

**U**nder 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."

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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.

*Personnel Division and from a merit system agency or institution.] The Division of Personnel will use various means to make applications available which may include paper and electronic forms. Further information concerning examinations available, application procedures, employee appeal rights and procedures for submission of appeals, general merit system provisions and related matters may be obtained from the Jefferson City office of the [Personnel] Division of Personnel.*

*AUTHORITY: section 36.070, RSMo [Supp. 1995] 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 15, 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 Director of Personnel, Office of Administration, PO Box 388, 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 1:00 p.m., March 8, 2005, in Room 400 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

## Title 1—OFFICE OF ADMINISTRATION

### Division 20—Personnel Advisory Board and Division of Personnel

#### Chapter 3—Personnel Selection, Appointment, Evaluation and Separation

#### PROPOSED AMENDMENT

**1 CSR 20-3.010 Examinations.** The Personnel Advisory Board is amending subsections (4)(A) and (11)(B) of this rule.

*PURPOSE: This amendment allows for the online submission of the application and for the electronic signature of the applicant.*

(4) Application and admission to examinations shall be subject to the following conditions:

(A) Application shall be made on **paper or electronic** forms prescribed by the director. Those forms shall require information covering experience, training and other pertinent information as may be requested on the examination announcements. To be accepted for review, applications must be *[delivered]* **submitted** to the division no later than the closing date specified in the announcements. Applications shall be signed **in writing or electronically submitted** by the applicants and the truth of all statements contained in the application is certified by the **written signature or electronic submission**; and

(11) Parental Preference. In any competitive examination given for the purpose of establishing a register of eligibles, a parental preference shall be given to persons who were previously employed by the state but terminated such employment to care for young children. This preference shall be given only for persons who were full-time homemakers and caretakers of children under the age of ten (10) and were not otherwise gainfully employed for a period of at least two (2) years.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 1—OFFICE OF ADMINISTRATION Division 20—Personnel Advisory Board and Division of Personnel

### Chapter 1—Organization and Operation

#### PROPOSED AMENDMENT

**1 CSR 20-1.010 General Organization.** The Personnel Advisory Board is amending section (5) of this rule.

*PURPOSE: This amendment acknowledges the availability of the electronic application.*

(5) Public Information Procedures. Notices of merit system examinations describing eligibility requirements and procedures for filing applications are published by the *[Personnel]* Division of **Personnel**, posted in its office and provided to state agencies and institutions in which positions exist in the class for which the examinations are offered. *[Application forms are available at the*

(B) Proof of Eligibility. Proof of eligibility for parental preference shall be provided by applicants *[in the form of a signed]* on a preference claim **form** and, upon request, other evidence such as birth certificates, income tax returns or other documents *[as]* may be required by the director.

*AUTHORITY: sections 36.060 and 36.070, RSMo [Supp. 1995] 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 15, 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 Director of Personnel, Office of Administration, PO Box 388, 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 1:00 p.m., March 8, 2005, in Room 400 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division  
of Personnel  
Chapter 3—Personnel Selection, Appointment,  
Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.020 Registers.** The Personnel Advisory Board is amending subsection (7)(G) of this rule.

*PURPOSE: This amendment acknowledges the use of e-mail addresses.*

(7) Removal of Names From Registers. The director may remove a name from a register, permanently or temporarily, for any of the following reasons:

(G) Failure to maintain a record of his/her current **postal or e-mail** address with the division *[as evidenced by the return of postal authorities of unclaimed but properly addressed letters or other evidence]*;

*AUTHORITY: sections 36.060 and 36.070, RSMo [Supp. 1998] 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 15, 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 Director of Personnel, Office of Administration, PO Box 388, 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 1:00 p.m., March 8, 2005, in Room 400 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 2—Health Requirements for Movement of  
Livestock, Poultry and Exotic Animals**

**PROPOSED AMENDMENT**

**2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri.** The director of agriculture is amending paragraphs (4)(D)1. and 2. and adding paragraph (4)(D)3.

*PURPOSE: This proposed amendment will help control the spread of tuberculosis from cattle entering Missouri from states with a high incidence of tuberculosis.*

(4) Cattle.

(D) Tuberculosis.

1. *[All breeding cattle eight (8) months of age or over entering Missouri must meet one (1) of the following requirements:] All sexually intact dairy cattle six (6) months of age and older must be negative to an official tuberculosis test within sixty (60) days prior to entry.*

*[A. Originate from a tuberculosis-free state;*

*B. Originate from a tuberculosis-accredited free herd. The herd number and current herd test date must be shown on the Certificate of Veterinary Inspection;*

*C. Test negative within thirty (30) days of shipment;*

*D. Originate from a state having a reciprocal agreement with Missouri.*

*E. All sexually intact cattle and bison, from any foreign country or part thereof with no recognized tuberculosis status comparable to the Uniform Methods and Rules standards of the U.S. Bovine Tuberculosis Eradication Program, imported for reasons other than immediate slaughter or feeding for slaughter must meet the following criteria:*

*(I) Obtain a permit issued by the Missouri Department of Agriculture prior to entry; and*

*(II) Be quarantined to the Missouri premises approved in the entry permit pending two (2) consecutive negative tuberculosis tests. The first test to be conducted not less than ninety (90) nor more than one hundred twenty (120) days after arrival and the second test to be not less than two hundred ten (210) days nor more than two hundred forty (240) days after arrival in Missouri; or*

*F. Importation of steers and spayed heifers from Mexico.*

*(I) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have fully implemented the Control/Preparatory Phase of the Mexican Tuberculosis Eradication Program may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Oficial Mexicana (NOM) within sixty (60) days prior to entry into the United States and obtain an entry permit prior to entering Missouri.*

*(II) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee to have fully implemented the Eradication Phase of the Mexican Tuberculosis Eradication Program by March 1, 1997, may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma*

*Official Mexicana (NOM) within sixty (60) days prior to entry into the United States. Steers and spayed heifers from these same Mexican states that originate from herds equal to U.S. Accredited TB-Free herds may enter Missouri without testing provided they are moved directly from the herd of origin across the border as a single group and not commingled with other cattle prior to arriving at the border and obtain an entry permit prior to entering Missouri.*

*(III) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have achieved Accredited Free status may enter Missouri without testing provided they are moved as a single group and not commingled with cattle of a different status prior to arriving to the border and obtain an entry permit prior to entering Missouri.*

*(IV) Holstein and Holstein-cross steers and spayed heifers from Mexico are prohibited from entering Missouri regardless of test history.*

*(V) Rodeo stock from Mexico must be tested negative for tuberculosis within sixty (60) days prior to their utilization as rodeo or roping stock under the supervision of a USDA/APHIS port veterinarian or by a U.S. accredited veterinarian, retested for tuberculosis every twelve (12) months thereafter, and obtain an entry permit prior to entering Missouri. No sexually intact rodeo stock from Mexico will be permitted into Missouri.]*

2. [The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements.] All beef breeding cattle eight (8) months of age or over entering Missouri must meet one (1) of the following requirements:

- A. Originate from a tuberculosis-free state;
- B. Originate from a tuberculosis-accredited free herd. The herd number and current herd test date must be shown on the Certificate of Veterinary Inspection;
- C. Test negative within sixty (60) days of shipment;
- D. Originate from a state having a reciprocal agreement with Missouri.
- E. All sexually intact cattle and bison, from any foreign country or part thereof with no recognized tuberculosis status comparable to the Uniform Methods and Rules standards of the U.S. Bovine Tuberculosis Eradication Program, imported for reasons other than immediate slaughter or feeding for slaughter must meet the following criteria:

(I) Obtain a permit issued by the Missouri Department of Agriculture prior to entry; and

(II) Be quarantined to the Missouri premises approved in the entry permit pending two (2) consecutive negative tuberculosis tests. The first test to be conducted not less than ninety (90) nor more than one hundred twenty (120) days after arrival and the second test to be not less than two hundred ten (210) days nor more than two hundred forty (240) days after arrival in Missouri; or

F. Importation of steers and spayed heifers from Mexico.

(I) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have fully implemented the Control/Preparatory Phase of the Mexican Tuberculosis Eradication Program may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Official Mexicana (NOM) within sixty (60) days prior to entry into the United States and obtain an entry permit prior to entering Missouri.

(II) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee to have fully implemented the Eradication Phase of the Mexican

Tuberculosis Eradication Program by March 1, 1997, may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Official Mexicana (NOM) within sixty (60) days prior to entry into the United States. Steers and spayed heifers from these same Mexican states that originate from herds equal to U.S. Accredited TB-Free herds may enter Missouri without testing provided they are moved directly from the herd of origin across the border as a single group and not commingled with other cattle prior to arriving at the border and obtain an entry permit prior to entering Missouri.

(III) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have achieved Accredited-Free status may enter Missouri without testing provided they are moved as a single group and not commingled with cattle of a different status prior to arriving to the border and obtain an entry permit prior to entering Missouri.

(IV) Holstein and Holstein-cross steers and spayed heifers from Mexico are prohibited from entering Missouri regardless of test history.

(V) Rodeo stock from Mexico must be tested negative for tuberculosis within sixty (60) days prior to their utilization as rodeo or roping stock under the supervision of a USDA/APHIS port veterinarian or by a U.S. accredited veterinarian, retested for tuberculosis every twelve (12) months thereafter, and obtain an entry permit prior to entering Missouri. No sexually intact rodeo stock from Mexico will be permitted into Missouri.

3. The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements.

*AUTHORITY: 267.645, RSMo 2000. This version of rule filed Jan. 24, 1975, effective Feb. 3, 1975. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2004, effective Dec. 12, 2004, expires May 31, 2005. Amended: Filed Dec. 2, 2004.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102, by facsimile at (573) 751-6919 or via e-mail at Taylor.Woods@mda.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 100—Missouri Agricultural and Small Business  
Development Authority  
Chapter 7—Missouri Value-Added Loan Guarantee  
Program (MoVAP)**

**PROPOSED AMENDMENT**

**2 CSR 100-7.010 Description of Operation, Definitions, Borrower Requirements, Procedures for Making and Collecting Loans and Amending the Rules for the Missouri Value-Added Loan Guarantee Program.** The department is amending subsections (1)(B), (2)(A), (4)(G), and (5)(C).

*PURPOSE: This amendment is to increase the guarantee amount.*



(1) General Organization.

(B) The authority will issue certificates of guaranty covering a first loss guarantee up to *[twenty-five percent (25%)] fifty percent (50%)* of the loan on a declining principal basis made by lenders to eligible borrowers for the purpose of financing an agricultural business development loan.

(2) Definitions. As used in this rule, the following terms shall mean:

(A) "Certificate of guaranty," evidence of obligation of the authority to guarantee up to but no more than *[twenty-five percent (25%)] fifty percent (50%)* of the loan on a declining principal basis made by lenders to eligible borrowers for the purpose of financing an agricultural business development loan;

(4) Procedure for Making Eligible Loans.

(G) Upon approval and determining that all requirements for the loan guarantee are met, the authority will issue to the lender a certificate of guaranty for up to *[twenty-five percent (25%)] fifty percent (50%)* of any loss of the loan amount on a declining principal basis, and for a period not to exceed ten (10) years.

(5) Procedure for Collecting Loans.

(C) After a lender has foreclosed upon a borrower who has defaulted on a loan made through the program, the authority will reimburse the lender for any loss up to *[twenty-five percent (25%)] fifty percent (50%)* of the principal outstanding.

*AUTHORITY: section 348.403, RSMo [Supp. 1997] 2000. Original rule filed Oct. 28, 1997, effective May 30, 1998. Amended: Filed Dec. 15, 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 Missouri Agricultural and Small Business Development Authority, Tony Stafford, Executive Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 100—Missouri Agricultural and Small Business  
Development Authority  
Chapter 10—New Generation Cooperative Incentive Tax  
Credit Program**

**PROPOSED AMENDMENT**

**2 CSR 100-10.010 Description of Operation, Definitions, and Method of Distribution and Repayment of Tax Credits.** The department is amending subsections (2)(A) and (C).

