteria set in 643.300–643.350, RSMo. The vehicle owner shall be subject to the inspection fee and inspection procedures pursuant to 10 CSR 10-5.380.

(5) Test Procedures.

(E) On-Board Diagnostic (OBD) Test Procedures.

1. All 1996 and later model year vehicles equipped with OBD systems shall have the OBD system information collected, recorded, and read. Reports shall be generated. The information shall be used to determine if any emission control system faults have been identified. Fault codes shall not be a condition for failure.

[2. The DNR shall require vehicle failures tied to readings from the OBD system beginning no later than January 1, 2001. Vehicles shall fail the on-board diagnostic test if they fail to meet the requirements of 40 CFR 85.2207, at a minimum.]

(7) Documentation.

(A) The contractor shall provide the owners or drivers of vehicles that pass the emission inspection or are issued a waiver an emission inspection certificate of compliance and emission inspection sticker. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

1. The certificate of compliance shall contain—

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of inspection;

C. The applicable test standards;

D. The applicable test results, including exhaust quantities, a pass indicator for the evaporative system pressure test(s), a pass indicator for visual inspection of the evaporative system and a pass indicator for the visual emission control device inspection;

E. The results of the recall provisions check, if applicable, including the recall campaign number and the date the recall repairs were completed;

F. A certification that tests were performed in accordance with the regulations;

G. A waiver indicator, if applicable; and

H. The statement: "This inspection is mandated by your United States Congress."

2. The emission inspection sticker shall—

A. Be affixed by the emission inspector to each vehicle which is subject to and passes the emission inspection, or has been issued a waiver on the inside of the vehicle's front windshield in the lower left hand corner. An emission inspection sticker affixed to a vehicle that has been issued a waiver shall have a waiver indicator clearly visible on the sticker. Previous emission inspection stickers affixed to the windshield shall be removed. Destroyed, damaged, or lost

stickers can only be replaced after a satisfactory explanation of the details of the incident has been furnished to the DNR. Stickers are valid for *[one (1)]* **two (2)** calendar years; and

B. Contain the statement: "This inspection is mandated by your United States Congress."

*AUTHORITY: section 307.366, RSMo Supp. [1999] **2003**. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed April 12, 1987, effective June 25, 1987. Rescinded: Filed May 31, 1990, effective Dec. 31, 1990. Emergency rule filed Jan. 3, 2000, effective April 1, 2000, expired Sept. 27, 2000. Readopted: Filed Jan. 3, 2000, effective June 30, 2000. Amended: Filed Feb. 2, 2004.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, PO Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 2—Income Maintenance

PROPOSED AMENDMENT

13 CSR 40-2.310 Requirements as to Eligibility for Temporary Assistance. The division is amending subsection (1)(B).

PURPOSE: This proposed amendment establishes the ineligibility of aliens who have been in the United States for less than five (5) years after August 22, 1996.

(1) The eligibility requirements for the Temporary Assistance Program shall include:

(B) *[Requiring a recipient of assistance and each dependent child to be a resident of the state of Missouri, and a United States citizen, a qualified alien as defined in section 1641 of Title 8, United States Code or an alien permanently residing under color of law;]* **Requiring a recipient of assistance and each dependent child to be a resident of the state of Missouri and:**

1. A United States citizen; or

2. A qualified alien as defined in Title 8, section 1641 of the *United States Code* except as otherwise provided herein. Except as provided in 8 U.S.C. section 1622(b), a qualified alien who enters the United States on or after August 22, 1996, is not eligible for Temporary Assistance benefits for a period of five (5) years beginning on the date of the alien's entry into the United States. Qualified aliens who have entered the United States on or after August 22, 1996, and who do not meet the time limit exception may be eligible for Temporary Assistance after a period of five (5) years beginning on the date of the qualified alien's entry into the United States. An alien who is not a qualified alien under Title 8, sections 1641 or 1622(b) of the *United States Code* shall be ineligible to receive Temporary Assistance benefits. If an alien who is not eligible to receive Temporary Assistance benefits is found to be on the Temporary Assistance rolls then his or her benefits will be terminated and his or her case will be closed. If an applicant for Temporary Assistance benefits is not a qualified alien or does not otherwise fall within the exception set forth in 8 U.S.C. section 1622(b) then the applicant's application for Temporary Assistance will be denied;

*AUTHORITY: sections 207.020, **RSMo 2000** and 208.040.5, RSMo [1994] **Supp. 2003**. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Emergency amendment filed July 22, 2003, effective Aug. 1, 2003, expires Jan. 27, 2004. Amended: Filed Jan. 23, 2004.*

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

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 2—Income Maintenance

PROPOSED RULE

13 CSR 40-2.380 Grandparents as Foster Parents

PURPOSE: This rule establishes the maximum benefit amount for the Grandparents As Foster Parents program after July 31, 2003.

(1) The Grandparents as Foster Parents Program shall provide reimbursement up to twenty-five percent (25%) of the current foster care payment schedule to eligible grandparents for the care of a grandchild.

(2) The Grandparents as Foster Parents Program shall provide a further reduced amount for three (3) or more children.

AUTHORITY: sections 207.020, RSMo 2000 and 453.322 and 453.325, RSMo Supp. 2003. Emergency rule filed July 11, 2003, effective Aug. 1, 2003, expired Jan. 27, 2004. Original rule filed Jan. 23, 2004.

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 Department of Social Services, Division of Family Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Division of Family Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending sections (1)–(7), (13)–(16) and (18).

PURPOSE: This proposed amendment updates subsection (1)(B) and paragraph (1)(C)2. with the correct citations for out-of-state hospital reimbursement and outpatient reimbursement, revises subsections (1)(B) and (2)(I), and sections (6), (16) and (18) to limit disproportionate share hospital (DSH) payments to one hundred percent (100%) of the unreimbursed cost for Medicaid and the cost of the uninsured unless otherwise permitted by federal law, adds three (3) definitions and makes revisions to section (2), revises subsection (3)(B) to include trend indices for SFY 2003 and SFY 2004, revises subsection (4)(B) for the percentage of the average weighted statewide per diem rate that is paid to new hospitals, revises subsection (5)(A) for hospitals that have a change of control, ownership or terminate participation in the Medicaid program, removes the section on case mix under rate reconsideration in subsection (5)(F), revises section (7) outlier adjustments, removes section (13) outpatient hospital services reimbursement for hospitals located within Missouri and replaces with trauma add-on payments, removes section (14) out-of-state hospital and in-state federally operated hospital reimbursement and replaces with trauma outlier payments, and revises sections (15) and (18) to include payment methodology for new hospitals.

(1) General Reimbursement Principles.

(B) The Title XIX reimbursement for hospitals located outside Missouri and for federally-operated hospitals in Missouri will be determined as stated in *[section (14) of this plan]* **13 CSR 70-15.180**.

(C) The Title XIX reimbursement for hospitals, excluding those located outside Missouri and in-state federal hospitals, shall include per diem payments, outpatient payments, disproportionate share payments; various Medicaid Add-On payments, as described in this rule; or a safety net adjustment, paid in lieu of Direct Medicaid Payments described in section (15) and Uninsured Add-Ons described in subsection (18)(B). Reimbursement shall be subject to availability of federal financial participation (FFP).

1. Per diem reimbursement—The per diem rate is established in accordance with section (3).

2. Outpatient reimbursement is described in *[section (13)]* **13 CSR 70-15.160**.

3. Disproportionate share reimbursement—The disproportionate share payments described in section (16), and subsection (18)(B) include both the federally mandated reimbursement for hospitals which meet the federal requirements listed in section (6) and the discretionary disproportionate share payments which are allowable but not mandated under federal regulation. *[A Safety Net Adjustment, section (16), and Uninsured Add-Ons, subsection (18)(B), are subject to federal limitation described in Omnibus Reconciliation Act of 1993 (OBRA 93) and section (17) of this regulation]* **These Safety Net and Uninsured Add-Ons shall not exceed one hundred percent (100%) of the unreimbursed cost for Medicaid and the cost of the uninsured unless otherwise permitted by federal law**.

4. Medicaid Add-Ons—Medicaid Add-Ons are described in sections **(13),** (15), (19) and (21) and are in addition to Medicaid per diem payments. These payments are subject to the federal Medicare Upper Limit test.

5. Safety Net Adjustment—The payments described in subsection (16)(A) are paid in lieu of Direct Medicaid Payments described in section (15) and Uninsured Add-Ons described in subsection (18)(B).

(2) Definitions.

(D) Case mix index. The average Diagnosis Related Grouping (DRG) relative weight as determined from claims information filed with the Missouri Department of Health and Senior Services. This calculation will include both fee-for-service and managed care information. The DRG weight used in the calculation is the same for all years and is the weight that is associated with the latest year of data that is being analyzed (i.e., for SFY 2004, weights for 2002 are applied to all years).

[(D)] **(E)** Charity care. Results from a provider's policy to provide health care services free of charge or a reduction in charges because of the indigence or medical indigence of the patient.

[(E)] **(F)** Contractual allowances. Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements.

[(F)] **(G)** Cost report. A cost report details, for purposes of both Medicare and Medicaid reimbursement, the cost of rendering covered services for the fiscal reporting period. The Medicare/Medicaid Uniform Cost Report contains the forms utilized in filing the cost report.

[(G)] **(H)** Critical access. Hospitals which meet the federal definition found in section 1820(c)(2)(B) of the Social Security Act. A Missouri expanded definition of critical access shall also include hospitals which meet the federal definitions of both a rural referral center and sole community provider and is adjacent to at least one county that has a Medicaid eligible population of at least thirty percent (30%) of the total population of the county or hospitals which are the sole community hospital located in a county that has a Medicaid population of at least thirty percent (30%) of the total population of the county.

[(H)] **(I)** Disproportionate share reimbursement. The disproportionate share payments described in section (16), and subsection (18)(B) include both the federally mandated reimbursement for hospitals which meet the federal requirements listed in section (6) and the discretionary disproportionate share payments which are allowed but not mandated under federal regulation. *[A Safety Net Adjustment, section (16), and Uninsured Add-Ons, subsection (18)(B), are subject to federal limitation as described in Omnibus Reconciliation Act of 1993 (OBRA 93) and section (17) of this regulation]* **These Safety Net and Uninsured Payment Add-Ons shall not exceed one hundred percent (100%) of the unreimbursed cost for Medicaid and the cost of the uninsured unless otherwise permitted by federal law**.

[(I)] **(J)** Effective date.

1. The plan effective date shall be October 1, 1981.

2. The adjustment effective date shall be thirty (30) days after notification to the hospital that its reimbursement rate has been changed unless modified by other sections of the plan.

(K) Medicaid inpatient days. Medicaid inpatient days are paid Medicaid days for inpatient hospital services as reported by the Medicaid Management Information System (MMIS).