*PURPOSE: This amendment changes the reference numbers "100" to "60."*

(2) Definitions. As used in this rule, the following shall mean:

(A) "Employee Qualified Capital Project": *[One hundred (100)] Sixty (60)* full-time employees or equivalent must be employed no later than twenty-four (24) months from the time the eligible new generation cooperative becomes operational. *[One hundred (100)] Sixty (60)* full-time employees or equivalent must be maintained for a period of at least five (5) years. Full-time employee is defined as a

person working at least thirty-five (35) hours per week. Equivalent employee includes part-time employees fifteen to twenty-five (15–25) hours per week as 1/2 employees and part-time employees working twenty-six to thirty-four (26–34) hours per week as 3/4 employees. Full-time employees and/or equivalency must be certified to the Missouri Agricultural and Small Business Development Authority (the "Authority") on or before the anniversary date of the tax credits issuance for each of the first five (5) years after reaching the required *[one hundred (100)] sixty (60)* employees and may be verified more frequently at the discretion of the Authority;

(C) "Maintenance of *[one hundred (100)] sixty (60)* employees": *[One hundred (100)] Sixty (60)* employees, once reached during or at the end of the twenty-four (24)-month period, must be maintained on a continual basis for sixty (60) months.

*AUTHORITY: section 348.432, RSMo Supp. [2001] 2004. Original rule filed July 26, 2001, effective Jan. 30, 2002. Amended: Filed Dec. 15, 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 Missouri Agricultural and Small Business Development Authority, Tony Stafford, Executive Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**PROPOSED RULE**

**4 CSR 240-3.513 Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notices of Adoptions of Interconnection Agreements or Statements of Generally Available Terms**

*PURPOSE: An application to approve an interconnection agreement or statement of generally available terms under 47 U.S.C. section 252(f), or an amendment to an interconnection agreement, or a notice of adoption of an interconnection agreement or adoption of statements of generally available terms shall meet the requirements set forth in this rule.*

(1) Interconnection Agreements Arrived at through Negotiation.

(A) Applications shall comply with applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.

(B) The interconnection agreement shall:

1. Sequentially number all pages of the interconnection agreement; and

2. Be signed by both parties to the agreement.

(C) Changes made to a pending interconnection agreement shall be signed by both parties to the agreement.

(D) Changes made to a pending interconnection agreement more than sixty (60) days after the application was filed shall be deemed to be the withdrawal of the agreement which is pending approval and

the filing of a new agreement, thus starting a new ninety (90)-day period for commission action.

(2) Applications for Statements of Generally Available Terms under 47 U.S.C. section 252(f) shall comply with applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.

(3) Interconnection Agreements Arrived at through Arbitration.

(A) The interconnection agreements shall comply with the requirements identified in 4 CSR 240-36.050.

(B) The interconnection agreement shall:

1. Sequentially number all pages of the interconnection agreement; and
2. Be signed by both parties to the agreement.

(4) Adoptions of Interconnection Agreement Previously Approved by this Commission.

(A) Either company may submit a letter to the secretary of the commission. The letter shall include the case number in which the adopted agreement was previously approved by this commission, along with the tracking number(s) or case number(s) of any amendments the parties will adopt. The letter shall also include a copy of the signature page signed by both parties to the adoption. The adoption shall be deemed approved on the date it is properly submitted as set forth in this rule. No adoption will become effective prior to the date it is properly submitted as set forth in this rule.

(B) If both parties have not signed the signature page to the adoption, the adopting company shall file an application with the commission.

1. The application shall comply with the applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.

2. The application shall explain the applicant's inability to obtain the other party's signature on the adoption.

3. The commission will send notice to the non-signatory party allowing twenty (20) days for objection.

4. If the non-signatory party does not file an objection on or before the twentieth day, the adoption shall be deemed approved and the commission will close the case. If the non-signatory party does file an objection on or before the twentieth day, the commission, after following an appropriate procedure, will determine whether to approve or reject the adoption.

(5) Adoption of an Approved Statement of Generally Available Terms under 47 U.S.C. Section 252(f).

(A) Adoptions shall be accomplished by submitting a letter to the secretary of the commission. The letter shall inform the commission about the adoption of the statement or agreement along with a copy of the signature page signed by both parties to the adoption.

(B) The adoption of the statement or agreement shall be deemed approved on the date it is properly submitted as set forth in this rule.

(C) No adoption will become effective prior to the date it is properly submitted as set forth in this rule.

(6) Amendments to Approved Interconnection Agreements or Approved Statements of Generally Available Terms under 47 U.S.C. Section 252(f).

(A) Applications for Adoption of Amendments Previously Approved by this Commission.

1. Either company may submit to the secretary of the commission a letter and one (1) copy of the proposed amendment along with one (1) copy of the signature page signed by both parties to the adoption.

2. The letter shall generally describe the proposed amendment and the case number or tracking number where the amendment was previously approved.

3. Applications for adoption of amendments previously approved by this commission shall be deemed approved on the date they are properly submitted as set forth in this rule, if both parties have signed the signature page of the amendment.

4. No adoption of an amendment will become effective prior to the date it is properly submitted as set forth in this rule.

(B) If both parties have not signed the signature page to the adoption of an amendment, the adopting company shall file an application with the commission.

1. The application shall comply with the applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.

2. The application shall explain the applicant's inability to obtain the other party's signature on the adoption of the amendment.

3. The commission will send notice to the non-signatory party allowing twenty (20) days for objection.

4. If the non-signatory party does not file an objection on or before the twentieth day, the adoption of the amendment shall be deemed approved and the commission will close the case. If the non-signatory party does file an objection on or before the twentieth day, the commission, after following an appropriate procedure, will determine whether to approve or reject the adoption of the amendment.

(C) Applications for proposed amendments not previously approved by this commission shall comply with applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.

1. Changes made to a pending amendment shall be signed by both parties to the amendment.

2. Changes made to a pending amendment more than sixty (60) days after the amendment was filed shall be deemed to be the withdrawal of the amendment which is pending approval and the filing of a new amendment, thus starting a new ninety (90)-day period for commission action.

*AUTHORITY: sections 386.250 and 386.410, RSMo 2000. Original rule filed Dec. 7, 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 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 February 17, 2005, and should include a reference to Commission Case No. TX-2003-0565. 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 February 23, 2005, 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 (voice) or Relay Missouri at 711.*

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.065 Operating Permits.** The commission proposes to combine original sections (2) and (3) to form new section (1); renumber original section (1) as section (2), and add new subsections (2)(A) and (2)(E); amend original subsections (1)(B) and (1)(D); add new section (3); amend original subsections (4)(B), (C), (E), (G) through (K), and (M); add new subsections (4)(H) and (4)(L); renumber original subsections (4)(I) through (4)(Q); amend subsections (5)(A), (5)(B), and (5)(C); add new subsections (5)(D), (5)(E), and (5)(F); renumber and amend original subsection (5)(D); and amend subsection (6)(B). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/regagenda.htm](http://www.dnr.mo.gov/regs/regagenda.htm).

*PURPOSE: This rule defines air contaminant sources which are required to obtain operating permits and establishes procedures for obtaining and complying with operating permits. The purpose of this rulemaking is to streamline the Basic and Intermediate Operating Permits, minimizing the workload on both industry and program staff while maintaining ambient air quality standards. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the e-mail summary of the August 28, 2003 Air Program Advisory Forum (comprised of representatives from industry, environmental groups, and state and local government) meeting.*

**(1) Applicability.**

**(A) Part 70, Intermediate and Basic State Installations.** This rule shall apply to existing, modified, reconstructed and new installations, whether part 70 intermediate or basic state throughout Missouri.

**(B) Incinerators.** This rule shall apply to all incinerators.

**(C) Exempt Installations and Emission Units.** The following installations and emission units are exempt from the requirements of this rule unless such units are part 70 or intermediate installations or are located at part 70 or intermediate installations. Emissions from exempt installations and emission units shall be considered when determining if the installation is a part 70 or intermediate installation:

1. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.070(7)(AAA) Standards of Performance for New Residential Wood Heaters;
2. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.240 or 10 CSR 10-6.250;
3. Single or multiple family dwelling units for not more than three (3) families;
4. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;
5. Equipment used for any mode of transportation;
6. Livestock markets and livestock operations, including animal feeding operations and concentrated animal feeding operations as those terms are defined by 40 CFR 122.23 and all

manure storage and application systems associated with livestock markets or livestock operations;

7. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

8. Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment;

9. Equipment or control equipment which eliminates all emissions to the ambient air;

10. Equipment, including air pollution control equipment, but not including an anaerobic lagoon, that emits odors but no regulated air pollutants;

11. Residential wood heaters, cookstoves or fireplaces;

12. Laboratory equipment used exclusively for chemical and physical analysis or experimentation is exempt, except equipment used for controlling radioactive air contaminants;

13. Recreational fireplaces;

14. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

15. Combustion equipment that—

A. Emits only combustion products;

B. Produces less than one hundred fifty (150) pounds per day of any air contaminant; and

C. Has a maximum rated capacity of—

(I) Less than ten (10) million British thermal units (Btus) per hour heat input by using exclusively natural or liquefied petroleum gas, or any combination of these; or

(II) Less than one (1) million Btus per hour heat input;

16. Office and commercial buildings, where emissions result solely from space heaters using natural gas or liquefied petroleum gas with a maximum rated capacity of less than twenty (20) million Btus per hour heat input. Incinerators operated in conjunction with these sources are not exempt;

17. Any country grain elevator that never handles more than 1,238,657 bushels of grain during any twelve (12)-month period and is not located within an incorporated area with a population of fifty thousand (50,000) or more. A country grain elevator is defined as a grain elevator that receives more than fifty percent (50%) of its grain from producers in the immediate vicinity during the harvest season. This exemption does not include grain terminals which are defined as grain elevators that receive grain primarily from other grain elevators. To qualify for this exemption the owner or operator of the facility shall retain monthly records of grain origin and bushels of grain received, processed and stored for a minimum of five (5) years to verify the exemption requirements. Monthly records must be tabulated within seven (7) days of the end of the month. Tabulated monthly records shall be made available immediately to Missouri Department of Natural Resources representatives for an announced inspection or within three (3) hours for an unannounced visit;

18. Sand and gravel operations that have a maximum capacity to produce less than seventeen and one-half (17.5) tons of product per hour and use only natural gas as fuel when drying;

19. Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized, as authorized in section 269.020.6, RSMo 2000; and

20. Any asphaltic concrete plant, concrete batching plant or rock crushing plant that can be classified as a portable equipment installation, as defined in 10 CSR 10-6.020.

**(D) Prohibitions.**

1. After the effective date of this rule, no person shall operate a part 70 installation, intermediate installation, or basic state installation except in compliance with an operating permit issued by the permitting authority in accordance with this rule.



2. Except as specified in this rule or in the operating permit, it is not a violation of this rule for a permitted installation to be operated in ways that are not addressed in, constrained by or prohibited by the operating permit.

*[(1)](2) Definitions.*

(A) *[Definitions for key words or phrases used in this rule may be found in 10 CSR 10-6.020(2).]* **Air Pollutant—Agent, or combination of agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the staff director has identified such precursor(s) for the particular purpose for which the term “air pollutant” is used.**

(B) **Basic state installations [are installations]—Installations** which meet any of the following criteria, but are not part 70 installations:

1. Emit or have the potential to emit any air pollutant in an amount greater than the *de minimis* levels. **The fugitive emissions of an installation shall not be considered unless the installation belongs to one of the source categories listed in 10 CSR 10-6.020(3)(B), Table 2; or**

2. Either of the following criteria, provided the U.S. EPA administrator has deferred a decision on whether the installation would be subject to part 70:

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

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

(C) **Intermediate installations are part 70 installations that become basic state installations based on their potential to emit by accepting the imposition of voluntarily agreed to federally-enforceable limitations on the type of materials combusted or processed, operating rates, hours of operation, or emission rates more stringent than those otherwise required by rule or regulation.**

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

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

2. They emit or have the potential to emit one hundred (100) tpy or more of any air pollutant, including all fugitive air pollutants. *[The term “air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the staff director has identified*

*such precursor(s) for the particular purpose for which the term “air pollutant” is used.]* The fugitive emissions of an installation shall not be considered unless the installation belongs to one of the source categories listed in 10 CSR 10-6.020(3)(B), Table 2;

3. They are located in nonattainment areas or ozone transport regions.

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

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

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

D. For particulate matter less than ten (10) micrometers (PM<sub>10</sub>) nonattainment areas classified as “serious,” sources with the potential to emit seventy (70) tpy or more of PM<sub>10</sub>;

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

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

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

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

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

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

**(E) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.**

*[(2) Prohibitions.*

(A) *After the effective date of this rule, no person shall operate a part 70 installation, intermediate installation, or basic state installation except in compliance with an operating permit issued by the permitting authority in accordance with this rule.*

(B) *Except as specified in this rule or in the operating permit, it is not a violation of this rule for a permitted installation to be operated in ways that are not addressed in, constrained by or prohibited by the operating permit.*

*(3) Applicability.*

(A) *Part 70, Intermediate and Basic State Installations. This rule shall apply to existing, modified, reconstructed and new installations, whether part 70, intermediate or basic state, throughout Missouri.*

(B) *Incinerators. This rule shall apply to all incinerators.*

(C) *Exempt Installations and Emission Units. The following installations and emission units are exempt from the requirements of this rule unless such units are part 70 or intermediate installations or are located at part 70 or intermediate*

installations. Emissions from exempt installations and emission units shall be considered when determining if the installation is a part 70 or intermediate installation:

1. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.070(7)(AAA) Standards of Performance for New Residential Wood Heaters;

2. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.240 or 10 CSR 10-6.250;

3. Single or multiple family dwelling units for not more than three (3) families;

4. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;

5. Equipment used for any mode of transportation;

6. Livestock markets and livestock operations, including animal feeding operations and concentrated animal feeding operations as those terms are defined by 40 CFR 122.23 and all manure storage and application systems associated with livestock markets or livestock operations;

7. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

8. Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment;

9. Equipment or control equipment which eliminates all emissions to the ambient air;

10. Equipment, including air pollution control equipment, but not including an anaerobic lagoon, that emits odors but no regulated air pollutants;

11. Residential wood heaters, cookstoves or fireplaces;

12. Laboratory equipment used exclusively for chemical and physical analysis or experimentation is exempt, except equipment used for controlling radioactive air contaminants;

13. Recreational fireplaces;

14. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

15. Combustion equipment that—

A. Emits only combustion products;

B. Produces less than one hundred fifty (150) pounds per day of any air contaminant; and

C. Has a maximum rated capacity of—

(I) Less than ten (10) million British thermal units (Btus) per hour heat input by using exclusively natural or liquefied petroleum gas, or any combination of these; or

(II) Less than one (1) million Btus per hour heat input;

16. Office and commercial buildings, where emissions result solely from space heaters using natural gas or liquefied petroleum gas with a maximum rated capacity of less than twenty (20) million Btus per hour heat input. Incinerators operated in conjunction with these sources are not exempt;

17. Any country grain elevator that never handles more than one million two hundred thirty-eight thousand six hundred fifty-seven (1,238,657) bushels of grain during any twelve (12)-month period and is not located within an incorporated area with a population of fifty thousand (50,000) or more. A country grain elevator is defined as a grain elevator that receives more than fifty percent (50%) of its grain from producers in the immediate vicinity during the harvest season. This exemption does not include grain terminals which are defined as grain elevators that receive grain primarily from other grain elevators. To qualify for this exemption the owner or operator of the facility shall retain monthly records

of grain origin and bushels of grain received, processed and stored for a minimum of five (5) years to verify the exemption requirements. Monthly records must be tabulated within seven (7) days of the end of the month. Tabulated monthly records shall be made available immediately to Missouri Department of Natural Resources representatives for an announced inspection or within three (3) hours for an unannounced visit;

18. Sand and gravel operations that have a maximum capacity to produce less than seventeen and one-half (17.5) tons of product per hour and use only natural gas as fuel when drying;

19. Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized, as authorized in section 269.020.6, RSMo 2000; and

20. Any asphaltic concrete plant, concrete batching plant or rock crushing plant that can be classified as a portable equipment installation, as defined in 10 CSR 10-6.020.]

### (3) Single, Multiple or General Permits.

(A) Pursuant to this section, an installation must have a permit (or group of permits) addressing all applicable requirements for all relevant emissions units in the installation. An installation may comply with this subsection through any one (1) of the following methods:

1. The installation may apply for a single permit covering all relevant emissions units located within a contiguous area under common control (whether or not the installation falls under the same two (2)-digit Standard Industrial Code (SIC));

2. The installation may apply for separate permits for separate emissions units or groups of emissions units; or

3. The installation may apply for coverage for one (1) or more emissions units eligible for permitting under a general permit issued by the permitting authority, and obtain a separate permit(s) for emissions units not eligible for general permit coverage.

4. When determining operating permit classification (part 70, intermediate or basic state), the installation shall calculate the potential to emit for the entire installation and all multiple permits shall be subject to the same operating permit classification.

5. Notwithstanding, if the installation is a basic installation and is subject to 40 CFR part 63, subpart EEE, National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors, the installation has the option of obtaining a part 70 permit for the entire installation or a part 70 permit for the emission unit subject to the maximum achievable control technology (MACT) and a basic for the rest of the installation. However, the part 70 permit for the affected emission unit must incorporate all applicable requirements that apply to hazardous waste combustion devices, not just those in 40 CFR part 63, subpart EEE.

### (4) Basic State Operating Permits.

(B) Notifications. [All notifications will be submitted in duplicate. The permitting authority will return one (1) copy to the notifier stamped Received. This copy will be kept at the installation to which the notification pertains for inspection purposes.] The installation shall file a notification with the permitting authority. The following schedules apply:

1. Initial notifications. All basic state installations shall file complete operating permit notifications [within twenty-four (24) months following the administrator's approval of the part 70 operating permit program] by May 1998;

2. Subsequent notifications. Any installation that becomes subject to this section at any time [following twenty-four (24) months after the administrator's approval of the part 70



*operating permit program*] shall file a complete operating permit notification no later than thirty (30) days after commencement of operations **after May 1998**;

3. Renewal notifications. Installations subject to this section shall file complete operating permit notifications for operating permit renewal at least six (6) months before the date the current operating permit expires; *and*

4. Notwithstanding the deadlines established in this subsection, a complete operating permit notification filed at any time shall be received for processing */.*; **and**

**5. Starting March 30, 2005, all installations that have an active initial or renewal notification—accepted or with a receipt stamp—shall be deemed to be accepted and subject to the respective expiration date on the notification.**

(C) Notifications Review.

1. After the permitting authority receives an operating permit notification, they shall perform a completeness and applicable requirements verification review and, if the notification is determined to be complete, shall inform the notifier that the operating permit is accepted. **The permitting authority will return a copy to the notifier stamped accepted with an expiration date. This copy will be kept at the installation to which the notification pertains.**

2. If the permitting authority determines that an operating permit notification is not complete, they shall inform the notifier promptly of the deficiencies in the notification and shall specifically describe required *[amendments]* revisions to the operating permit notification.

(E) Filing Fee. Each operating permit notification must be accompanied by a one hundred dollar (\$100) filing fee, **except for administrative permit amendments as defined in subparagraph (4)(M)1.A. of this rule.**

(G) Notification Contents. The permitting authority shall prepare and make available to all basic state installations subject to this section an operating permit notification form(s). The operating permit notification form(s) shall require a general description of the installation, *[and the installation's processes and products, emissions-related information, and]* all applicable emission limitations and control requirements for each emissions unit at the installation to be permitted **and a reference to the respective emission point numbers in the Emission Inventory Questionnaire (EIQ).** The notification also shall require a statement of the installation's compliance status with respect to these requirements and a commitment regarding the installation's plans to either attain compliance with these requirements within the time allowed by law or maintain compliance with these requirements during the operating permit period.

(H) Installation Equipment Log. The installation shall maintain on-site an active list of processing equipment or emission units. **If the equipment is only subject to 10 CSR 10-6.110 it does not need to be included on the equipment list. The equipment list shall identify the associated EIQ emission point reference, if any, and the date of installation and/or manufacture. The equipment list shall provide a means for field verification of listed units, such as an identification number marked on the equipment, a location description for stationary equipment, or a description of make, model and manufacture. Please note: If the equipment is already maintained on an identification list from a construction permit requirement (10 CSR 10-6.060, 10 CSR 10-6.062), this satisfies the requirement.**

*[(H)](I)* General Permits. Installations may apply to operate under any applicable general permit.

1. Issuance of general permits. General permits covering similar installations may be issued by the permitting authority. Basic installation operating permits are not required to have public participation; however, citizens may appeal any action of the director. The general permit shall indicate a reasonable time after which an installation that has submitted an application for authorization will be deemed to be authorized to operate under the general permit. A gen-

eral permit shall identify criteria by which installations may be authorized to operate under the general permit. This criteria must include the following:

A. Categories of sources covered by the general permit must be homogeneous in terms of operations, processes and emissions;

B. Sources may not be subject to case-by-case standards or requirements; and

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

2. Applications. The permitting authority shall provide application forms for coverage under a general permit. General permit applications may deviate from individual permit applications but shall include all information necessary to determine qualification for, and to assure compliance with, the general permit. The permitting authority shall authorize coverage by the conditions and terms of a general permit to all installations that apply for and qualify under the specified general permit criteria. Installations applying for coverage under a general permit must comply with all the requirements of this rule, except public participation requirements.

3. Enforcement. The source shall be subject to enforcement actions for operating without an operating permit if it is determined later that the source does not qualify for the conditions and terms of the general permit, regardless of any application shield provisions.

*[(I)](J)* Compliance Reporting. Operating permit notification forms provided by the permitting authority shall include a compliance reporting requirement, which shall require a brief compliance report *[no more frequent than annually (or less frequently in the discretion of the permitting authority)] every five (5) years.*

*[(J)](K)* Operating Permit Period. Each operating permit under this section shall be effective for a period of five (5) years. The permit term shall commence on the date of *[receipt or]* acceptance, *whichever is later*.

(L) Off-Permit Changes. **Except as provided in paragraph (4)(L)1. of this rule, a basic state permitted installation may make any change in its permitted operations, activities or emissions that are not addressed in, constrained by or prohibited by the permit without obtaining a permit revision. Insignificant activities not addressed in or prohibited by the permit, shall not be considered to be constrained by the permit for purposes of the off-permit provisions of this section. Off-permit changes shall be subject to the following requirements and restrictions:**

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

2. Contemporaneous notice, except insignificant activities. The permittee must provide contemporaneous written notice of the change to the permitting authority. This notice shall not be required for changes that are insignificant activities under paragraph (6)(B)3. of this rule. This written notice shall describe each change, including the date, any change in emissions, pollutants emitted and any applicable requirement that would apply as a result of the change. Construction permit determinations requested of the permitting authority and/or construction permits obtained under 10 CSR 10-6.060 shall be deemed to be contemporaneous notice; and

3. Records of changes. The permittee shall keep a record describing all changes made at the installation that result in

emissions of a regulated air pollutant subject to an applicable requirement and the emissions resulting from these changes.

*[(K)](M)* Operating Permit Amendments and Modifications.

**1. Administrative permit amendments.**

**A. An administrative permit amendment for a basic state permit is a permit revision that—**

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

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

**B. Procedures.**

**(I) The permittee shall request an administrative permit amendment by letter with certification by the responsible official.**

**(II) The permitting authority shall take final action on a request for an administrative permit amendment within sixty (60) days after receipt of the request.**

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

**2. Operating permit modifications.** Whenever an operating permit notifier or basic state installation determines, at any time after an operating permit notification has been submitted or an operating permit notification has been accepted by the permitting authority, that the notification or operating permit contains false, misleading, incorrect or incomplete information, the owner or operator of the installation shall submit an amendment to the notification or operating permit promptly to the permitting authority. Whenever the permitting authority determines that an operating permit fails to include or inadequately implements any applicable requirement, including any new requirement promulgated after the permitting authority's acceptance of the operating permit, the permitting authority shall inform the installation of this requirement and direct the installation to prepare and submit a notification or operating permit amendment.