*[(J)]***(L)** Medicare rate. The Medicare rate is the rate established on the basis of allowable cost as defined by applicable Medicare standards and principles of reimbursement (42 CFR part 405) as determined by the servicing fiscal intermediary based on yearly hospital cost reports.

[(K)] **(M)** Nonreimbursable items. For purposes of reimbursement of reasonable cost, the following are not subject to reimbursement:

1. Allowances for return on equity capital;

2. Amounts representing growth allowances in excess of the intensity allowance, profits, efficiency bonuses, or a combination of these;

3. Cost in excess of the principal of reimbursement specified in 42 CFR chapter IV, part 413; and

4. Costs or services or costs and services specifically excluded or restricted in this plan or the Medicaid hospital provider manual.

[(L)] **(N)** Per diem rates. The per diem rates shall be determined from the individual hospital cost report in accordance with section (3) of the regulation.

[(M)] **(O)** Reasonable cost. The reasonable cost of inpatient hospital services is an individual hospital's Medicaid per diem cost per day as determined in accordance with the general plan rate calculation from section (3) of this regulation using the base year cost report.

[(N)] **(P)** Specialty pediatric hospital. An inpatient pediatric acute care facility which:

1. Is licensed as a hospital by the Missouri Department of Health and Senior Services under Chapter 197 of the *Missouri Revised Statutes*;

2. Has been granted substantive waivers by the Missouri Department of Health and Senior Services from compliance with material hospital licensure requirements governing a) the establishment and operation of an emergency department, and b) the provision of pathology, radiology, laboratory and central services; and

3. Is not licensed to operate more than sixty (60) inpatient beds.

(Q) Trauma hospital. A trauma center designated by the Missouri Department of Health and Senior Services.

[(O)] **(R)** Trend factor. The trend factor is a measure of the change in costs of goods and services purchased by a hospital during the course of one (1) year.

[(P)] **(S)** Children's hospital. An acute care hospital operated primarily for the care and treatment of children under the age of eighteen (18) and which has designated in its licensure application at least sixty-five percent (65%) of its total licensed beds as a pediatric unit as defined in 19 CSR 30-20.021(4)(F).

[(Q)] **(T)** FRA. The Federal Reimbursement Allowance (FRA) is identified in 13 CSR 70-15.110. Effective January 1, 1999, the assessment shall be an allowable cost.

[(R)] **(U)** Incorporates by Reference. This rule incorporates by reference the following:

1. *Institutional Provider Manual*; and

2. Worksheet E-3 Part IV from the Medicare cost report (HCFA 2552-96).

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a Medicaid per diem rate based on the following computation.

(B) Trend Indices (TI). Trend indices are determined based on the four (4)-quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital indexed as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

A. SFY 1994—4.6%
B. SFY 1995—4.45%
C. SFY 1996—4.575%
D. SFY 1997—4.05%
E. SFY 1998—3.1%
F. SFY 1999—3.8%
G. SFY 2000—4.0%
H. SFY 2001—4.6%
I. SFY 2002—4.8% *[.]*
J. SFY 2003—5.0%
K. SFY 2004—6.2%

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998 rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999 rate shall be trended by 2.4%. The OC of the June 30, 2000 rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid Payments computed in accordance with subsection (15)(B).

(4) Per Diem Rate—New Hospitals.

(B) Facilities Reimbursed by Medicare on a *[Diagnosis Related Grouping (]*DRG*[)]* Basis. In the absence of adequate cost data, a new facility's Medicaid rate may be *[one hundred twenty percent (120%)]* **ninety percent (90%)** of the average-weighted, statewide per diem rate for two (2) fiscal years following the facility's initial fiscal year as a new facility. The Medicaid rate for the third fiscal year will be the facility's Medicaid rate for its second fiscal year indexed forward by the inflation index for the current fiscal year. The Medicaid rate for the facility's fourth fiscal year will be determined in accordance with sections (1)–(3) of this plan.

(5) Administrative Actions.

(A) Cost Reports.

1. Each hospital participating in the Missouri Medical Assistance Program shall submit a cost report in the manner prescribed by the state Medicaid agency. The cost report shall be submitted within five (5) calendar months after the close of the reporting period. The period of a cost report is defined in 42 CFR 413.24(f). A single extension, not to exceed thirty (30) days, may be granted upon the request of the hospital and the approval of the Missouri Division of Medical Services when the provider's operation is significantly affected due to extraordinary circumstances over which the provider had no control such as fire or flood. The request must be in writing and postmarked prior to the first day of the sixth month following the hospital's fiscal year end.

2. The **change of control, ownership or** termination of or by a hospital of participation in the program requires that the hospital submit a cost report for the period ending with the date of **change of control, ownership or** termination within five (5) calendar months after the close of the reporting period. No extensions in the submitting of cost reports shall be allowed when a termination of participation has occurred. *[The payments due the hospital shall be withheld until the cost report for the final reporting period is filed with the Division of Medical Services].*

A. If a provider notifies, in writing, the director of the Institutional Reimbursement Unit of the division prior to the change of control, ownership or termination of participation in the Medicaid program, the division will withhold all remaining payments from the selling provider until the cost report is filed. Upon receipt of a cost report prepared in accordance with this regulation, any payment that was withheld will be released to the selling provider.

B. If the director of the Institutional Reimbursement Unit does not receive, in writing, notification of a change of control or ownership upon learning of a change of control or ownership, fifty thousand dollars ($50,000) of the next available Medicaid payment, after learning of the change of control or ownership will be withheld from the provider identified in the current Medicaid participation agreement until a cost report is filed. If the Medicaid payment is less than fifty thousand dollars ($50,000), the entire payment will be withheld. Once the cost report prepared in accordance with this regulation is received, the payment will be released to the provider identified in the current Medicaid participation agreement.

C. The Division of Medical Services may, at its discretion, delay the withholding of funds specified in subparagraphs (5)(A) 2.A. and B. until the cost report is due based on assurances satisfactory to the division that the cost report will be timely filed. A request jointly submitted by the buying and selling provider may provide adequate assurances. The buying provider must accept responsibility for ensuring timely filing of the cost report

and authorize the division to immediately withhold fifty thousand dollars ($50,000) if the cost report is not timely filed.

3. All cost reports shall be submitted and certified by an officer or administrator of the provider. Failure to file a cost report, within the period prescribed in this subsection, may result in the impositions of sanctions as described in 13 CSR 70-3.030.

4. Amended cost reports or other supplemental. The division will notify hospital by letter when the desk review of its cost report is completed. Since, this data may be used in the calculation of per diem rates, direct payments, trended costs or uninsured add-on payments, the hospital shall review the desk review data and the schedule of key data elements and submit amended or corrected data to the division within fifteen (15) days. Data received after the fifteen (15)-day deadline will not be considered by the division for per diem rates, direct payments, trended costs or uninsured payments unless the hospital requests in writing and receives an extension to file additional information prior to the end of the fifteen (15)-day deadline.

(F) Rate Reconsideration.

1. Rate reconsideration may be requested under this subsection for changes in allowable cost which occur subsequent to the base period described in subsection (3)(A). The effective date for any increase granted under this subsection shall be no earlier than the first day of the month following the Division of Medical Services' final determination on rate reconsideration.

2. The following may be subject to review under procedures established by the Medicaid agency:

[A. Substantial changes in or costs due to case mix;]

[B.] **A.** New, expanded or terminated services as detailed in subsection (5)(C);

[C.] **B.** When the hospital experiences extraordinary circumstances which may include, but are not limited to, an act of God, war or civil disturbance; and

[D.] **C.** Per diem rate adjustments for critical access and trauma center hospitals.

(I) Critical access hospitals meeting either the federal definition or the Missouri expanded definition may request per diem rate adjustments in accordance with this subsection. The per diem rate increase will result in a corresponding reduction in the Medicaid direct payment.

(a) Hospitals which meet the federal definition as a critical access hospital may request a per diem rate equal to one hundred percent (100%) of their estimated Medicaid cost per day as determined in section (15).

(b) Hospitals which meet the Missouri expanded definition as a critical access hospital may request a per diem rate equal to seventy-five percent (75%) of their estimated Medicaid cost per day as determined in section (15).

3. The following will not be subject to review under these procedures:

A. The use of Medicare standards and reimbursement principles;

B. The method for determining the trend factor;

C. The use of all-inclusive prospective reimbursement rates; and

D. Increased costs for the successor owner, management or leaseholder that result from changes in ownership, management, control, operation or leasehold interests by whatever form for any hospital previously certified at any time for participation in the Medicaid program, except a review may be conducted when a hospital changes from nonprofit to proprietary or vice versa to recognize the change in its property taxes, see paragraph (5)(E)4.

4. As a condition of review, the Missouri Division of Medical Services may require the hospital to submit to a comprehensive operational review. The review will be made at the discretion of the state Medicaid agency and may be performed by it or its designee. The findings from any such review may be used to recalculate allowable costs for the hospital.

5. The request for an adjustment must be submitted in writing to the Missouri Division of Medical Services and must specifically and clearly identify the issue and the total dollar amount involved. The total dollar amount must be supported by generally acceptable accounting principles. The hospital shall demonstrate the adjustment is necessary, proper and consistent with efficient and economical delivery of covered patient care services. The hospital will be notified in writing of the agency's decision within sixty (60) days of receipt of the hospital's written request or within sixty (60) days of receipt of any additional documentation or clarification which may be required, whichever is later. Failure to submit requested information within the sixty (60)-day period shall be grounds for denial of the request. If the state does not respond within the sixty (60)-day period, the request shall be deemed denied.

(6) Disproportionate Share.

(F) Hospital-specific DSH cap. Unless otherwise permitted by federal law, disproportionate share payments shall not exceed one hundred percent (100%) of the unreimbursed cost for Medicaid and the cost of the uninsured. The hospital-specific DSH cap shall be computed using the fourth prior year desk reviewed cost report trended thru the state fiscal year. If the sum of disproportionate share payments exceeds the estimated hospital-specific DSH cap, the difference shall be deducted in order as necessary from safety net payment, other disproportionate share lump sum payments, direct Medicaid payments, and if necessary, as a reduced per diem.

(7) Outlier Adjustment **for Children Under the Age of Six (6)**.

(A) Effective for admissions beginning on or after July 1, 1991, outlier adjustments for medically necessary inpatient services involving exceptionally high cost or exceptionally long lengths of stay for Missouri Medicaid-eligible children under the age of six (6) will be made to hospitals meeting the disproportionate share requirements in subsection (6)(A) and, for Missouri Medicaid-eligible infants under the age of one (1), will be made to any other Missouri Medicaid hospital except for specialty pediatric hospitals.