*[(L)](N)* Compliance Demonstrations. The permitting authority, at any time when an operating permit notification is pending or after an operating permit has been accepted, may require the installation to demonstrate compliance with applicable requirements. If the installation fails to comply with this request, or fails to demonstrate compliance, the installation will be subject to the same enforcement provisions as established under the part 70 state operating permits of section (6) of this rule.

*[(M)](O)* State Enforcement. All terms of an operating permit shall be enforceable by the permitting authority. The permitting authority is authorized, for enforcement purposes, to enter and inspect basic state installations at reasonable times and upon the presentation of proper credentials. The owner or operator will provide the representative of the permitting authority the stamped [*"Received" or*] copy of the operating permit notification or general permit upon entry.

*[(N)](P)* Federal Enforceability. Any terms of an accepted operating permit which are based on applicable requirements contained in the federally-approved State Implementation Plan (SIP) or any other federal applicable requirements are federally enforceable.

*[(O)](Q)* Operational Flexibility. Nothing in this section shall be construed to inhibit the operation of a basic state installation with respect to any operations, activities or emissions not addressed in, constrained by or prohibited by the operating permit accepted by the permitting authority.

*[(P)](R)* Public Availability. Operating permit notifications, accepted operating permits and compliance reports under this section shall be maintained in a file available to the public for inspection and copying, except to the extent confidential treatment has been granted at the request of the basic state installation.

*[(Q)](S)* Construction Permits or Authorizations Not Affected. The requirements of this section shall not affect the obligation of any basic state installation to obtain a permit or authorization for any construction activity at the basic state installation which is subject to 10 CSR 10-6.060 Construction Permits Required.

(5) Intermediate State Operating Permits.

(A) Applicability. All intermediate installations are subject to the requirements of *[subsections (4)(C)–(G) and (4)(I)–(Q) of this rule, in addition to the requirements of]* this section.

(B) Permit Notifications/Applications.

**1. Timely *[(N)]*notification/applications.**

A. All notifications/applications will be submitted in duplicate. *[The permitting authority will return one (1) copy of the notifier stamped Received. This copy will be kept at the installation to which the notification pertains for inspection purposes.]* Intermediate installations shall file initial notifications/applications on the following schedule:

*[1.](I)* Initial notification. All installations shall file complete notifications *[within the first two (2) months following the administrator's approval of the part 70 operating permit program] by July 1996*, with one (1) exception allowed as follows: Intermediate installations that have actual emissions (as defined in 10 CSR 10-6.020(2)(A)4.) less than fifty percent (50%) of the part 70 installation threshold levels (refer to the definition section of this rule for part 70 installation threshold levels) shall file complete notifications *[within the first twelve (12) months following the administrator's approval of the part 70 operating permit program] by May 1997*;

*[2.](II)* Subsequent *[notification]* application.

(a) Any installation that becomes subject to this section at any time between July 1996 and March 2005, shall file a complete application no later than thirty (30) days after the commencement of operations.

(b) Any installation that becomes subject to this section at any time following *[the first two (2) months after the administrator's approval of the part 70 operating permit program] March 2005*, shall file a complete *[notification]* application no later than *[thirty (30) days]* twelve (12) months after the commencement of operations*[/]*.

(c) If an installation already has an issued part 70 operating permit, the installation is subject to the requirements of the part 70 operating permit and intermediate application until the intermediate permit is issued and the part 70 operating permit is terminated;

*[3.](III)* Renewal *[notification]* application. Installations subject to this section shall file *[notifications]* complete applications for renewal of the operating permits at least six (6) months before the date of permit expiration. In no event shall this time be greater than eighteen (18) months; *[and]*

(IV) Unified review. An installation subject to this section required to have a construction permit under 10 CSR 10-6.060 may submit a complete application for an operating permit or permit modification for concurrent processing as a unified review. An operating permit submitted for concurrent processing shall be submitted with the applicant's construction permit application, or at a later time as the permitting authority may allow, provided that the total review period does not extend beyond eighteen (18) months. An installation that is required to obtain a construction permit under 10 CSR 10-6.060 and that, in writing has not chosen to undergo unified review, shall file a complete operating permit application, permit amendment or modification application separate from the construction permit application within twelve (12) months after commencing operation; and

(V) Application/notification expirations. Starting March 30, 2005—

(a) Installations that have an active initial or renewal application with a receipt stamp shall:

I. Be deemed to have submitted the initial or renewal application; and

II. Submit a renewal application, as identified in paragraph (5)(B)3. of this rule, six to eighteen (6–18) months prior to the expiration date of the permit issued according to subsection (5)(E) of this rule.

(b) Installations that have an accepted notification shall submit a renewal application as identified in paragraph (5)(B)3. of this rule, six to eighteen (6–18) months prior to the expiration date.

(c) Installations that have an initial or renewal notification—accepted or with a receipt stamp, but that is expired—shall still submit a renewal application as identified in paragraph (5)(B)3. of this rule.

[4.](VI) Notwithstanding the deadlines established in this subsection, a complete initial notification/application filed at any time shall be accepted for processing.

#### B. Complete application.

(I) The permitting authority shall review each application for completeness and shall inform the applicant within sixty (60) days if the application is not complete. In order to be complete, an application must include a completed application form and, to the extent not called for by the form, the information required in paragraph (5)(B)3. of this rule.

(II) If the permitting authority does not notify the installation within sixty (60) days after receipt that its application is not complete, the application shall be deemed complete. However, nothing in this subsection shall prevent the permitting authority from requesting additional information that is reasonably necessary to process the application.

(III) The permitting authority shall maintain a checklist to be used for the completeness determination. A copy of the checklist identifying the application's deficiencies shall be provided to the applicant along with the notice of incompleteness.

(IV) If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the permitting authority may request this additional information be in writing. In requesting this information, the permitting authority shall establish a reasonable deadline for a response.

(V) In submitting an application for renewal of an operating permit, the applicant may identify terms and conditions in the previous permit that should remain unchanged, and may incorporate by reference those portions of the existing permit (and the permit application and any permit amendment or modification applications) that describe products, processes, operations and emissions to which those terms and conditions apply. The applicant must identify specifically and list which portions of the previous permit or applications, or both, are incorporated by reference. In addition, a permit renewal application must contain—

(a) Information specified in paragraph (5)(B)3. of this rule for those products, processes, operations and emissions—

I. That are not addressed in the existing permit;

II. That are subject to applicable requirements which are not addressed in the existing permit; or

III. For which the applicant seeks permit terms and conditions that differ from those in the existing permit; and

(b) A compliance plan and certification as required in parts (6)(B)3.I.(I)–(IV) and subparagraph (6)(B) 3.J. of this rule.

C. Confidential information. An applicant may make claims of confidentiality pursuant to 10 CSR 10-6.210, for information submitted pursuant to this section. The applicant shall

also submit a copy of this information directly to the administrator, if the permitting authority requests that the applicant do so.

D. Filing fee. Each operating permit application must be accompanied by a one hundred dollar (\$100) filing fee, except for administrative permit amendments.

2. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts, or who has submitted incorrect information in a permit application, upon becoming aware of this failure or incorrect submittal, shall promptly submit supplementary facts or corrected information. In addition, an applicant shall provide additional information, as necessary, to address any requirements that become applicable to the installation after the date an application is deemed complete, but prior to issuance or validation of the permit, whichever is later.

3. Standard application form and required information. The permitting authority shall prepare and make available to all intermediate installations subject to this section an operating permit application form(s). The operating permit application form(s) shall require a general description of the installation and the installation's processes and products, emissions-related information, and all applicable emission limitations and control requirements for each emissions unit at the installation to be permitted. The notification also shall require a statement of the installation's compliance status with respect to these requirements and a commitment regarding the installation's plans to either attain compliance with these requirements within the time allowed by law or maintain compliance with these requirements during the operating permit period. An applicant shall submit an application package consisting of the standard application form, emission inventory questionnaire, compliance plan and compliance certification as identified in subparagraphs (6)(B)3.A.–H., parts (6)(B)3.I.(I)–(IV) and subparagraph (6)(B)3.J. of this rule.

4. Certification by responsible official. Any application form, report or compliance certification submitted pursuant to this rule shall contain certification by a responsible official of truth, accuracy and completeness. This certification, and any other certification shall be signed by a responsible official and shall contain the following language. "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete."

5. Single, multiple or general permits. Pursuant to section (5) of this rule, an installation must have a permit (or group of permits) addressing all applicable requirements for all relevant emission units in the installation. An installation may comply with this subsection through any one of the methods identified in paragraphs (3)(A)1.–4. of this rule.

#### (C) Permit Content.

1. Standard permit requirements. Every operating permit issued pursuant to this section shall contain all requirements applicable to the installation at the time of issuance, as identified in parts (6)(C)1.A.(I) and (III), subparagraphs (6)(C)1.B. and D., part (6)(C)1.C.(I), subpart (6)(C)1.C.(II)(a), item (6)(C)1.C.(II)(b)I., subparts (6)(C)1.C.(III)(d) and (e), subparagraphs (6)(C)3.A. through D., and paragraphs (6)(C)5. and 7. of this rule.

##### A. General requirements.

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

(II) It shall not be a defense in an enforcement action that it would have been necessary for the permittee to halt or



reduce the permitted activity in order to maintain compliance with the conditions of the permit.

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

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

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

(VI) Failure to comply with the limitations and conditions that qualify the installation for an intermediate permit make the installation subject to the provisions of section (6) of this rule and enforcement action for operating without a valid part 70 operating permit.

**B. Reporting requirements.** With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(I) The frequency the permittee shall submit a report of any required monitoring. To the extent possible, the schedule for submission of these reports shall be timed to coincide with other periodic reports required of the permittee;

(II) Each report submitted under part (5)(C)1.B.(I) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, record keeping and reporting requirements of the permit;

(III) In addition to annual monitoring reports, each permittee shall be required to submit supplemental reports as indicated in subpart (6)(C)1.C.(III)(c) of this rule. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken and follow the procedures identified in subpart (6)(C)1.C.(III)(c) of this rule.

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

*[(C)]2.* Federally-*[E]*enforceable *[C]*conditions. Any voluntary provisions issued under this section *[(5)]* of the rule, designed to limit an installation's potential to emit, shall be designated federally-enforceable by the permitting authority. Any terms and conditions so designated are required to—

*[1.]A.* Be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan. The permitting authority may not waive or make less stringent any limitations or requirements contained in the implementation plan, or that are otherwise federally-enforceable (for example, standards established under sections 111 or 112 of the Act) in the operating permit;

*[2.]B.* Be permanent, quantifiable and otherwise enforceable as a practical matter; and

*[3.]C.* Follow the public participation procedures of section (7) of this rule.

**3. Compliance certification.** The permit must include requirements for certification of compliance with terms and conditions contained in the permit that are federally enforceable, including emissions limitations, standards or work practices. The permit shall specify the information identified in subparts (6)(C)3.E.(I)–(III) and (V)–(VI) of this rule.

*[(D)]4.* General *[P]*permits. Installations may apply to operate under any general permit.

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

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

*[B.](II)* Sources may not be subject to case-by-case standards or requirements; and

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

*[2.]B.* Applications. The permitting authority shall provide application forms for coverage under a general permit. General permit applications may deviate from individual permit applications but shall include all information necessary to determine qualification for, and to assure compliance with, the general permit. The permitting authority shall authorize coverage by the conditions and terms of a general permit to all installations that apply for and qualify under the specified general permit criteria. Installations applying for coverage under a general permit must comply with all the requirements of this rule, except public participation requirements.

*[3.]C.* Public participation. Although public participation under section (7) of this rule is necessary for the issuance of a general permit, the permitting authority may authorize an installation to operate under general permit terms and conditions without repeating the public participation procedures.

*[4.]D.* Enforcement. The source shall be subject to enforcement actions for operating without an operating permit if it is determined later that the source does not qualify for the conditions and terms of the general permit, *regardless of any application shield provisions*.

**5. Off-permit changes.** Except as provided in subparagraph (5)(C)5.A. of this rule, an intermediate permitted installation may make any change in its permitted installation's operations, activities or emissions that is not addressed in, constrained by or prohibited by the permit without obtaining a permit revision. Off-permit changes shall be subject to the following requirements and restrictions:

**A. Compliance with applicable requirements.** The change must meet all applicable requirements of the Act and may not violate any existing permit term or condition; no permittee may change a permitted installation without a permit revision, even if the change is not addressed in or constrained by, the permit, if this change is a Title I modification. Please Note: Changes at the installation which affect the emission limitation(s) classifying the installation as an intermediate source (add additional equipment to the record keeping requirements, increase the emissions above major source level) do not qualify for off-permit changes.

**B. Contemporaneous notice.** The permittee must provide contemporaneous written notice of the change to the permitting authority and to the administrator. This written notice shall describe each change, including the date, any change in

emissions, pollutants emitted and any applicable requirement that would apply as a result of the change; and

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

6. Federal enforceability. Any terms of an issued operating permit which are based on applicable requirements contained in the federally-approved State Implementation Plan (SIP) or any other applicable federal requirements are federally enforceable.

(D) Unified Review. The installation shall submit the operating permit application and unified review shall follow the procedures identified in subsection (6)(D) of this rule.

(E) Permit Issuance, Renewal, Reopenings and Revisions. The complete intermediate operating permit, permit modification or permit renewal applications and permits shall be subject to the criteria identified in paragraphs (6)(E)4. and 8.-11. of this rule.

1. Action on application.

A. The intermediate operating permit, permit modification or permit renewal applications shall follow the procedures identified in subparagraphs (6)(E)1.A.-C. and G. of this rule.

B. Except as provided in this subsection of the rule, the permitting authority shall take final action on each application for an intermediate operating permit within eighteen (18) months after receiving a complete application. Final action on each application for a significant permit modification or permit renewal shall be taken within six (6) months after receipt of a complete application. For each application the permitting authority shall submit a draft permit for public participation under section (7) of this rule no later than thirty (30) days before the deadline for final action established in this section.

C. Following the end of the public comment period, the permitting authority shall issue the permit, permit modification or permit renewal.

2. Permit renewal and expiration.

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

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

C. Extension of expired permits. If a timely and complete application for a permit renewal is submitted, but the permitting authority fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, the previous permit shall not expire until the renewal permit is issued or denied.

3. Operating permit amendments/modifications.

A. Administrative permit amendments are defined and shall follow the procedures identified in subparagraphs (6)(E)4.A. and C. of this rule.

B. Permit modifications are defined as any revision to an intermediate operating permit which is not an administrative permit amendment under subparagraph (5)(E)2.A. of this rule. An applicant for a permit modification shall adhere to all the relevant requirements for an initial permit application under section (5) of this rule, as well as requirements for public participation under section (7) of this rule, except—

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

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

4. Reopening permits for cause.

A. Cause to reopen. An intermediate operating permit shall be reopened for cause if:

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

(II) Additional applicable requirements under the Act become applicable to the installation; however, reopening on this ground is not required as identified in subparts (6)(E)6.A.(III)(a)-(c) of this rule; or

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

B. The notices, procedures for issuance and deadlines will follow the criteria in subparagraphs (6)(E)6.B.-D. and F. of this rule.

(F) Permit Review by the Administrator and Affected States.

1. Notice of draft actions. The permitting authority will give notice of each draft permit, modified permit and renewed permit to the administrator and any affected state on, or before, the time that the permitting authority provides notice to the public, except in the case of minor permit modifications. The administrator and affected states may comment on the draft permit action during the period allowed for public comment, as shall be set forth in a notice to the administrator and affected states.

2. Written response to comments. The permitting authority will provide a written response to the public comments received from the administrator and affected states to the installation and all other parties which submitted comments during the public comment period as described in section (7) of this rule prior to issuing the operating permit.

(6) Part 70 Operating Permits.

(B) Permit Applications.

1. Duty to apply.

A. Timely application.

(I) Part 70 installations shall file initial applications on the following schedule:

(a) The permit registry.

I. The permitting authority shall create and maintain a permit issuance registry that part 70 installations may apply in writing to be placed on. The request must identify a specific year of initial issuance. The registry will identify by year when the permitting authority expects to issue the operating permit.

II. The registry will be opened for three (3) months after the effective date of this rule. The registry will be filled on a first-come, first-served basis, judged by the stamped "Received" date by the permitting authority.

III. The permitting authority will assign installations that do not make a specific request to the registry at the permitting authority's discretion as necessary to meet a one-third (1/3) per year for three (3) years permit issuance schedule following the administrator's approval of the operating permit program.

IV. The permitting authority may exercise discretion in reassigning applicants on the registry by accepting applicants after the close of the registry, and taking into consideration staff resources, complexity of applicant's operations, distribution of multiple installations under common control, and amount and nature of the air contaminants; and

(b) Initial application submittal schedule.

I. Installations scheduled to receive their operating permit within the first year of the registry shall file complete applications *[within the first two (2) months following the*

*administrator's approval of the operating permit program] by July, 1996.*

II. All other installations shall file complete applications *[within the twelve (12) months following the administrator's approval of the program] by May, 1996.*

(II) Any installation that becomes subject to this section *[at any time following the effective date of this rule] after May 9, 1994*, shall file a complete application no later than twelve (12) months following either the administrator's approval of the operating permit program or the commencement of operations, whichever is later.

(III) A complete initial application filed at any time shall be accepted for processing. However, acceptance of an application does not relieve the applicant of his/her liability for submitting an untimely application.

(IV) An installation subject to this section required to meet section 112(g) of the Act, or to have a construction permit under 10 CSR 10-6.060 may submit a complete application for an operating permit or permit modification for concurrent processing as a unified review. An operating permit application submitted for concurrent processing shall be submitted with the applicant's construction permit application, or at a later time as the permitting authority may allow, provided that the total review period does not extend beyond eighteen (18) months. An installation that is required to obtain a construction permit under 10 CSR 10-6.060 and who, in writing has not chosen to undergo unified review, shall file a complete operating permit application, permit amendment or modification application separate from the construction permit application within twelve (12) months after commencing operation.

(V) Installations subject to this section shall file complete applications for renewal of the operating permits at least six (6) months before the date of permit expiration. In no event shall this time be greater than eighteen (18) months.

(VI) Installations subject to this section required to submit applications for initial phase II acid rain permits shall submit complete applications to the permitting authority by January 1, 1996, for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

#### B. Complete application.

(I) The permitting authority shall review each application for completeness and shall inform the applicant within sixty (60) days if the application is not complete. In order to be complete, an application must include a completed application form and, to the extent not called for by the form, the information required in paragraph (6)(B)3. of this rule.

(II) If the permitting authority does not notify the installation within sixty (60) days after receipt that its application is not complete, the application shall be deemed complete. However, nothing in this subsection shall prevent the permitting authority from requesting additional information that is reasonably necessary to process the application.

(III) The permitting authority shall maintain a checklist to be used for the completeness determination. A copy of the checklist identifying the application's deficiencies shall be provided to the applicant along with the notice of incompleteness.

(IV) If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the permitting authority may request this additional information be in writing. In requesting this information, the permitting authority shall establish a reasonable deadline for a response.

(V) In submitting an application for renewal of an operating permit, the applicant may identify terms and conditions in the previous permit that should remain unchanged, and may incorporate by reference those portions of the existing permit (and the permit application and any permit amendment or modification applications) that describe products, processes, operations and emissions to which those terms and conditions apply. The applicant must identify specif-

ically and list which portions of the previous permit or applications, or both, are incorporated by reference. In addition, a permit renewal application must contain:

(a) Information specified in paragraph (6)(B)3. of this rule for those products, processes, operations and emissions—

I. That are not addressed in the existing permit;

II. That are subject to applicable requirements which are not addressed in the existing permit; or

III. For which the applicant seeks permit terms and conditions that differ from those in the existing permit; and

(b) A compliance plan and certification as required in subparagraphs (6)(B)3.I. and J. of this rule.

C. Confidential information. If an applicant submits information to the permitting authority under a claim of confidentiality pursuant to 10 CSR 10-6.210, the applicant shall also submit a copy of this information directly to the administrator, if the permitting authority requests that the applicant do so.

D. Filing fee. Each application must be accompanied by a one hundred dollar (\$100) filing fee.

2. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts, or who has submitted incorrect information in a permit application, upon becoming aware of this failure or incorrect submittal, shall promptly submit supplementary facts or corrected information. In addition, an applicant shall provide additional information, as necessary, to address any requirements that become applicable to the installation after the date an application is deemed complete, but prior to issuance or validation of the permit, whichever is later.

3. Standard application form and required information. An applicant shall submit an application package consisting of the standard application form, emission inventory questionnaire, compliance plan and compliance certification. The application package must include all information needed to determine applicable requirements. The application must include information needed to determine the applicability of any applicable requirement. The applicant shall submit the information called for by the application form for each emissions unit at the installation to be permitted, except for insignificant activities. An activity cannot be listed as insignificant if the activity has an applicable requirement. The installation shall provide a list of any insignificant activities that are exempt because of size or production rate. Any insignificant activity required to be listed in the application also must list the approximate number of activities included (for example, twenty (20) leaky valves) and the estimated quantity of emissions associated. The application must include any other information, as requested by the permitting authority, to determine the insignificant activities have no applicable requirements. Information reported in the permit application which does not result in the specification of any permit limitation, term or condition with respect to that information (including, but not limited to, information identifying insignificant activities), shall not in any way constrain the operations, activities or emissions of a permitted installation, except as otherwise provided in this section. The standard application form (and any attachments) shall require that the following information be provided:

A. Identifying information. The applicant's company name and address (or plant name and address if different from the company name), the owner's name and state registered agent, and the telephone number and name of the plant site manager or other contact person;

B. Processes and products. A description of the installation's processes and products (by two (2)-digit Standard Industrial Classification Code (SIC)), including those associated with any reasonably anticipated operating scenarios identified by the applicant;

C. Emissions-related information. The following emissions-related information on the emissions inventory forms:

(I) All emissions of pollutants for which the installation is a part 70 source, and all emissions of any other regulated air pollutants. The permit application shall describe all emissions of



regulated air pollutants emitted from each emissions unit, except as provided for by section (6) of this rule. The installation shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the installation;

(II) Identification and description of all emissions units whose emissions are included in part (6)(B)3.C.(I) of this rule, in sufficient detail to establish the applicability of any and all requirements;

(III) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, if any;

(IV) The following information to the extent needed to determine or regulate emissions including: fuels, fuel use, raw materials, production rates and operating schedules;

(V) Identification and description of air pollution control equipment;

(VI) Identification and description of compliance monitoring devices or activities;

(VII) Limitations on installation operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants;

(VIII) Other information required by any applicable requirement (including information related to stack height credit limitations developed pursuant to section 123 of the Act); and

(IX) Calculations on which the information in parts (6)(B)3.C.(I)–(VIII) of this rule is based;

D. Air pollution control information. The following air pollution control information:

(I) Citation and description of all applicable requirements; and

(II) Description of, or reference to, any applicable test method for determining compliance with each applicable requirement;

E. Applicable requirements information. Other specific information required under the permitting authority's regulations to implement and enforce other applicable requirements of the Act or of these rules, or to determine the applicability of these requirements;

F. Alternative emissions limits. If the SIP allows an installation to comply through an alternative emissions limit or means of compliance, the applicant may request that such an alternative limit or means of compliance be specified in the permit. The applicant must demonstrate that any such alternative is quantifiable, accountable, enforceable and based on replicable procedures. The applicant shall propose permit terms and conditions to satisfy these requirements in the application;