1. The following criteria must be met for the services to be eligible for outlier review:

A. The patient must be a Missouri Medicaid-eligible infant under the age of one (1) year, or for disproportionate share hospitals a Missouri Medicaid-eligible child under the age of six (6) years, for all dates of service presented for review;

B. Hospitals requesting outlier review for children one (1) year of age to children under six (6) years of age, must have qualified for disproportionate share status under section (6) of this plan for the state fiscal year corresponding with the fiscal year end of the cost report referred to in paragraph (7)(A)5.; and

C. One (1) of the following conditions must be satisfied:

(I) The total reimbursable charges for dates of service as described in paragraph (7)(A)3. must be at least one hundred fifty percent (150%) of the sum of total third-party liabilities and Medicaid inpatient claim payments for that claim; or

(II) The dates of service must exceed sixty (60) days and less than seventy-five percent (75%) of the total service days was reimbursed by Medicaid.

2. Claims for all dates of service eligible for outlier review must—

A. Have been submitted to the Division of Medical Services fiscal agent or the MC+ health plan in their entirety for routine claims processing, and claim payment must have been made before the claims are submitted to the division for outlier review; and

B. Be submitted for outlier review with all documentation as required by the Division of Medical Services no later than ninety (90) days from the last payment made by the fiscal agent or the MC+ health plan through the normal claims processing system for those dates of service.

3. **Information for outlier reimbursement processing will be determined from** *[C]***c**laim charges and Medicaid payment data *[will be determined from claims data,]* submitted to the Division of Medical Services fiscal agent or MC+ health plan, by the hospital through normal claim*[s processing]* **submission**. **If the claim information is determined to be incomplete as submitted, the hospital may be asked to provide claim data directly to the Division of Medical Services for outlier review.**

4. The claims may be reviewed for—

A. Medical necessity at an inpatient hospital level-of-care;

B. Appropriateness of services provided in connection with the diagnosis; *[and]*

C. Charges that are not permissible per the Division of Medical Services; policies established in the institutional manual and hospital bulletins*[.]***; and**

D. If the hospital is asked to provide claim information, the hospital will need to provide an affidavit vouching to the accuracy of final payments by the Division of Medical Services, MC+ health plans and other third party payors. The calculation of outlier payments will be based on the standard hospital payment defined in subparagraph (7)(A)6.B.

5. After the review, reimbursable costs for each claim will be determined using the following data from the most recent Medicaid hospital cost report filed by June 1 of each year:

A. Average routine (room and board) costs for the general and special care units for all days of the stay eligible per the outlier review;

B. Ancillary cost-to-charge ratios applied to claim ancillary charges determined eligible for reimbursement per the outlier review; and

C. No cost will be calculated for items such as malpractice insurance premiums, interns and residents, professional services or return on equity.

6. Each state fiscal year, outlier adjustment payments for each hospital will be made for all claims submitted before March 1 of the preceding state fiscal year which satisfy all conditions in paragraphs (7)(A)1.–4. The payments will be determined for each hospital as follows:

A. Sum all reimbursable costs per paragraph (7)(A)5. for all applicable outlier claims to equal total reimbursable costs;

B. **For those claims, *[S]*s**ubtract third-party payments and Medicaid payments *[for those claims]***, which includes both per diem payments and Direct Medicaid Add-On payments,** from total reimbursable costs to equal excess cost; and

C. Multiply excess costs by fifty percent (50%).

[(13) Outpatient Hospital Services Reimbursement for Hospitals Located Within Missouri.

(A) Outpatient hospital services, unless otherwise limited by rule, shall be reimbursed on an interim basis by Medicaid at the lesser of seventy-five percent (75%) of usual and customary charges as billed by the provider for covered services or one hundred percent (100%) of the facility's Medicaid-allowable cost-to-charge ratio as determined from the most recent desk-reviewed cost report. Reimbursement at the applicable percentage shall be effective July 1 of each SFY for all providers and shall be subject to adjustment whenever the inpatient rate is changed.

1. All services provided to GR recipients will be reimbursed from the Medicaid fee schedule in accordance with provisions of 13 CSR 70-2.020.

2. Effective for dates of service September 1, 1985, and annually updated, certain clinical diagnostic laboratory procedures will be reimbursed from a Medicaid fee schedule which shall not exceed a national fee limitation.

3. Services of hospital-based physicians and certified registered nurse anesthetists shall be billed on an HCFA-1500 professional claim form and reimbursed from a Medicaid fee schedule or the billed charge, if less.

(B) The final outpatient settlements for hospitals will be calculated for each fiscal year in accordance with 13 CSR 70-15.040(4).

(C) For reporting purposes in the outpatient Medicaid data, facilities shall not include services reimbursed from a fee schedule, which include services to GR recipients, the clinical diagnostic laboratory services and services of hospital-based physicians and certified registered nurse anesthetists.

(D) Outpatient hospital services provided for those recipients having available Medicare benefits shall be reimbursed by Medicaid to the extent of the deductible and coinsurance as imposed under Title XVIII.]

(13) Trauma Add-On Payments. Hospitals that meet the following will receive additional Add-On payments.

(A) Criteria for Qualifying to Receive Add-On Payments for Trauma:

1. Hospital must be a Level I, II, or III trauma center as designated by the Missouri Department of Health and Senior Services; or

2. Hospital with an emergency department in a county that does not have a trauma center.

(B) Trauma Add-On Computation. On an annual basis, the division will calculate the trauma Add-On payments for qualifying hospitals as follows:

1. The case mix index for Medicaid patients will be determined for the fourth prior year and the second prior year based on a federal fiscal year;

2. The percentage change will be calculated for the same time period above and then inflated to estimate a percentage change from the fourth prior year through the prior year (for example, for SFY 2004, the percentage change for 2000 to 2002 will be inflated to estimate a percentage change from 2000 through 2003);

3. If this estimated percentage change is positive, the hospital's current year trended cost per day prior to the assessment per day and utilization adjustment per day (estimated for SFY 2004 using the 2000 cost report with some exceptions) will be inflated by the same amount to arrive at the current year case mix adjusted cost per day;

4. The difference between the current year case mix adjusted cost per day and the current year trended cost per day prior to the assessment per day and utilization adjustment per day will be multiplied by the current year's estimated Medicaid days, resulting in the trauma Add-On payment to the hospital;

5. For subsequent years, the calculation of the trauma Add-On payment will be determined in the same manner. However, payments will be the greater of the current year calculated payment or the previous year's payment.

(C) Trauma Payment Adjustment Option.

1. If the qualifying hospital for the trauma Add-On payment has a declining case mix index for three (3) consecutive years, the department has the option of reviewing whether an adjustment is appropriate.

(D) The Division of Medical Services will require a signed affidavit attesting to the validity of the data.

(E) Trauma Add-On payments and trauma outlier payments will be subject to appropriations. If the amount appropriated is less than the base year amount, the current year's payments for both trauma Add-Ons and trauma outliers will be prorated based on the ratio of trauma Add-On payments to trauma outlier payments in the base year.

[(14) Out-of-State Hospital and Instate Federally-Operated Hospital Reimbursement.

(A) Inpatient Reimbursement.

1. Effective for admissions beginning after April 1, 1994, inpatient services for Missouri Medicaid recipients age twenty-one (21) or older in hospitals located outside Missouri and federally-operated hospitals located within Missouri will be reimbursed at the lower of—

A. The charges for those services; or

B. The individual recipient's days of care (within benefit limitations) multiplied by the Title XIX per diem rate of three hundred forty-five dollars and thirteen cents ($345.13).

2. Effective for admission beginning after April 1, 1994, inpatient services for children under the age of twenty-one (21) in hospitals located outside Missouri will be reimbursed at the lower of—

A. The charges billed for those services; or

B. The individual recipient's days of care (within benefit limitations) multiplied by the Title XIX per diem rate established by the host state's Medicaid agency. If the host state does not reimburse inpatient hospital services on a per diem basis, the per diem rate shall be six hundred sixty dollars and eighty-nine cents ($660.89). The inpatient psychiatric limitation (section (15)) shall apply.

3. There will be no adjustments or exemptions to this per diem rate and no individual rate reconsideration will be performed.

4. Payments on claims submitted, unless otherwise specified, constitute final payment to hospitals located outside Missouri and to federally-operated hospitals within Missouri on those claims and no year-end cost settlements will be done. Therefore, these hospitals are not required to file Medicaid cost reports with Missouri.

(B) Outpatient Reimbursement.

1. Out-of-state outpatient hospital services and services of federally-operated hospitals located within Missouri will be reimbursed by Missouri Medicaid at sixty percent (60%) of usual and customary charges as billed by the provider for covered services with the exceptions specified in paragraphs (11)(A)1.–4.

2. Payments on claims submitted, unless otherwise specified, constitute final payment on those claims to hospitals located outside Missouri and to federally-operated hospitals located within Missouri and no year-end cost settlements will be done.]

(14) Trauma Outlier Payments.

(A) Effective for services on or after July 1, 2002, outlier adjustments for trauma inpatient services involving exceptionally high cost for Missouri Medicaid eligible recipients will be made to hospitals meeting the criteria established below:

1. Hospital must be a Level I, II, or III trauma center as designated by the Missouri Department of Health and Senior Services.

(B) Claims for all dates of service eligible for trauma outlier review must —

1. Have been submitted to the Division of Medical Services fiscal agent or the MC+ health plan in their entirety for routine claims processing, and claim payment must have been made before the claims are submitted to the division for outlier review; and

2. Be submitted for outlier review with all documentation as required by the Division of Medical Services by the end of the third quarter of the current state fiscal year. The prior year's information will be used to determine the trauma outlier payment for the current state fiscal year (for example, SFY 2004 trauma outlier payments will be based on 2003 data). Out-of-state trauma claims may be included.

3. The claims for trauma inpatient services may include services provided to Medicaid eligible individuals from states outside Missouri when provided in a Missouri hospital.

4. The claim must be an inpatient that originated in the hospital emergency room or a direct admit from another hospital's emergency room and must have a primary diagnosis code that is included in the table of valid trauma diagnosis codes listed below:

800.00—959.99
980.00—981.99
983.00—983.99
986.00—987.99
989.00—989.99
991.00—994.99

5. The payment for the claim as determined by the product of days of service times the appropriate year cost per day (including the assessment per day and the utilization adjustment per day) must be less than the cost of the claim as determined by product of charges times the hospital specific cost-to-charge ratio.

(C) Trauma outlier payments for qualifying hospitals will be detemined as follows:

1. Multiply charges on claim by hospital specific second prior year cost to charge ratio to determine patient-specific trauma costs;

2. Multiply days of care by the appropriate year's cost per day including the assessment per day and utilization adjustment per day (estimated for SFY 2004 using the 2000 cost report with some exceptions) to determine patient-specific payments; and

3. Determine difference between trauma costs and payments.

(D) The Division of Medical Services will require a signed affidavit attesting to the validity of the data.