G. Proposed exemptions. An explanation of any proposed exemptions from otherwise applicable requirements;

H. Proposed reasonably anticipated operating scenarios. Additional information, as determined necessary by the permitting authority, to define reasonably anticipated operating scenarios identified by the applicant for emissions trading or to define permit terms and conditions implementing operational flexibility;

I. Compliance plan. A compliance plan that contains all of the following:

(I) A description of the compliance status of the installation with respect to all applicable requirements;

(II) A description as follows:

(a) For applicable requirements with which the installation is in compliance, a statement that the installation will continue to comply with these requirements;

(b) For applicable requirements that will become effective during the permit term, a statement that the installation will comply with these requirements on a timely basis; and

(c) For any applicable requirements with which the installation is not in compliance at the time of permit issuance, a narrative description of how the installation will achieve compliance with these requirements;

(III) A compliance schedule as follows:

(a) For applicable requirements with which the installation is in compliance, a statement that the installation will continue to comply with these requirements;

(b) For applicable requirements that will become effective during the permit term, a statement that the installation will comply with these requirements on a timely basis. A statement that the installation will comply in a timely manner with applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(c) A schedule of compliance for all applicable requirements with which the installation is not in compliance at the time of permit issuance, including a schedule of remedial measures and an enforceable sequence of actions, with milestones, leading to compliance. (This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the installation is subject);

(IV) For installations required to have a schedule of compliance under subpart (6)(B)3.I.(III)(c) of this rule, a schedule for the submission of certified progress reports no less frequently than every six (6) months; and

(V) The compliance plan content requirements specified in this paragraph shall apply to, and be included in, the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the installation will use to achieve compliance with the acid rain emissions limitations;

J. Compliance certification and information.

(I) A certification of compliance with all applicable requirements signed by a responsible official consistent with paragraph (6)(B)4. of this rule and section 114(a)(3) of the Act;

(II) A statement of methods used for determining compliance, including a description of monitoring, record keeping and reporting requirements, and test methods;

(III) A schedule for the submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement; and

(IV) A statement indicating the installation's compliance status with respect to any applicable enhanced monitoring and compliance certification requirements of the Act; and

K. Acid rain information. Nationally-standardized forms for acid rain portions of permit applications and compliance plans shall be used, as required by rules promulgated under Title IV of the Act.

4. Certification by responsible official. Any application form, report or compliance certification submitted pursuant to this rule shall contain certification by a responsible official of truth, accuracy and completeness. This certification, and any other certification, shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

5. Single, multiple or general permits. Pursuant to this section **[(6)] of the rule**, an installation must have a permit (or group of permits) addressing all applicable requirements for all relevant emissions units in the installation. An installation may comply with this subsection **[(6)(B)] of the rule** through any one (1) of the **[following methods:] methods identified in paragraphs (3)(A)1.–4. of this rule**.

*A. The installation may apply for a single permit covering all relevant emissions units located within a contiguous area under common control (whether or not the installation falls under the same two (2)-digit SIC code);*

*B. The installation may apply for separate permits for separate emissions units or groups of emissions units; or*

*C. The installation may apply for coverage for one (1) or more emissions units eligible for permitting under a general permit issued by the permitting authority, and obtain a*

*separate permit(s) for emissions units not eligible for general permit coverage.*

*AUTHORITY: section 643.050, RSMo 2000. Original rule filed Sept. 2, 1993, effective May 9, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 14, 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: A public hearing on this proposed amendment will begin at 9:00 a.m., March 31, 2005. The public hearing will be held at the Stoney Creek Inn, 1201 North Woodbine Road, St. Joseph, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., April 7, 2005. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 30—Office of the Director  
Chapter 7—Driver and Vehicle  
Equipment Regulations**

**PROPOSED RULE**

**11 CSR 30-7.020 Alternate Equipment Regulations for Animal-Drawn Vehicles**

*PURPOSE: This rule designates alternate lighting and rear reflective signage for animal-drawn vehicles as authorized by sections 307.125 and 307.127, RSMo.*

(1) Non-electric lamps or lanterns may be used in lieu of the lights required by subsection 2 of section 307.125, RSMo. The lamps or lanterns must be amber at the front of the vehicle and red at the back and must be placed to the left side of the vehicle at a height of no more than six feet (6') from the ground. The lamps or lanterns shall be visible from the front and back of the vehicle at a distance of at least five hundred feet (500'), and any red lighting must not be visible from the front of the vehicle.

(2) In lieu of the yellow-orange triangle with reflective red strips required by subsection 2 of section 307.127, RSMo an operator of an animal-drawn vehicle may substitute a basedown equilateral triangle of white or light gray film or equivalent quality paint with a base of not less than fourteen inches (14") and an altitude of not less than twelve inches (12"). Such triangle shall be bordered with reflective white strips having a minimum width of one and three-fourths inches (1 3/4"), with the vertices of the overall triangle truncated such that the remaining altitude shall be a minimum of fourteen inches (14"). Such emblem shall be mounted on the rear of such vehicle near the horizontal geometric center of the rearmost vehicle at a height of not less than four feet (4') above the roadway, and shall be maintained in a clean, reflective condition. The reflective material shall be visible from a distance of not less than five hundred feet

(500') to the rear when illuminated by the lower beams of vehicle headlights.

*AUTHORITY: section 307.030, RSMo 2000. Original rule filed Dec. 15, 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 Jill Lahue, Legal Council, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and  
Training Program  
Chapter 14—Basic Training Centers**

**PROPOSED AMENDMENT**

**11 CSR 75-14.030 Standard Basic Training Curricula and Objectives.** The department is updating the incorporated material and the references to it in section (3).

*PURPOSE: This amendment is to update the incorporated material.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(3) The director shall retain at the headquarters of the Department of Public Safety a document entitled "Mandatory Basic Training Curricula," which shall set forth all basic training curricula developed pursuant to this rule, and which is hereby incorporated by reference into this rule. A copy of the "Mandatory Basic Training Curricula" shall be made available to any interested person at a cost not to exceed the actual cost of the reproduction of a copy. **The publisher: Missouri Peace Officer Standards and Training Commission, Harry S Truman Building, 301 W. High, Jefferson City, MO 65101, dated December 15, 2004. This rule does not incorporate any subsequent amendments or additions.**

*AUTHORITY: section 590.030.1, RSMo Supp. 2003. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed April 25, 2003, effective Oct. 30, 2003. Amended: Filed Jan. 15, 2004, effective July 30, 2004. Amended: Filed Dec. 15, 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 Jeremy*

*Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.050 When City Tax Applies.** This rule aided in the determination of when city sales tax applied and interpreted and applied section 94.540.5, RSMo 1986.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-4 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.060 City Tax Applies—Delivery Outside Jurisdiction.** This rule provided that delivery from a seller located within a taxing city to a purchaser outside the taxing city still made the sale subject to the city sales tax and interpreted and applied section 94.530, RSMo 1986.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. Regulation 540-5 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO*

*Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.070 City Tax Applies—Delivery from Outside the State.** This rule indicated that delivery from outside Missouri does not remove the seller's liability for city sales tax and interpreted and applied section 94.540.5, RSMo 1986.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-6 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.075 Application of City Sales Tax to Rental or Leasing Receipts.** This rule indicated that city sales tax applied to rental or leasing receipts where tax was not paid at the time of purchase and interpreted and applied section 94.540.5, RSMo 1986.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-7 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with the*



Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.545 When Transportation Tax Applies.** This rule aided in the determination of when transportation sales tax applied.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 94.615, RSMo 1986. T.T. regulation 620-2 originally filed as C.S.T. regulation 540-4 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.550 Place of Business.** This rule aided in determining the place of business where the sale was consummated for transportation sales tax purposes and interpreted and applied section 94.620.5, RSMo 1986.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 94.615, RSMo 1986. T.T. regulation 620-3 originally filed as C.S.T. regulation 540-4A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.555 Transportation Tax Applies—Delivery Outside Jurisdiction.** This rule provided that delivery from a seller located within a taxing jurisdiction to a purchaser outside the taxing jurisdiction still made the sale subject to the transportation sales tax and interpreted and applied section 94.620.5, RSMo 1986.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 94.615, RSMo 1986. T.T. regulation 620-4 originally filed as C.S.T. regulation 540-5 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.560 Transportation Tax Applies—Delivery from Outside the State.** This rule indicated that delivery from outside Missouri did not remove the seller's liability for transportation sales tax and interpreted and applied section 94.620.5, RSMo 1986.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 94.615, RSMo 1986. T.T. regulation 620-5 originally filed as C.S.T. regulation 540-6 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax

#### PROPOSED RESCISSION

**12 CSR 10-5.565 Application of Transportation Sales Tax to Rental or Leasing Receipts.** This rule indicated that transportation sales tax applied to rental or leasing receipts where tax was not paid at the time of purchase and interpreted and applied section 94.620.5, RSMo 1986.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* section 94.615, RSMo 1986. T.T. regulation 620-6 originally filed as C.S.T. regulation 540-7 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 11—County Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-11.100 Determining Which Tax Applies.** This rule specified the applicability of the county sales tax when a seller had more than one (1) place of business and when the seller did not have a recognizable physical facility from which s/he was operating the business.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 11—County Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-11.120 Items Taken from Inventory.** This rule specified that the taxpayer was liable for county sales tax where items purchased under an exemption certificate were subsequently withdrawn from inventory.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS:* Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue

#### Chapter 11—County Sales Tax

#### PROPOSED RESCISSION

**12 CSR 10-11.130 County Tax Applies—Delivery from Outside the State.** This rule indicated that delivery from outside Missouri did not remove the seller's liability for county sales tax unless the sale was made by an out-of-state vendor without an office in Missouri.

*PURPOSE:* This rule is being rescinded because it is superseded by other rules.

*AUTHORITY:* sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 11—County Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-11.140 Application of County Sales Tax to Rental or Leasing Receipts.** This rule indicated the county sales tax law as it applied to rental or leasing receipts when the tax was not paid at the time of purchase.

*PURPOSE: This rule is being rescinded because it is superseded by other rules.*

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Dec. 15, 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**PROPOSED AMENDMENT**

**12 CSR 10-23.460 Issuance of Biennial Disabled Person Placard.** The director proposes to amend section (1).

*PURPOSE: This amendment is a result of legislation effective January 1, 2005 that requires a new physician's statement to accompany the renewal of disabled person placards and license plates every four (4) years.*

(1) Disabled person placards expire in September of the designated expiration year. The renewal period begins August 1 in the year of their expiration.

*[(A)] New applicants for disabled person placard(s) processed on or before December 31, 2003, will be issued a one (1)-year placard expiring September 30, 2004, at a cost of two dollars (\$2).*

*[(B)] (A) New applicants for disabled person placard(s) processed after December 31, 2003 and prior to August 1, 2004 will be issued a two (2)-year placard expiring September 30, 2005, at a cost of four dollars (\$4).*

1. New applicants that mail their application to the Central Office and only include a two dollar (\$2) fee will be issued a one (1)-year placard.

*[(C)] Renewal applicants for disabled person placard(s) processed on or before December 31, 2003, will receive a one (1)-year placard expiring September 30, 2004, at a cost of two dollars (\$2).]*

*[(D)] (B) Late renewal applicants for disabled person placard(s) processed after December 31, 2003 and before August 1, 2004, have the option of receiving a one (1)-year or two (2)-year placard at a cost of two dollars (\$2) or four dollars (\$4) respectively.*

*[(E)] (C) Renewal applicants who renew during the renewal cycle beginning August 1, 2004, and whose last name begins with the letter "A" through "K" will be issued a one (1)-year placard expiring September 30, 2005, at a cost of two dollars (\$2). These applicants will be issued a two (2)-year placard at a cost of four dollars (\$4) in subsequent years.*

*[(F)] (D) Renewal applicants who renew during the renewal cycle beginning August 1, 2004, and whose last name begins with the letter "L" through "Z" will be issued a two (2)-year placard expiring September 30, 2006, at a cost of four dollars (\$4).*

1. Renewal applicants that mail their application to the Central Office and only include a two dollar (\$2) fee will be issued a one (1)-year placard in lieu of rejecting for the additional two dollar (\$2) fee.

**(E) When the holder of a valid disabled person placard or disabled person license plate purchases an additional placard without submitting a new physician's statement, the expiration year of the additional placard will be issued for one (1) or two (2) years at a fee of two dollars (\$2) or four dollars (\$4) respectively in order for the additional placard to expire in the same year as the original disabled person placard or license plate.**

**(F) When the holder of a valid disabled person placard or disabled person license plate purchases an additional disabled person license plate without submitting a new physician's statement, the expiration year of the additional plate cannot exceed the expiration year of the original disabled person placard or license plate.**

*AUTHORITY: sections 301.003, RSMo 2000 and 301.142, RSMo Supp. [2003] 2004. Original rule filed Nov. 13, 2003, effective May 30, 2004. Amended: Filed Dec. 14, 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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 25—Motor Vehicle Financial Responsibility**

**PROPOSED AMENDMENT**

**12 CSR 10-25.050 Filing a Report of an Accident With the Director of Revenue.** The director proposes to amend section (1) and delete the form following this rule in the *Code of State Regulations*.



*PURPOSE:* This amendment updates the form as incorporated by reference.

*PUBLISHER'S NOTE:* The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) [A special form prescribed by this rule and incorporated by reference at the end of this rule MO 860-0427, Missouri Motor Vehicle Accident Report Form and Instructions is to be used in the filing of an accident report]. **This rule prescribes the specific form and instructions to be used in filing an accident report, MO 860-0427. This form, MO 860-0427, is available on the Internet at <http://www.dor.mo.gov/mvdl/drivers/forms/1140f.pdf>, or by mailing a written request for the form to the Driver and Vehicle Services Bureau, PO Box 200, Jefferson City, MO 65105-0200.** No form other than the one prescribed in this rule will be permitted in [the] filing [of] an accident report [as requested by] pursuant to the requirements in section 303.040, RSMo.

*AUTHORITY:* sections 303.040 and 303.290, RSMo [1994] 2000. This version of rule filed Dec. 10, 1973, effective Dec. 20, 1973. Amended: Filed Sept. 27, 1976, effective Jan. 13, 1977. Amended: Filed Nov. 21, 1991, effective April 9, 1992. Amended: Filed Dec. 12, 1997, effective June 30, 1998. Amended: Filed Aug. 21, 2000, effective Feb. 28, 2001. Amended: Filed Dec. 14, 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 Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 26—Dealer Licensure**

**PROPOSED AMENDMENT**

**12 CSR 10-26.040 Fees.** The director proposes to amend sections (1) and (4).

*PURPOSE:* This amendment increases the dealer licensure fee in order for the Department of Revenue to request funding for additional FTE to increase customer service and compliance with related laws and regulations.

(1) License fees must be submitted by applicants according to the fee schedule established below[:]. **Fees outlined herein apply to an annual licensure. If the licensure period is extended by law, such fees will increase proportionately.**

- |   |                    |
|---|--------------------|
| (A) Motor Vehicle Dealer and/or Manufacture | [ \$ 150 ] (\$225) |
| (B) Boat Dealer and/or Boat Manufacturer    | [ \$ 80 ] (\$155)  |
| (C) Wholesale or Public Auction             | [ \$ 150 ] (\$225) |
| (D) Wholesale Motor Vehicle Dealer          | [ \$ 150 ] (\$225) |

(4) When application for a license is made after the first month of a registration cycle, the license fee, the fifty-dollar (\$50) fee for the initial dealer license plate and additional plate(s)/certificate(s) of number fees shall be prorated on a twelve (12)-month basis or as otherwise proportionate to the licensure period if it is extended by law beyond twelve (12) months. A renewal applicant is subject to the same fees without prorating, regardless of the date the application is received.

*AUTHORITY:* sections 301.553, RSMo 2000 and 301.560, RSMo Supp. [1998] 2003. Original rule filed Nov. 1, 1999, effective May 30, 2000. Amended: Filed Dec. 15, 2004.

*PUBLIC COST:* This proposed amendment is estimated to cost the Missouri Department of Revenue two thousand eight hundred four dollars (\$2,804).

*PRIVATE COST:* This proposed amendment is estimated to cost private entities four hundred eighty-seven thousand five hundred seventy-five dollars (\$487,575) with that cost recurring annually over the life of the rule.

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

**FISCAL NOTE  
 PUBLIC COST**

**I. RULE NUMBER**

<b>Rule Number and Name:</b>	12 CSR 10-26.040 Fees
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Missouri Department of Revenue	\$2,804

**III. WORKSHEET**

<b>Fund Affected</b>	<b>Estimated Costs of Compliance FY05</b>	<b>Estimated Costs of Compliance FY06</b>	<b>Estimated Costs of Compliance FY07</b>
Motor Vehicle Commission Fund	-\$2,804-	-0-	-0-

**IV. Assumptions**

This rule sets forth the fees payable to the department for dealer licenses. Dealer and UFO system programming will require a total of 120 hours @ \$23.36 per hour = \$2,804.

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-26.040 Fees
Type of Rulemaking:	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency Or Political Subdivision	Estimated Costs of Compliance in the Aggregate Annually
Private entities	\$487,575

**III. WORKSHEET**

Increase License Fees				
		Current License Fee	Increase Fee	Amount of Increase
Auction Dealers	16	\$150	\$75	\$1,200
Motor Vehicle Dealers	5,871	\$150	\$75	\$440,325
Marine Dealers	359	\$80	\$75	\$26,925
Wholesale Dealer	255	\$150	\$75	\$19,125
<b>Total Dealers</b>	<b>6,501</b>	<b>Total increase to the Motor Vehicle Commission Fund</b>		<b>\$487,575</b>

**IV. ASSUMPTIONS**

This rule sets forth the fees payable to the department for dealer licenses.



**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—Division of Medical Services  
Chapter 20—Pharmacy Program**

**PROPOSED AMENDMENT**

**13 CSR 70-20.200 Drug Prior Authorization Process.** The Division of Medical Services is amending sections (1)–(8) and adding five (5) new sections.

*PURPOSE: This amendment is being proposed to add definitions and additional requirements to the drug prior authorization process. The proposed amendment is necessary to carry out the requirements of section 1927(d)(5) of the federal Social Security Act.*

**(1) The following definitions shall be used in the interpretation and enforcement of this rule:**

**(A) “Clinical editing” shall be defined as that process which screens the use of specific medications on the basis of clinical appropriateness by requiring evidence of appropriate indications for use, and to achieve a cost savings, may require the initial use of less expensive agents.**

**(B) “Fiscal editing” shall be defined as a process that screens the use of specific medications to reimburse based on the least expensive dosage forms in order to achieve a cost savings.**

**(C) “Open access” shall be defined as the availability of a product without being subjected to prior authorization, clinical edits or step therapy but shall not preclude fiscal and utilization edits.**

**(D) “Preferred Drug List” shall be defined as a list of medications within a functional therapeutic class that are available via open access on the basis of supplemental rebate status and consideration of available evidence-based clinical review findings.**

**(E) “Step therapy” shall be defined as a process that specifies the sequence in which different prescription drugs are to be reimbursed.**

**(F) “Utilization edits” are defined as prospective screening edits used to review the appropriate use of medication and may be advisory or preemptory.**

*[(1)](2) This rule establishes a Medicaid [d/Drug [p]Prior [a]Authorization [c]Committee in the Department of Social Services, Division of Medical Services. The committee shall be composed of three (3) practicing physicians licensed pursuant to Chapter 334, RSMo; three (3) practicing pharmacists licensed pursuant to Chapter 338, RSMo, one (1) of whom shall hold a doctoral degree in pharmacy (Pharm. D.); and one (1) registered professional nurse, as defined in Chapter 335, RSMo, practicing in a long-term care setting. All members shall be appointed by the director of the Department of Social Services. The members shall serve for a term of four (4) years, except that of the members first appointed, two (2) shall be appointed for one (1) year, two (2) shall be appointed for two (2) years and three (3) shall be appointed for three (3) years]. Members of the committee shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred, as approved by the Division of Medical Services out of appropriations made for that purpose. The Medicaid Drug Prior Authorization Committee shall meet quarterly. The proposed dates for the meetings shall be announced for one (1) calendar year at the last meeting of the previous calendar year. If a meeting date is changed the new date must be posted at [www.dss.mo.gov/dms](http://www.dss.mo.gov/dms) for at least thirty (30) days prior to the originally scheduled meeting.*

*[(2)](3) All persons eligible for medical assistance benefits shall have access to all pharmaceutical products for which there is federal financial participation except those drugs [which] that may be restricted under Section 4401 of P.L. 101-508 (Omnibus Budget*

*Reconciliation Act of 1990). The Medicaid Drug Prior Authorization Committee shall review those drugs [which] that may be restricted and recommend those appropriate for inclusion as a regular benefit of the Missouri Medicaid program or through prior authorization.*

*[(3)](4) The department or the division may require prior authorization of pharmaceutical products. Any such restriction shall be based on medical and clinical criteria, and Missouri-specific data. The committee shall develop this medical and clinical criteria based on predetermined standards consistent with the following:*

- (A) The American Hospital Formulary Service Drug Information;*
- (B) The United States Pharmacopoeia Drug Information; and*
- [(C) The American Medical Association Drug Evaluations; and]*
- [(D)](C) Peer-reviewed medical literature.*

*[(4)](5) If the division finds that the data enumerated in section [(3)](4) of this rule has been documented, the Medicaid [d/Drug [p]Prior [a]Authorization [c]Committee shall hold a public hearing [in order to make] prior to making recommendations to the department and prior to any final decision by the division to require prior authorization for that pharmaceutical product, class or category.*

*[(5) If, after the hearing required pursuant to section (4) of this rule, prior authorization of the pharmaceutical product is required, this prior authorization requirement shall be reviewed at least once every twelve (12) months by the Medicaid drug prior authorization committee.]*

**(6) The tentative meeting agenda of the Medicaid Drug Prior Authorization Committee with the classes to be discussed shall be posted on the Division of Medical Services website ([www.dss.mo.gov/dms](http://www.dss.mo.gov/dms)) approximately fourteen (14) days prior but no less than seven (7) days prior to the meeting.**

**(A) The specific therapeutic class or classes to be considered at the next regularly scheduled Medicaid Drug Prior Authorization Committee meeting shall be placed on the current agenda or posted on the website approximately thirty (30) days prior to the scheduled meeting.**

**(B) Any interested party shall be granted the opportunity for clinically relevant public comment for up to fifteen (15) minutes in the aggregate per medication under review by the committee. The responsibility of scheduling the presentation shall rest with the manufacturer of the drug product.**

**(C) Following the consideration of all presented information, the committee shall make their final recommendation to the Division of Medical Services by a majority vote of the members of the committee present thereto in a recorded roll call vote.**

**(D) The specific therapeutic class or classes recommended for restriction by means of step therapy, clinical edit, fiscal edit or preferred drug list shall be available on the division website at [www.dss.mo.gov/dms](http://www.dss.mo.gov/dms) approximately fifteen (15) calendar days after the meeting.**

**(7) The recommendations from the Medicaid Drug Prior Authorization Committee shall be referred to the Drug Utilization Review (DUR) Board for placement upon the agenda of the next regularly scheduled meeting. The DUR board may accept or alter the recommendations from the Medicaid Drug Prior Authorization Committee in arriving at their recommendation for the Division of Medical Services. If provided to the division fourteen (14) days in advance of the DUR board meeting, clinically relevant written material shall be presented before the recommendation is considered by the DUR board. The DUR board, at their sole discretion, may entertain clinically relevant public comment up to fifteen (15) minutes in aggregate per medication. The responsibility of scheduling the presentation shall**

rest with the manufacturer of the drug product. Any changes recommended by the DUR board shall be made available via the approved minutes of the DUR board meeting in a timely fashion, at least thirty (30) days prior to the implementation of the recommendations.