(E) Trauma Add-On payments and trauma outlier payments will be subject to appropriations. If the amount appropriated is less than the base year amount, the current year's payments for both trauma Add-Ons and trauma outliers will be prorated based on the ratio of trauma Add-On payments to trauma outlier payments in the base year.

(15) Direct Medicaid Payments.

(C) For new hospitals that do not have a base cost report, Direct Medicaid payments shall be estimated as follows:

1. Hospitals receiving Direct Medicaid payments shall be divided into quartiles based on total beds;

2. Direct Medicaid payments shall be individually summed by quartile and then divided by the total beds in the quartile to yield an average Direct Medicaid payment per bed; and

The number of beds for the new hospital without the base cost report shall be multiplied by the average Direct Medicaid payment per bed.

(16) Safety Net Adjustment. A safety net adjustment, in lieu of the Direct Medicaid payments and Uninsured Add-Ons, shall be provided for each hospital which qualified as disproportionate share under the provision of paragraph (6)(A)4. The safety net adjustment payment shall be made prior to the end of each federal fiscal year.

(D) Notwithstanding subsection (16)(B), the safety net adjustment for governmental facilities in state fiscal year 2004 and 2005 shall be up to one hundred seventy-five percent (175%) of unreimbursed Medicaid costs plus one hundred seventy-five percent (175%) of the Uninsured costs calculation described in subsection (18)(B) subject to the state's disproportionate share allotment and Institution for Mental Diseases (IMD) cap. The safety net adjustment shall be on a state fiscal year basis in these years.

(18) In accordance with state and federal laws regarding reimbursement of unreimbursed costs and the costs of services provided to uninsured patients, reimbursement for each State Fiscal Year (SFY) (July 1–June 30) shall be determined as follows:

(B) Uninsured Add-Ons. The hospital shall receive eighty-nine percent (89%) of the Uninsured costs prorated over the SFY. Hospitals which contribute through a plan approved by the director of health to support the state's poison control center and the Primary Care Resource Initiative for Missouri (PRIMO) shall receive ninety percent (90%) of its Uninsured costs prorated over the SFY. The uninsured Add-On will include:

1. The Add-On payment for the cost of the Uninsured will be based on a three (3) year average of the fourth, fifth, and sixth prior base year cost reports. For any hospital that has both a twelve (12) month cost report and a partial year cost report, its base period cost report for that year will be the twelve (12) month cost report. Cost of the Uninsured is determined by multiplying the charges for charity care and allowable bad debts by the hospital's total cost-to-charge ratio for allowable hospital services from the base year cost report's desk review. The cost of the Uninsured is then trended to the current year using the trend indices reported in subsection (3)(B). Allowable bad debts do not include the costs of caring for patients whose insurance covers the particular service, procedure or treatment;

2. An adjustment to recognize the Uninsured patients' share of the FRA assessment not included in the desk-reviewed cost. The FRA assessment for Uninsured patients is determined by multiplying the current FRA assessment by the ratio of Uninsured days to total inpatient days from the base year cost report;

3. The difference in the projected General Relief per diem payments and trended costs for General Relief patient days; *[and]*

4. The increased costs per day resulting from the utilization adjustment in subsection (15)(B) is multiplied by the estimated Uninsured days*[.]*; **and**

5. Notwithstanding any other provision, the Add-On payment for the cost of the uninsured for any public hospital that is not a safety net hospital in state fiscal year 2004 and 2005 shall be up to one hundred seventy-five percent (175%) of the Uninsured costs calculation described in this paragraph subject to the state's disproportionate share allotment and IMD cap. The Add-On for hospitals other than safety net hospitals shall be on a state fiscal year basis in these years.

(C) For new hospitals that do not have a base cost report, Uninsured payments shall be estimated as follows:

1. Hospitals receiving Uninsured payments shall be divided into quartiles based on total beds;

2. Uninsured payments shall be individually summed by quartile and then divided by the total beds in the quartile to yield an average Uninsured payment per bed; and

3. The numbers of beds for the new hospital without the base cost report shall be multiplied by the average Uninsured payment per bed.

*AUTHORITY: sections 208.152, 208.153 and 208.201, RSMo 2000 and 208.471, RSMo Supp. [2002] **2003**. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history consult the **Code of State Regulations**. Amended: Filed Jan. 29, 2004.*

PUBLIC COST: This proposed amendment is expected to cost state agencies and political subdivisions $134,498,644 in SFY 2004 and $162,664,858 in SFY 2005. A fiscal note containing details of the estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate in SFY 2004 and SFY 2005.

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

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services Division of Medical Services	SFY 2004 - $134,498,644
Department of Social Services Division of Medical Services	SFY 2005 - $162,664,858

III. WORKSHEET

For FY 2004, the estimated annual impact is based on the following:

- DSH payments up to 175% of the unreimbursed cost for Medicaid and the cost of the uninsured in the amount of $84,498,644;
- Trauma add-on payments and trauma outlier payments for qualifying hospitals in the amount of $50,000,000.

For FY 2005, the estimated annual impact is based on the following:

- DSH payments up to 175% of the unreimbursed cost for Medicaid and the cost of the uninsured in the amount of $112,664,858;
- Trauma add-on payments and trauma outlier payments for qualifying hospitals in the amount of $50,000,000.

IV. ASSUMPTIONS

The increased cost is based on DSH payments up to 175% of the unreimbursed cost for Medicaid and the cost of the uninsured, trauma add-on payments and trauma outlier payments for qualifying hospitals.

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

PROPOSED RULE

15 CSR 30-51.171 Supervision Guidelines for Broker-Dealers

PURPOSE: This rule provides guidance for reasonable supervision by broker-dealers.

(1) The phrase "failed reasonably to supervise" under section 409.4-412(d)(9) of the Missouri Securities Act of 2003 (the Act) is a standard allowing each broker-dealer (firm) the flexibility to fashion procedures and systems that address its particular organizational and management structure. Yet the following are guidelines that provide guidance to broker-dealers of factors considered by the commissioner in evaluating reasonable supervision.

(2) The following guidelines shall be factors in considering what is reasonable supervision, whether:

(A) The firm has established current procedures and systems for supervising the activities of agents, employees and Missouri office operations that are reasonably designed to achieve compliance with applicable state and federal securities laws and regulations, and, if applicable, the rules of the National Association of Securities Dealers (NASD);

(B) The firm has established current procedures and systems that could reasonably be expected to allow a supervisor reasonably discharging his/her supervisory duties under such established procedures to prevent and detect violations of the Act, and the firm regularly reviews these procedures and systems;

(C) The firm has reasonably implemented the procedures and systems referred to in subsections (A) and (B) above;

(D) The firm provides appropriate initial and periodic refresher training to supervisors, employees and agents regarding the firm's procedures and systems and additional initial and periodic training to supervisors in the procedures and systems referred to in subsections (A) and (B) above;

(E) The firm reasonably follows up on indications of wrongdoing, "red flags." Such red flags may consist of, but are not limited to, activities of unauthorized personnel, churning, unauthorized trading, low level of production but high expenses, regulatory actions, prior disciplinary history of one (1) or more customer complaints and recent customer complaints;

(F) The firm has an adequate system to track and monitor the status of customer complaints;

(G) The firm has designated a qualified supervisor of the broker-dealer for each agent or employee;

(H) The designated supervisor of agents located in Missouri maintains a principal place of business in Missouri, or in a location that allows the supervisor to visit the premises of supervised agents in Missouri within a reasonable time;

(I) The designated supervisor is responsible for supervising no more agents at any one (1) time than would allow the supervisor to effectively execute his/her supervisory duties. The appropriate number of agents which one (1) person can reasonably supervise is dependent on the nature of the business conducted by the persons supervised, technical resources available to the supervisor, additional personnel available to assist the supervisor, and other resources made available to assist the supervisor;

(J) The firm conducts annual compliance examinations of supervisory locations with effective deficiency and follow-up procedures. Unannounced examinations may be reasonable if there are compliance issues concerning agents or activities;

(K) The firm reasonably audits for compliance including reasonable follow-up and proof, independent of the agent, that mail is reviewed for customer complaints and other red flags;

(L) The firm has and implements procedures and systems for reasonable oversight of supervisors; and

(M) The firm has a reasonable policy for disciplinary and progressive supervisory action, which is reasonably implemented.

AUTHORITY: sections 409.4-412(d)(9) and 409.6-605, RSMo Supp. 2003. Original rule filed Jan. 23, 2004.

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.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 1—Facility Maintenance and Operation

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under sections 8.110, 8.320, 34.030, 37.005, 536.023.3 and 536.025, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 35-1.050 Public Use of State Facilities **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 1990–1992). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under sections 8.110, 8.320, 34.030, 37.005, 536.023.3 and 536.025, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 35-2.030 Administration of the Leasing Process **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 1993–1994). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.220 Wildlife Confinement Standards **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2212–2213). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.165 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2214–2215). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were filed with the Public Service Commission addressing the proposed amendment.

COMMENT: The staff of the Missouri Public Service Commission expressed a concern that if a reporting public utility only submits a single, completed version of its annual report containing information it wishes to maintain as nonpublic, until the reporting public utility files a second, redacted version for public viewing, the version that contains the nonpublic information will be subject to public view.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. To eliminate the concern

expressed in the comment, the commission will modify section (4) of the rule.

COMMENT: Michael Pendergast, Vice President and Associate General Counsel, and Rick Zucker, Assistant General Counsel-Regulatory, of Laclede Gas Company; and Leo J. Bub, Senior Counsel, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, filed comments suggesting that the time period allotted to a company to support the confidentiality of data filed under seal that is subject to a challenge be extended to fifteen (15) days, from the ten (10) days in the proposed rule. They suggest that ten (10) days may be inadequate for a company to respond if the challenging party transmits its pleadings via regular mail service.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. Although the comments pertain to the rules for gas utilities and telecommunications companies respectively, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission will change the time allotted for a response to a pleading requesting an order to make information filed under seal available to the public from ten (10) days to fifteen (15) days in section (5) of the proposed amendment.

COMMENT: W.R. England III and Brian McCartney, attorneys for Missouri-American Water Company, filed comments recommending that the commission adopt the staff of the commission's recommendation regarding modifications to section (4) of the proposed amendment, and recommending that the commission adopt Laclede Gas Company and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri's recommendations regarding section (5) of the proposed amendment.

RESPONSE AND EXPLANATION OF CHANGE: Although the comments pertain to the rule for water utilities, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission has considered the comments and will adopt the recommended modifications as addressed above.

4 CSR 240-3.165 Annual Report Submission Requirements for Electric Utilities

(4) If an electric utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as non public information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission (commission or PSC) under sections 386.250 and 394.160, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.190 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2028–2029). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on December 30, 2003, and the public comment period ended December 17, 2003. At the public hearing, Warren Wood, Manager of the Energy Department of the Commission, explained the development of the proposed amendments and presented the staff's responses to all written comments that were provided to the commission regarding the proposed amendment through an exhibit that was marked Exhibit No. 1 and entered into the record. John Coffman, Office of the Public Counsel (OPC), stated that OPC supported the amended rule as presented at the public hearing. At the public hearing Michael F. Barnes, Attorney for Union Electric Company, presented the comments of Union Electric Company that were also provided as written comments. Most of the comments received during the comment period and in the public hearing related to the accident reporting requirements in the proposed amendment. The commission has made several changes to the proposed amendment as a result of these comments.

COMMENT: Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, PO Box 307, Cassville, MO 65625, (417) 847-2131;

Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, PO Box 31, 2600 Highway 67, Fredericktown, Missouri, (573) 783-3381;

Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, PO Box 220, Tipton, MO 65081, (660) 433-5521;

Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, PO Box 680, Chillicothe, MO 64601, (660) 646-4281;

Dan Singletary, General Manager, Howell-Oregon Electric Coop., Inc., PO Box 649, West Plains, MO 65775, (417) 256-2131;

Kenneth L. Miller, General Manager, Laclede Electric Cooperative, PO Box M, Lebanon, MO 65536, (417) 532-3164;

Mark W. Stuart, Facility Coordinator/Safety Director, New-Mac Electric Cooperative, Inc., 12105 Highway 86 East, PO Box 310, Neosho, MO 64850, (417) 451-1515;

Charles J. Crawford, General Manager, Pemiscot-Dunklin Electric Cooperative, Inc., PO Box 657, Hayti, MO 63851, (573) 757-6641;

Lee M. Binley, General Manager, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;

Wright L. Bogart, Safety Director, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;

Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., PO Box 269, Jefferson City, MO 65102, (573) 634-2454;

Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, PO Box 87, Marshfield, MO 65706, (417) 859-2216;

Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;

Walter R. Ryan, General Manager, Three Rivers Electric Cooperative, 1324 East Main St., PO Box 918, Linn, MO 65051, (573) 897-2251; and

Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, PO Box 209, Licking, MO 65542, (573) 674-2211, commented that the notice of the rule contains a fiscal note indicating the cost to state agencies or political subdivisions will be less than five hundred dollars ($500) in the aggregate and the cost to private entities will be less than five hundred ($500) in the aggregate. This is incorrect in that the private entity reporting requirements and PSC handling and investigation costs will exceed five hundred dollars ($500). The cooperatives believe that this amount is incorrect and that the commission needs to further review the proposal.

RESPONSE: As noted in the comments from parties below, the commission is asking for information that is already documented by electric service providers in the state. The commission believes that any prudent electric service provider would be tracking accidents that would result in the damages or injuries the commission is asking for information on. The proposed amended rule simply asks for a "brief description of an accident," it is not prescriptive in terms of a form and the commission is not mandating that an investigation be performed in this rule. The commission does not anticipate that additional personnel or resources will be required of the electric service providers in the state to notify the commission of the reportable accidents that occur. The rule does not assign the PSC with incident handling or investigation responsibilities that do not already exist in statutes so the commission has not assessed the PSC any cost for these efforts. The rule also does not create investigation coordination responsibilities by electric service providers that do not already exist in statutes so the commission has assessed no additional costs for these efforts.

COMMENT: Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, PO Box 307, Cassville, MO 65625, (417) 847-2131;

Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, PO Box 31, 2600 Highway 67, Fredericktown, Missouri, (573) 783-3381;

Ron Hunter, Manager, Atchison-Holt Electric Cooperative, 18585 Industrial Road, PO Box 160, Rock Port, MO 64482, (660) 744-5344;

Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, PO Box 220, Tipton, MO 65081, (660) 433-5521;

John W. Greenlee, General Manager, Gascosage Electric Cooperative, PO Drawer G, Dixon, MO 65459, (573) 759-7146;

Dan Singletary, General Manager, Howell-Oregon Electric Coop., Inc., PO Box 649, West Plains, MO 65775, (417) 256-2131;

Mark W. Stuart, Facility Coordinator/Safety Director, New-Mac Electric Cooperative, Inc., 12105 Highway 86 East, PO Box 310, Neosho, MO 64850, (417) 451-1515;

Charles J. Crawford, General Manager, Pemiscot-Dunklin Electric Cooperative, Inc., PO Box 657, Hayti, MO 63851, (573) 757-6641;

Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., PO Box 269, Jefferson City, MO 65102, (573) 634-2454;

Thomas W. Howard, CEO/General Manager, Callaway Electric Cooperative, 503 Truman Rd., PO Box 250, Fulton, MO 65251, (573) 642-3326;

Jerry Hartman, Directory of Communications and Safety, Sho-Me Power Electric Cooperative, 301 West Jackson, PO Drawer D, Marshfield, MO 65706, (417) 468-2615;

Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, PO Box 87, Marshfield, MO 65706, (417) 859-2216;

Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;

Walter R. Ryan, General Manager, Three Rivers Electric Cooperative, 1324 East Main St., PO Box 918, Linn, MO 65051, (573) 897-2251;

Ben Harper, General Manager, Sac Osage Electric Cooperative, Inc., 4815 E. Hwy 54, PO Box 111, El Dorado Springs, MO 64744, (417) 876-2721; and

Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, PO Box 209, Licking, MO 65542, (573) 674-2211, commented that the proposed amendment contains requirements that are duplicative with activities already being conducted by either the PSC, Missouri electric cooperatives or both. The cooperative further believes that additional reporting, without benefit to the electrical industry is clerical redundancy. The information required to be reported duplicates mandates already established by OSHA, the USDA Rural Utilities Service, worker's compensation providers, MECIP, insurance carriers, Federated Rural Electric Insurance Exchange, the Association of Missouri Electric Cooperative, Inc. and state and local agencies.

RESPONSE: The commission does not believe that this rule is redundant beyond any possible redundancies that may already exist in federal or state statutes. The commission also does not believe that this rule is redundant to any degree with activities already being conducted by the PSC. The PSC has been given specific statutory obligations regarding safety and currently does not have any assurances that accidents related to its jurisdiction are being reported to the PSC. In fact, the commission currently receives accident reports from one of the utilities that this proposed change would apply to. This rule seeks to address the deficiency that currently exists between our statutory obligations and the information we have available to fulfill that obligation. As noted in the commission response above, the fact that this information is being tracked and provided to multiple organizations makes it clear that simply providing the PSC with a brief description of the incident and following up with the information that is already being provided to other organizations does not create an unreasonable effort on behalf of the electric service providers.

COMMENT: Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, PO Box 307, Cassville, MO 65625, (417) 847-2131;

Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, PO Box 31, 2600 Highway 67, Fredericktown, Missouri, (573) 783-3381;

Ron Hunter, Manager, Atchison-Holt Electric Cooperative, 18585 Industrial Road, PO Box 160, Rock Port, MO 64482, (660) 744-5344;

Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, PO Box 220, Tipton, MO 65081, (660) 433-5521;

Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, PO Box 680, Chillicothe, MO 64601, (660) 646-4281;

John W. Greenlee, General Manager, Gascosage Electric Cooperative, PO Drawer G, Dixon, MO 65459, (573) 759-7146;

Dan Singletary, General Manager, Howell-Oregon Electric Coop., Inc., PO Box 649, West Plains, MO 65775, (417) 256-2131;

Kenneth L. Miller, General Manager, Laclede Electric Cooperative, PO Box M, Lebanon, MO 65536, (417) 532-3164;

Mark W. Stuart, Facility Coordinator/Safety Director, New-Mac Electric Cooperative, Inc., 12105 Highway 86 East, PO Box 310, Neosho, MO 64850, (417) 451-1515;

Lee M. Binley, General Manager, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;
Wright L. Bogart, Safety Director, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;
Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., PO Box 269, Jefferson City, MO 65102, (573) 634-2454;
Thomas W. Howard, CEO/General Manager, Callaway Electric Cooperative, 503 Truman Rd., PO Box 250, Fulton, MO 65251, (573) 642-3326;
Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, PO Box 87, Marshfield, MO 65706, (417) 859-2216;
Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;
Walter R. Ryan, General Manager, Three Rivers Electric Cooperative, 1324 East Main St., PO Box 918, Linn, MO 65051, (573) 897-2251; and
Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, PO Box 209, Licking, MO 65542, (573) 674-2211, commented that the incident reporting requirements proposed in section (4) of the proposed amendment will not improve safety. They commented that the *National Electric Code* has already been adopted by the PSC and Missouri law. Missouri electric cooperatives are required to have their systems inspected by a licensed engineer for safety issues and compliance with code. In addition, the cooperatives are regulated by RUS and are required by insurers to meet safety requirements. Additionally, many of the state cooperatives participate in NRECA's safety accreditation program and all participate in the Missouri Electric Cooperative Insurance plan safety audits. The information requested to be reported will not be used to improve any of these safety programs.
RESPONSE: These comments seem to indicate that since the parties' facilities already comply with NESC, are inspected by licensed engineers and the parties are regulated by RUS and required to participate in a number of accreditation programs, they should not be required to report accidents to the PSC. State statutes do not provide for this exception. It is expected that the critical energy delivery systems in our state be well designed, operate safely and meet all appropriate code requirements. The proposed amendment has been developed to provide for notification of significant accidents so that the circumstances surrounding those accidents can be investigated if conditions warrant.

COMMENT: Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, PO Box 307, Cassville, MO 65625, (417) 847-2131;
Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, PO Box 31, 2600 Highway 67, Fredericktown, Missouri, (573) 783-3381;
Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, PO Box 680, Chillicothe, MO 64601, (660) 646-4281;
John W. Greenlee, General Manager, Gascosage Electric Cooperative, PO Drawer G, Dixon, MO 65459, (573) 759-7146;
Kenneth L. Miller, General Manager, Laclede Electric Cooperative, PO Box M, Lebanon, MO 65536, (417) 532-3164;
Charles J. Crawford, General Manager, Pemiscot-Dunklin Electric Cooperative, Inc., PO Box 657, Hayti, MO 63851, (573) 757-6641;
Thomas W. Howard, CEO/General Manager, Callaway Electric Cooperative, 503 Truman Rd., PO Box 250, Fulton, MO 65251, (573) 642-3326;
Jerry Hartman, Directory of Communications and Safety, Sho-Me Power Electric Cooperative, 301 West Jackson, PO Drawer D, Marshfield, MO 65706, (417) 468-2615;
Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;
Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, PO Box 87, Marshfield, MO 65706, (417) 859-2216;
Ben Harper, General Manager, Sac Osage Electric Cooperative, Inc., 4815 E. Hwy 54, P.O. Box 111, El Dorado Springs, MO 64744, (417) 876-2721; and
Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, PO Box 209, Licking, MO 65542, (573) 674-2211, commented that the time requirements in section (4) of the proposed amendment are unrealistic and will cause limited cooperative resources to be drawn away from repair and remedy and instead be devoted to reporting. The reporting time requirement set forth in the proposed document is unrealistic. Investigations and the production of accurate reports will be not only time consuming, but costly for members and customers. Due to the immediate nature of the reporting requirements, personnel typically devoted to restoring the system would be pressed to conduct an instantaneous investigation and file the resulting paperwork. The cooperatives stated that this is contradictory to their policy of limiting the duration and frequency of outages.
RESPONSE: These comments seem to indicate that the parties believe that the commission anticipates that an investigation and report are required before staff can receive its notification. No such requirements are contained in the rule and the commission specifically avoided writing the rule to be burdensome in this manner. The commission is simply requesting a "brief description of an accident" by telephone or EFIS by the end of the first business day following the discovery of the accident. The commission is requesting an update on any additional details that are determined within five (5) business days following discovery of the accident. No investigation results or formal reporting requirements have been prescribed in the rule to keep the efforts associated with notification of staff to an absolute minimum. The commission would note that Kansas City Power and Light Company is currently reporting accidents to the PSC and the commission does not believe that this has represented a significant effort. The commission would also note that in the region surrounding Missouri, four (4) states (Iowa, Illinois, Kentucky and Kansas) currently have accident reporting requirements that are similar to those proposed in this amended rule.

COMMENT: Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, PO Box 307, Cassville, MO 65625, (417) 847-2131;
Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, PO Box 31, 2600 Highway 67, Fredericktown, Missouri, (573) 783-3381;
Ron Hunter, Manager, Atchison-Holt Electric Cooperative, 18585 Industrial Road, PO Box 160, Rock Port, MO 64482, (660) 744-5344;
Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, PO Box 220, Tipton, MO 65081, (660) 433-5521;
Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, PO Box 680, Chillicothe, MO 64601, (660) 646-4281;
John W. Greenlee, General Manager, Gascosage Electric Cooperative, PO Drawer G, Dixon, MO 65459, (573) 759-7146;
Mark W. Stuart, Facility Coordinator/Safety Director, New-Mac Electric Cooperative, Inc., 12105 Highway 86 East, PO Box 310, Neosho, MO 64850, (417) 451-1515;
Charles J. Crawford, General Manager, Pemiscot-Dunklin Electric Cooperative, Inc., PO Box 657, Hayti, MO 63851, (573) 757-6641;
Lee M. Binley, General Manager, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;
Wright L. Bogart, Safety Director, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;
Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., PO Box 269, Jefferson City, MO 65102, (573) 634-2454;
Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;

Thomas W. Howard, CEO/General Manager, Callaway Electric Cooperative, 503 Truman Rd., PO Box 250, Fulton, MO 65251, (573) 642-3326;
Ben Harper, General Manager, Sac Osage Electric Cooperative, Inc., 4815 E. Hwy 54, PO Box 111, El Dorado Springs, MO 64744, (417) 876-2721; and
Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, PO Box 209, Licking, MO 65542, (573) 674-2211, commented that the information reported, pursuant to the amended section (4), to the PSC would become public record and could be used in litigation against cooperatives to enhance damage claims.
RESPONSE: As noted in the comments above, the information the commission is requesting is already being tracked and provided to other entities. Providing staff with this information does not create new litigation risk beyond those associated with notifying staff of reportable accidents and the possibility that staff may decide to investigate an accident and find negligence. Any staff investigation results that show possible negligence on the behalf of the electric service provider could increase litigation risk but staff's ability to perform investigations already exists in statutes. The change in circumstances that this proposed amendment creates is that staff would actually be made aware of the accident. Regarding the comment on information becoming public, the commission notes that it is held to the statutory requirements of section 386.480, RSMo when it receives the information associated with this rule. This section provides that the information received by the commission shall only be divulged to the public under certain limited circumstances and the violation of this statute is a misdemeanor.

COMMENT: Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, PO Box 209, Licking, MO 65542, (573) 674-2211, commented that the phrase "contact with its energized electrical supply facilities", in section (4) of the proposed amendment, could be "legally" interpreted to cover most of the facilities operated or controlled by the cooperative.
RESPONSE AND EXPLANATION OF CHANGE: It was the commission's intent in its draft language that this proposed amendment apply to electrical contact with energized facilities. The commission has amended the rule to include the words "electrical" before the word "contact" in "contact with its energized electrical supply facilities" and "resulting from electrical contact" before "considered significant by the utility" in section (4). This should help to clarify the intent of the proposed amendment. The commission notes that the rule language noted in this comment was taken directly from the notice requirement rule in Iowa.

COMMENT: Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 554-2552, commented that Ameren has no objection to those rule changes that change terminology to be consistent with the definitions in 4 CSR 240-3.010 or the express implementation of reporting through the Commission's Electronic Filing and Information System (EFIS).
RESPONSE: The commission agrees with this comment.

COMMENT: Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 554-2552, commented that Ameren questions the need for additional monthly reporting requirements in section (1), and Ameren also questions the use the Missouri Public Service Commission staff ("staff") makes of the information submitted. Ameren notes that during a rate case the staff asks for some of the same information that is reported on a monthly basis. Ameren further notes that during the most recent Ameren rate case, some staff did not know that the commission had been receiving this data for years.
RESPONSE: The commenting party questions the need for additional monthly reporting requirements. The commission's staff uses the monthly reporting requirement information submitted by the electric utilities to estimate fuel and purchase power expenses for rate cases and staff investigations. The original purpose of the monthly reporting requirements was to enable staff to do such work. The changes to these reporting requirements result from the staff's experience using the data. The change to the previous subsection (1)(D) is to clarify the information needed. Most of the utilities currently supply the net system input that was added as a requirement. Previously, staff could add up the hourly generation and purchase power reports to obtain net system input for the utility. However, when a utility begins joint dispatching with other affiliates or divisions, the hourly reports cannot be aggregated to obtain the net system inputs because the generation and purchase power reported is what is necessary to meet the joint load. So to make sure that staff receives net system input for the utility, this requirement was added. The only monthly information requirement that was added was for as-burned fuel reports. Over time, staff has found that these reports were needed to accurately estimate fuel expenses.

Staff routinely asks for the same information in every rate case because, in the past when staff used the information submitted monthly, the utility would rebut the staff's use of the data saying that the data used was incorrect as was done in the most recent Ameren rate case. Asking for the information again in a rate or complaint case gives the utility the opportunity to supplement, clarify or correct any data that it might have submitted on a monthly basis. If the data that was sent on a monthly basis is accurate, the utility only has to reply to the staff's request that the staff should use the information submitted pursuant to the rule.

There are staff who are not aware of the requirements of this rule just as there are utility employees that are not aware that the utility supplies this data to the staff. If someone from staff requests data that is submitted to the Energy Department on a monthly basis, the utility only needs to reply that the data has already been supplied to the Energy Department. The staff's Energy Department is more than willing to provide the data to anyone on staff that needs the information.

COMMENT: Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 554-2552, commented that Ameren is unsure how some information requirements will be gathered. The fuel blending requirements in subsection (1)(C) may have to be based on an estimate.
RESPONSE: If the utility is blending two (2) types of coal in order to get a mix of the best characteristics of both coals, then there should be a target for the amount of each type of coal in the blend.

Typically the operational constraints based on the boiler design will determine the optimum blend of two (2) types of coals. A blend percentage is selected based on certain boiler operational constraints and that blend becomes the target for the fuel handling crews to meet. If this is the process, then an average blend percentage for a month should be known.

However, if two (2) or more coals are burned as a mix but not necessarily in any fixed percentage of each, and the coals are mixed on the coal pile as they are received, then the commission would accept an estimated blend percentage.

COMMENT: Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 554-2552, commented that Ameren requests that the language in subsection (1)(C) be amended to exclude nuclear plants from these particular reporting requirements. Also, Ameren requests flexibility so that the fuel reports can be either for each "unit" or for each plant.
RESPONSE AND EXPLANATION OF CHANGE: Language has been added to the amendment that exempts non-carbon based plants, which would exclude nuclear and renewable plants from reporting fuel Btu consumption. The intent is to be able to monitor each unit not each plant.

Unless the plant does not have separate gas/oil meters, or separate coal bunkers/silos, or individual measuring devices (such as coal feeder belt scales or gas/oil flow metering devices for each boiler), the amount of fuel burned by each boiler should be known.

If the boilers have a common bunker/silo and/or no separate fuel measuring devices, then the utility can report the fuel burned in total for those boilers, and an estimate of the fuel for each unit (boiler-turbine generator).

If more than one boiler provides steam to a turbine generator, then the utility can report fuel burned for the boilers and the estimated percentage of fuel burned for each turbine generator.

COMMENT: Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 554-2552, commented that subsections (1)(K) and (3)(A) propose to raise the reporting threshold for accidents at a generation plant from fifty thousand ($50,000) to one hundred thousand dollars ($100,000). Ameren supports this change.
RESPONSE: The commission agrees with this comment.

COMMENT: Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 554-2552, commented that Ameren opposes the addition of section (4), which deals with reporting of certain accidents for several reasons. First, the reporting will add greatly to the administrative burdens of the electric utilities and cooperatives. The initial reporting, and even more so the follow-up reporting, will require a significant amount of time and effort, which will come at a time when utility personnel are probably already devoting substantial time and effort to the accident investigation and follow-up.

Second, Ameren questions the commission's need for this reporting. Ameren recognizes that the commission has the right to investigate whether the utilities are rendering safe and adequate utility service, in accordance with the *National Electrical Safety Code*. Ameren believes that the impetus for this proposed change is related to an incident that occurred when a member of the public was seriously injured when they contacted an electrical line. The commission was contacted by news media for information, which they were not immediately able to give. This solitary incident is not sufficient to impose a stringent regulatory reporting burden on electric utilities and cooperatives. Staff, if contacted by the media, can continue to contact the utility for information, as staff has in the past.

If the commission is not willing to eliminate section (4) in its entirety, then Ameren urges the commission to substantially revise it, in order to make it more reasonable and relevant. Ameren suggests the following changes.

The rule requires reporting of "any accident resulting from contact with its energized supply facilities." Ameren suggests inserting "electrical" before "contact." Ameren believes the commission is interested in instances where a person or object actually contacts an energized source. The change would eliminate instances, for example, where a vehicle collides with a distribution pole, something that probably happens almost every day in Ameren's service territory. Ameren also interprets the regulation to not require reporting of contacts that may take place with customer-owned electrical equipment, such as in residence and other structures.

Ameren suggests that the commission not require a follow-up report on each and every incident. As noted above, the mandatory follow-up report will entail significant costs and attention. Instead, Ameren suggests that the rule be changed so that the utility will send a follow-up report when so requested by the staff. This would give the staff some discretion as to which reported incidents to pursue and which can be closed. The last sentence should be changed to read: "If requested by the manager of the Energy Department of the commission or his/her designee, the electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days after such request, an update of the incident and any details not available at the time of the initial report."

The proposed amendment requires reporting of electric contact accidents that result in "ten thousand dollars ($10,000) in damages to the property of the utility or others." Ameren suggests that this language be deleted from the proposed amendment. First, Ameren suggests the commission is much more interested in electrical contacts that result in deaths or hospital admissions rather than property damage. Second, it could be very difficult, if not impossible, for a utility to calculate or even estimate property damage by the end of the first business day following discovery of the electrical contact.

If the commission is unwilling to delete this property damage provision, then Ameren suggests that the ten thousand dollars ($10,000) reporting limit be raised to a dollar figure that would justify both investigation and reporting burdens on the utility and the staff's efforts if staff decides to investigate the accident. Ameren suggests fifty thousand dollars ($50,000) as the property damage minimum.
RESPONSE AND EXPLANATION OF CHANGE: The commenting party's opposition to the administrative burdens required in the addition of section (4) is similar to that of the cooperatives. The commission response to this opposition has already been set forth in response to previous comments.

The commenting party does not believe that the accident reporting requirements of section (4) of the amended rule are necessary as current reporting requirements and other changes to the rule adequately ensure the safety of the public and utility employees. The commission would note that current reporting requirements do nothing to address accidents outside of power plants. It is expected that the critical energy delivery systems in our state be well designed, operate safely and meet all appropriate code requirements. The amended rule has been developed to provide for notification of significant accidents so that the circumstances surrounding those accidents can be investigated if conditions warrant. The PSC has been given specific statutory obligations regarding safety and currently does not have any assurances that accidents related to its jurisdiction are being reported to the PSC. This rule seeks to address the deficiency that currently exists between our statutory obligations and the information we have available to fulfill that obligation.

The commenting party believes that the commission is primarily interested in instances where a person or object actually contacts an energized source. The commission agrees with this comment. The commission agrees with the suggestion of putting the word "electrical" before the word "contact" so that the rule would require the reporting of "any accident resulting from electrical contact with its energized facilities." The commission has further clarified the rule by adding "resulting from electrical contact" before "considered significant by the utility" in section (4).

The commenting party also states that it interprets the rule to not require reporting of contacts that may take place with customer-owned electrical equipment, such as in residences and other structures. The commission agrees with this interpretation and believes that the amended rule language is sufficiently clear.

As other commenting parties did, the commenting party believes that the mandatory follow-up report will entail significant costs and attention. It proposes, as an alternative, follow-up reports would be made as requested by the commission. It is the commission's intent to keep the efforts associated with notification of the commission to an absolute minimum. The commission believes that any prudent electrical provider would be tracking accidents that the commission is asking for information on and that a brief report sent to staff within five (5) working days should not entail significant costs and attention.

The commenting party suggests that the requirement to report accidents that result in ten thousand dollars ($10,000) of damage be removed from the rule. The commission agrees with this comment and has revised the amended rule to require reporting of accidents that result in hospitalizations or fatalities.

The commenting party requested that if the property damage provision was not eliminated that the property damage minimum be raised to fifty thousand dollars ($50,000). The commission has

removed this requirement from the amended rule as a result of prior comments.

COMMENT: Dean L. Cooper, Brydon, Swearengen & England P.C., 312 East Capitol Avenue, PO Box 456, Jefferson City, MO 65102, (573) 635-7166; and
Jerry Divin, President of the Board, Association of Missouri Electric Cooperatives, 2722 East McCarty Street, PO Box 1645, Jefferson City, MO 65102, (573) 635-6857, commented that The Empire District Electric Company (Empire) and The Association of Missouri Electric Cooperatives (AMEC) oppose the addition of section (4) as proposed in 4 CSR 240-3.190. Empire believes that the addition of this section is unnecessary and that the current reporting system, coupled with the other suggested changes to this rule, adequately ensure safety of the public and utility employees.
RESPONSE: The commenting parties do not believe that the accident reporting requirements of section (4) of the amended rule are necessary as current reporting requirements and other changes to the rule adequately ensure the safety of the public and utility employees. The commission would note that current PSC reporting requirements do nothing to address accidents of regulated electric utilities outside of power plants or any accidents involving cooperatives. Further, the fact that NESC was updated in the amended rule does nothing to address accidents, and potential investigation of those accidents, related to energized electrical supply facilities. The comments of Empire seem to indicate that since the utility already complies with NESC they should not be required to report accidents to the PSC. State statutes do not provide for this exception. It is expected that the critical energy delivery systems in our state be well designed, operate safely and meet all appropriate code requirements. The amended rule has been developed to provide for notification of significant accidents so that the circumstances surrounding those accidents can be investigated if conditions warrant. The PSC has been given specific statutory obligations regarding safety and currently does not have any assurances that accidents related to its jurisdiction are being reported to the PSC. This rule seeks to address the deficiency that currently exists between our statutory obligations and the information we have available to fulfill that obligation.

COMMENT: Dean L. Cooper, Brydon, Swearengen & England P.C., 312 East Capitol Avenue, PO Box 456, Jefferson City, MO 65102, (573) 635-7166 commented that Empire is opposed to the ten thousand dollars ($10,000) threshold for reporting of incidents involving property damage, proposed in section (4). Empire believes that this limit is too low and should be stricken from the rule amendment. Alternatively, Empire would suggest that a one hundred thousand dollars ($100,000) damage threshold be set, to be consistent with proposed subsection (3)(A).
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with this comment and has revised the amended rule to limit reporting requirements to accidents that result in hospitalizations or fatalities or other accidents considered significant by the utility.

4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives

(1) Commencing on September 1, 1991, every electric utility shall accumulate the following information and transmit it to the manager of the Energy Department of the 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*:*

(C) Monthly as-burned fuel report for each carbon-based fuel 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);

(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 electrical contact with its energized electrical supply facilities which results in admission to a hospital or the fatality of an employee or other person or any other accident resulting from electrical contact 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.245 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2215–2216). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were filed with the Public Service Commission addressing the proposed amendment.

COMMENT: The staff of the Missouri Public Service Commission expressed a concern that if a reporting public utility only submits a single, completed version of its annual report containing information it wishes to maintain as nonpublic, until the reporting public utility files a second, redacted version for public viewing, the version that contains the nonpublic information will be subject to public view.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. To eliminate the concern expressed in the comment, the commission will modify section (4) of the rule.

COMMENT: Michael Pendergast, Vice President and Associate General Counsel, and Rick Zucker, Assistant General Counsel - Regulatory, of Laclede Gas Company; and Leo J. Bub, Senior Counsel, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, each filed comments suggesting that the time period allotted to a company to support the confidentiality of data filed under seal that is subject to a challenge be extended to fifteen (15) days, from the ten (10) days in the proposed amendment. They suggest that ten (10) days may be inadequate for a company to respond if the challenging party transmits its pleadings via regular mail service.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. The commission will change the time allotted for a response to a pleading requesting an order to make information filed under seal available to the public from ten (10) days to fifteen (15) days in section (5) of the proposed amendment.

COMMENT: W.R. England III and Brian McCartney, attorneys for Missouri-American Water Company, filed comments recommending that the commission adopt the staff of the commission's recommendation regarding modifications to section (4) of the proposed amendment, and recommending that the commission adopt Laclede Gas

Company and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri's recommendations regarding section (5) of the proposed amendment.
RESPONSE AND EXPLANATION OF CHANGE: Although the comments pertain to the rule for water utilities, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission has considered the comments and will adopt the recommended modifications as addressed above.

4 CSR 240-3.245 Annual Report Submission Requirements for Gas Utilities

(4) If a gas utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.335 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2216–2217). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were filed with the Public Service Commission addressing the proposed amendment.

COMMENT: The staff of the Missouri Public Service Commission expressed a concern that if a reporting public utility only submits a single, completed version of its annual report containing information it wishes to maintain as nonpublic, until the reporting public utility files a second, redacted version for public viewing, the version that contains the nonpublic information will be subject to public view.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. To eliminate the concern expressed in the comment, the commission will modify section (4) of the rule.

COMMENT: Michael Pendergast, Vice President and Associate General Counsel, and Rick Zucker, Assistant General Counsel - Regulatory, of Laclede Gas Company; and Leo J. Bub, Senior Counsel, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, filed comments suggesting that the time period allotted to a company to support the confidentiality of data filed under seal that is subject to a challenge be extended to fifteen (15) days, from the ten (10) days in the proposed amendment. They suggest that ten (10) days may be inadequate for a company to respond if the challenging party transmits its pleadings via regular mail service.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. Although the comments pertain to the rules for gas utilities and telecommunications companies respectively, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission will change the time allotted for a response to a pleading requesting an order to make information filed under seal available to the public from ten (10) days to fifteen (15) days in section (5) of the proposed amendment.

COMMENT: W.R. England III and Brian McCartney, attorneys for Missouri-American Water Company, filed comments recommending that the commission adopt the staff of the commission's recommendation regarding modifications to section (4) of the proposed amendment, and recommending that the commission adopt Laclede Gas Company and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri's recommendations regarding section (5) of the proposed amendment.
RESPONSE AND EXPLANATION OF CHANGE: Although the comments pertain to the rule for water utilities, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission has considered the comments and will adopt the recommended modifications as addressed above.

4 CSR 240-3.335 Annual Report Submission Requirements for Sewer Utilities

(4) If a sewer utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading

filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 393.140 and 393.290, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.435 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2217–2219). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were filed with the Public Service Commission addressing the proposed amendment.

COMMENT: The staff of the Missouri Public Service Commission expressed a concern that if a reporting public utility only submits a single, completed version of its annual report containing information it wishes to maintain as nonpublic, until the reporting public utility files a second, redacted version for public viewing, the version that contains the nonpublic information will be subject to public view.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. To eliminate the concern expressed in the comment, the commission will modify section (4) of the rule.

COMMENT: Michael Pendergast, Vice President and Associate General Counsel, and Rick Zucker, Assistant General Counsel - Regulatory, of Laclede Gas Company; and Leo J. Bub, Senior Counsel, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, filed comments suggesting that the time period allotted to a company to support the confidentiality of data filed under seal that is subject to a challenge be extended to fifteen (15) days, from the ten (10) days in the proposed amendment. They suggest that ten (10) days may be inadequate for a company to respond if the challenging party transmits its pleadings via regular mail service.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. Although the comments pertain to the rules for gas utilities and telecommunications companies respectively, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission will change the time allotted for a response to a pleading requesting an order to make information filed under seal available to the public from ten (10) days to fifteen (15) days in section (5) of the proposed amendment.

COMMENT: W.R. England III and Brian McCartney, attorneys for Missouri-American Water Company, filed comments recommending that the commission adopt the staff of the commission's recommendation regarding modifications to section (4) of the proposed amendment, and recommending that the commission adopt Laclede Gas Company and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri's recommendations regarding section (5) of the proposed amendment.
RESPONSE AND EXPLANATION OF CHANGE: Although the comments pertain to the rule for water utilities, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission has considered the comments and will adopt the recommended modifications as addressed above.

4 CSR 240-3.435 Annual Report Submission Requirements for Steam Heating Utilities

(4) If a steam heating utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as non-public information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, and 393.291, RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1906–1907). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held December 9, 2003, and the public comment period ended December 4, 2003. At the public hearing, Warren Wood, Manager of the Energy Department of the Public Service Commission of Missouri and John B. Coffman, Director, the Office

of the Public Counsel, briefly explained the development and history of the proposed rule. No comments were received regarding the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 392.210, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.540 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2219–2220). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were filed with the Public Service Commission addressing the proposed amendment.

COMMENT: The staff of the Missouri Public Service Commission expressed a concern that if a reporting public utility only submits a single, completed version of its annual report containing information it wishes to maintain as nonpublic, until the reporting public utility files a second, redacted version for public viewing, the version that contains the nonpublic information will be subject to public view.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. To eliminate the concern expressed in the comment, the commission will modify section (4) of the rule.

COMMENT: Michael Pendergast, Vice President and Associate General Counsel, and Rick Zucker, Assistant General Counsel - Regulatory, of Laclede Gas Company; and Leo J. Bub, Senior Counsel, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, each filed comments suggesting that the time period allotted to a company to support the confidentiality of data filed under seal that is subject to a challenge be extended to fifteen (15) days, from the ten (10) days in the proposed amendment. They suggest that ten (10) days may be inadequate for a company to respond if the challenging party transmits its pleadings via regular mail service.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. The commission will change the time allotted for a response to a pleading requesting an order to make information filed under seal available to the public from ten (10) days to fifteen (15) days in section (5) of the proposed amendment.

COMMENT: W.R. England III and Brian McCartney, attorneys for Missouri-American Water Company, filed comments recommending that the commission adopt the staff of the commission's recommendation regarding modifications to section (4) of the proposed amendment, and recommending that the commission adopt Laclede Gas Company and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri's recommendations regarding section (5) of the proposed rule.
RESPONSE AND EXPLANATION OF CHANGE: Although the comments pertain to the rule for water utilities, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission has considered the comments and will adopt the recommended modifications as addressed above.

4 CSR 240-3.540 Annual Report Submission Requirements for Telecommunications Companies

(4) If a telecommunications company subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-3.640 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2220–2221). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were filed with the Public Service Commission addressing the proposed amendment.

COMMENT: The staff of the Missouri Public Service Commission expressed a concern that if a reporting public utility only submits a single, completed version of its annual report containing information it wishes to maintain as nonpublic, until the reporting public utility files a second, redacted version for public viewing, the version that contains the nonpublic information will be subject to public view.
RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. To eliminate the concern

expressed in the comment, the commission will modify section (4) of the rule.

COMMENT: Michael Pendergast, Vice President and Associate General Counsel, and Rick Zucker, Assistant General Counsel - Regulatory, of Laclede Gas Company; and Leo J. Bub, Senior Counsel, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, filed comments suggesting that the time period allotted to a company to support the confidentiality of data filed under seal that is subject to a challenge be extended to fifteen (15) days, from the ten (10) days in the proposed amendment. They suggest that ten (10) days may be inadequate for a company to respond if the challenging party transmits its pleadings via regular mail service.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed amendment is appropriate. Although the comments pertain to the rules for gas utilities and telecommunications companies respectively, in the interest of consistency, the commission will apply the recommendations to this rule as well. The commission will change the time allotted for a response to a pleading requesting an order to make information filed under seal available to the public from ten (10) days to fifteen (15) days in section (5) of the proposed amendment.

COMMENT: W.R. England III and Brian McCartney, attorneys for Missouri-American Water Company, filed comments recommending that the commission adopt the staff of the commission's recommendation regarding modifications to section (4) of the proposed amendment, and recommending that the commission adopt Laclede Gas Company and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri's recommendations regarding section (5) of the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and will adopt the recommended modifications as addressed above.

4 CSR 240-3.640 Annual Report Submission Requirements for Water Utilities

(4) If a water utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 13—Service and Billing Practices for Residential Customers of Electric, Gas and Water Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140(11), the commission withdraws an amendment as follows:

4 CSR 240-13.015 Definitions **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2003 (28 MoReg 2140–2141). The proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The commission received only a few comments on the proposed amendment. Some of the comments opposed the amendment and others were in support. One company said that the definition of applicant should be the same as the definition of customer. The commission had not made a formal determination of necessity prior to publication of the proposed amendment.

RESPONSE: The commission is withdrawing the amendment because it did not make a formal finding of necessity for this particular amendment prior to the publication of the proposed amendment.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 18—Safety Standards

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.310 and 394.160, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-18.010 Safety Standards for Electric Utilities, Telecommunication Companies and Rural Electric Cooperatives **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2030). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held December 30, 2003, and the public comment period ended December 17, 2003. At the public hearing, Warren Wood, Manager of the Energy Department of the Public Service Commission of Missouri, briefly explained the development of the proposed amendment.

COMMENT: Michael F. Barnes, attorney for Union Electric Company, testified in support of the adoption of the 2002 edition of the *National Electric Safety Code*. Michael F. Barnes, attorney for Union Electric Company and Dean L. Cooper, attorney on behalf of The Empire District Electric Company, testified in opposition to the reference to the incident reporting requirements proposed in 4 CSR 240-3.190(4). Both Union Electric Company and the Empire District Electric Company also provided comments in the proposed amendment 4 CSR 240-3.190 rulemaking proceeding.

RESPONSE: The only comments related to this amendment provided in this rulemaking proceeding were either in support of the NESC code update or in opposition to the reference to the incident reporting requirements in 4 CSR 240-3.190(4). The commission finds that the reference to the incident reporting requirements in the proposed amendment is appropriate as it provides a cross-reference to the reporting requirement in the safety standards rule. The commission did not incorporate changes to the proposed amendment as a result of the comments in opposition to the rule provided in this rulemaking proceeding, and the rule will be adopted as it appeared when published in the *Missouri Register* on November 17, 2003.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-2.260 Control of Petroleum Liquid Storage, Loading and Transfer **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2003 (28 MoReg 1564–1567). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no comment to this proposed rulemaking.

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

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 144.010, RSMo Supp. 2003 and 144.070, RSMo 2000, the director amends a rule as follows:

12 CSR 10-23.424 Leasing Company Registration **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2032). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 302.304, 302.540 and 577.041, RSMo Supp. 2003 and 302.342, RSMo 2000, the director amends a rule as follows:

12 CSR 10-24.040 Completion Requirement for Driving While Intoxicated (DWI) Rehabilitation Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2032–2033). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 302.015, RSMo 2000 and 302.700, RSMo Supp. 2003, the director amends a rule as follows:

12 CSR 10-24.200 Driver License Classes **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2033–2034). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 302.177, RSMo Supp. 2003, the director rescinds a rule as follows:

12 CSR 10-24.450 Staggering Expiration Dates of Driver/NonDriver Licenses **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2034). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the secretary of state under sections 109.221.3 and 109.221.5, RSMo 2000, the secretary rescinds a rule as follows:

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

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2037–2038). No changes have been made in the proposed rescission, so it is not reprinted here. The proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the secretary of state under sections 109.221.3 and 109.221.5 RSMo 2000, the secretary adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2038–2040). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under section 409.2-202, 409.6-605 and 409.6-608, RSMo Supp. 2003, the commissioner adopts a rule as follows:

15 CSR 30-54.175 Solicitation of Interest **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2041). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner rescinds a rule as follows:

15 CSR 30-54.230 Exemption for Certain Unit Investment Trust Units **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2041). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner rescinds a rule as follows:

15 CSR 30-54.240 Missouri Issuer Exemption **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2041–2042). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner rescinds a rule as follows:

15 CSR 30-54.280 Tax Credit Exemption **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2042). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 660.017, RSMo 2000 and 660.050 and 660.317, RSMo Supp. 2003, the department amends a rule as follows:

19 CSR 30-82.060 Hiring Restrictions—Good Cause Waiver **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2042–2045). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) comment letter on the proposed amendment from a group of three (3) industry associations.

COMMENT: The group of industry associations voiced three (3) concerns related to certified copies of court documents:

1. The industry associations believe that requiring certified court documents for all past felony and misdemeanor incidents is placing a difficult burden on the applicant because long-past court records are unlikely to be readily available and court personnel may not give priority to retrieving them quickly. They believe this burden in most cases is unnecessary because if the Highway Patrol criminal background report is accurate, certified documents would do little more than confirm the existing knowledge. The group also believes that requiring certified court documents initially for all past cases will result in otherwise qualified persons abandoning the good cause waiver application process. The group of industry associations suggests that the rule amendment be changed to require certified court documents only for those crimes for which hiring is prohibited under section 660.317, RSMo. Certified court documents for those crimes not addressed by section 660.317, RSMo, could be requested during the application review process if the department deemed them necessary;

2.The industry associations believe the word "certified" should be defined by rule; and

3. The industry associations believe the rule should clarify what court documents are to be included with the application for a waiver of criminal charges.

RESPONSE: Between October 26, 2003 (the effective date of the emergency rule) and December 23, 2003, the Department of Health and Senior Services (DHSS) received one hundred sixty-two (162) applications for a good cause waiver. Only twelve (12) of these applications were returned with a request for certified court documents.

The DHSS recognizes that there may sometimes be logistical difficulties in obtaining court documents. However, since the emergency rule became effective, the good cause waiver committee has found the additional court documents submitted with the applications for waiver of criminal charges to be of material assistance when determining the applicant's character and quality of conduct leading to the criminal charges. These records provide additional detail surrounding the offense rather than the bare identity of the offense. Certified copies of the court documents are the best avenue for ensuring that the department receives a true and accurate copy of court documents to assist the committee in making their decision to either approve or deny a waiver. The department believes as long as the certified court documents are available; they need to be provided as a matter of course.

The DHSS believes that the concept of "certified copies" of court records is sufficiently, generally understood that the circuit courts of the state have incorporated the concept in their local rules and provided, explicitly, for the fees for such certified copies. For example, Rule 7.2 of the 16th Judicial Circuit (Jackson County) and Rule 7.2 of the 22nd Judicial Circuit (St. Louis City) address certified copies of court documents and the fee per page. Also, based on the applications received, applicants appear to have an understanding of the concept of certified court documents. DHSS does not believe that the word certified needs to be further defined.

The DHSS has developed a list of court documents to be submitted for the waiver of misdemeanors and felonies. This list will be included as a frequently asked question (FAQ) on the Good Cause Waiver website at: www.dhss.state.mo.us/goodcausewaiver/.