(8) After all recommendations have been reviewed and accepted, the Division of Medical Services staff shall coordinate the implementation of the recommendations. All pertinent information relating to edit schedule and edit criteria shall be made available to the public by reasonable means, including, but not limited to, posting on the division website in a timely fashion following the DUR board meeting. Changes to the Medicaid pharmacy benefit will be posted on a timely basis on the division website. In addition, information on covered medications shall be made available to the public for use with a personal digital assistant device. As determined by the division, patients stabilized on certain restricted medications shall be allowed to access such medication through the Medicaid program for as long as the Medicaid program determines that it is fiscally prudent and clinically supported.

(9) On an annual basis, the Medicaid Drug Prior Authorization Committee shall review all criteria in place, including prior authorization, step therapy, clinical edits, fiscal edits, and the preferred drug list. Annual reviews will be staggered and scheduled to occur at the scheduled meeting closest to completion of a full calendar year after approval of the criteria. If additional clinical or fiscal information is available since the original consideration, interested parties shall have the opportunity to address the committee and request reconsideration of prior authorization, step therapy, clinical edits, fiscal edits, and preferred drug list criteria. All requests shall be scheduled with the division fourteen (14) days in advance of the meeting. All such presentations shall be clinically relevant and limited to a maximum of fifteen (15) minutes. The responsibility of scheduling the presentation shall rest with the manufacturer of the drug product.

[(6)](10) The division shall not otherwise restrict the prescribing and dispensing of covered outpatient prescription drugs (other than Drug Efficacy Study Implementation [Study] (DESI) drugs as designated by federal law) pursuant to this rule without consulting the [d]Drug [p]Prior [a]Authorization [c]Committee. The division may limit the number of prescriptions allowed for each medical assistance recipient.

[(7)](11) As used in the rule, DESI drugs are drugs described in section 107(c)(3) of the Drug Amendments of 1962 and identical, similar or related drugs (within the meaning of section 310.6(b)(1) of Title 21 of the Code of Federal Regulations).

[(8)](12) When implementing the provisions of section [(3)](4), Missouri-specific data shall include the consideration of use and cost data, pharmacoeconomic information and prudent utilization of state funds, and shall include medical and clinical criteria.

*AUTHORITY:* sections 208.153 and 208.201, RSMo 2000. Original rule filed Feb. 3, 1992, effective Aug. 6, 1992. Emergency amendment filed May 22, 2002, effective June 1, 2002, expired Nov. 27, 2002. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Dec. 14, 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 Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

## Title 15—ELECTED OFFICIALS Division 30—Secretary of State Chapter 50—General

### PROPOSED AMENDMENT

**15 CSR 30-50.040 Forms.** The commissioner is amending subsection (1)(C).

*PURPOSE:* The purpose of this amendment is to amend the title of certain forms consistent with the form title.

(1) The following forms have been adopted and approved for filing with the Securities Division:

(C) Exemptions from Registration, Exceptions from Definition, Federal Covered Securities—

1. Form SE-1—[Missouri] Statement of Claim for the Exemption of Securities of a New Generation Processing Entity revised August 2003;

2. Form SE-2—[Missouri] Statement of Claim for the Exemption of Securities of a Missouri Agricultural Cooperative revised [June] December 2004;

3. Form NF—Uniform Investment Company Notice Filing adopted by NASAA April 1997, or any form which substantially comports with the specified form; and

4. Form D—Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption approved in June 2002, OMB Approval Number 3235-0076, or any form which substantially comports with the specified form.

*AUTHORITY:* section 409.6-605, RSMo Supp. 2003. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 10, 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 Missouri Secretary of State's Office, David Cosgrove, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

### PROPOSED AMENDMENT

**15 CSR 30-54.195 Missouri Agricultural Cooperatives.** The commissioner is amending subsection (2)(A).

*PURPOSE:* The purpose of this amendment is to amend the title of certain forms consistent with the form title.

(2) Securities Exemption. The commissioner, pursuant to the provisions of section 409.2-203, RSMo, exempts from the registration requirements of section 409.3-301, RSMo securities issued by and representing an interest in an agricultural cooperative if:

(A) A notice filing by the agricultural cooperative is made with the commissioner that consists of the following:

1. A completed Form SE-2, Statement of Claim for the Exemption of Securities of a[n] **Missouri** Agricultural Cooperative;
2. A completed Form U-2, Consent to Service of Process;
3. A completed Form U-2A, Uniform Form of Corporate Resolution;

4. A copy of the prospectus or offering document that shall have a disclosure of material facts consisting of the following:

- A. The name and address of the issuer;
- B. The type of security being issued;
- C. The total amount of securities being issued;
- D. Summary information, which provides a brief overview of key aspects of the offering;

E. A risk factors section, which discloses general risk factors related to suitability and the failure to diversify, and any factors that make the offering speculative or risky, including, but not limited to: lack of recent profits from operations, poor financial position, lack of market for cooperative's securities, inexperience of management, factors related to the cooperative's business, and/or the dependency of the cooperative on retaining a particular customer or group of customers;

- F. A description of the business or proposed business;
- G. An itemized use of proceeds;
- H. A description of directors, officers and other principal management, including a summary of compensation;
- I. A plan of distribution section;
- J. A summary of capitalization;
- K. A description of any material pending legal proceedings other than ordinary routine litigation incidental to its business; and

L. Historical financial statements of the issuer for the past three (3) fiscal years or since the issuer's inception, whichever is shorter, that are in conformity with generally accepted accounting principles (GAAP) and have been audited by a certified public accountant. If the balance sheet in the above financial statements is more than one hundred twenty (120) days old on the date of making the notice filing, or if the issuer has not completed its first fiscal year, reviewed financial statements not more than one hundred twenty (120) days old shall be included and in conformity with GAAP;

5. A copy of the bylaws, operating agreement or similar document;

6. A copy of any advertising materials or any summaries of the offering document to be used in the offer or sale of the securities in Missouri;

7. A copy of any underwriting or selling agreements;
8. The names, business addresses, and a brief description of employment responsibilities for each of the agents who will represent the agricultural cooperative in the offer or sale of the securities in Missouri;
9. A copy of the subscription agreement; and
10. A filing fee of one hundred dollars (\$100).

*AUTHORITY:* sections 409.2-203 and 409.6-605, RSMo Supp. 2003. Original rule filed May 26, 2004, effective Nov. 30, 2004. Amended: Filed Dec. 10, 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 Missouri Secretary of State's Office, David Cosgrove, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.005 Definitions**

*PURPOSE:* This rule contains definitions which establish the intended meaning of certain terms used throughout this chapter.

(1) As used in this chapter, the following terms shall have the meanings specified:

(A) "Dispenser" means a pharmacy, hospital, prescriber or other person who is licensed and authorized to independently dispense prescription drugs in Missouri;

(B) "Institutional facility" means a long term-care, mental care or other licensed facility that provides health care to resident patients;

(C) "Original sealed and tamper evident unit-dose packaging" means sealed and tamper-evident unit of use packaging by the original manufacturer, by a federally registered repackager, or by a licensed pharmacy in compliance with 4 CSR 220-2.130 and 4 CSR 220-3.040;

(D) "Program" means the Prescription Drug Repository Program established by the Department of Health and Senior Services pursuant to sections 196.970 through 196.984, RSMo to accept and dispense prescription drugs donated for the purpose of being dispensed to persons who are residents of Missouri and who meet eligibility requirements of the program.

*AUTHORITY:* section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 (\$500) dollars in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.



**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.010 Eligibility Requirements for Pharmacies,  
Hospitals and Nonprofit Clinics to Receive Donated Prescription  
Drugs**

*PURPOSE: This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will be determined eligible to receive donated drugs under the Prescription Drug Repository Program.*

(1) Pharmacies, hospitals or nonprofit clinics may elect to participate in the Prescription Drug Repository Program pursuant to sections 196.970 to 196.984, RSMo.

(2) Any participating pharmacy shall be licensed as a pharmacy by the Missouri State Board of Pharmacy.

(3) Any participating hospital shall be licensed as a hospital by the Department of Health and Senior Services when required by law to be so licensed.

(4) Any participating nonprofit clinic shall be under the supervision of a physician licensed by the Missouri State Board of Registration for the Healing Arts.

(5) All participating pharmacies, hospitals or nonprofit clinics shall comply with all federal and state laws, rules and regulations applicable to the storage and distribution of drugs.

(6) All participating pharmacies, hospitals or nonprofit clinics shall comply with all state laws, rules and regulations applicable to the Prescription Drug Repository Program.

*AUTHORITY: section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 (\$500) dollars in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.015 Eligibility Requirements for Recipients in the  
Program**

*PURPOSE: This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will determine eligibility of individual patients to receive donated drugs under the Prescription Drug Repository Program.*

(1) A pharmacy, hospital, or nonprofit clinic that elects to participate in the Prescription Drug Repository Program shall determine if a person is eligible to receive drugs. A person shall meet the following requirements to become an eligible recipient of drugs from the Prescription Drug Repository Program:

(A) Is a resident of Missouri;

(B) Has a net family income below three hundred percent (300%) of the federal poverty level; and

(C) Has no active third party prescription drug reimbursement coverage for the drug prescribed.

(2) The pharmacy, hospital or nonprofit clinic shall provide each individual recipient with an identification card after determining that the recipient is eligible to receive drugs from the program.

(A) The card shall confirm to other participating pharmacies, hospitals or nonprofit clinics that the recipient is eligible to receive drugs from the program.

(B) The card shall be prepared in a format obtained from the Department of Health and Senior Services and shall contain the following:

1. The full name of the recipient;

2. The address of the recipient;

3. The Social Security number of the recipient;

4. The name of the issuing pharmacy, hospital or nonprofit clinic;

5. The address and telephone number of the issuing pharmacy, hospital or nonprofit clinic;

6. A statement that the issuing pharmacy, hospital or nonprofit clinic has determined that the recipient is eligible to receive drugs from the program;

7. The date the card was issued; and

8. The expiration date of the card, which shall be no later than twelve (12) months from the date the card was issued.

*AUTHORITY: section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 cost one hundred seventeen (17) licensed pharmacies \$1,462,500, sixteen (16) hospitals two hundred thousand dollars (\$200,000) and fifteen (15) nonprofit clinics one hundred eighty-seven thousand five hundred dollars (\$187,500) annually in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Title 19 -- Department of Health and Senior Services  
 Division: Division 20 – Division of Environmental Health and Communicable Disease Prevention  
 Chapter: Chapter 50 – Prescription Drug Repository Program  
 Type of Rule Making: Proposed Rule  
 Rule Number and Name: 19 CSR 20-50.015 Eligibility Requirements for Recipients in the Program

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
117	Pharmacies	\$1,462,500 annually
16	Hospitals	\$ 200,000 annually
15	Non-profit clinics	\$ 187,500 annually

**III. WORKSHEET**

Ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

One-half (1/2) of one (1) full time employee (FTE ) per participating repository site at \$12 per hour (including benefits)

$\$12 \times 2080$  hours per year = \$24,960 or \$25,000 per year

\$25,000 annual wages times the number of repository sites:

$117$  pharmacies  $\times$  \$25,000 per pharmacy = \$2,925,000  $\times$  0.5 = \$1,462,500

$16$  hospitals  $\times$  \$25,000 per hospital = \$400,000  $\times$  0.5 = \$200,000

$15$  non-profit clinics  $\times$  \$25,000 per clinic = \$375,000  $\times$  0.5 = \$187,500

**IV. ASSUMPTIONS**

Assume that ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Assume that ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Assume that fifteen (15) non-profit clinics will choose to participate. The total number of non-profit clinics is unknown.

For pharmacies participating as repository sites, one full time pharmacy technician will be required to perform the required functions. One half of this individual's time will be spent performing eligibility determination functions.

For hospitals and non-profit clinics participating as repository sites will require one full time employee at approximately the same pay rate as for pharmacies. One half of this individual's time will be spent performing eligibility determination functions.

Per contacts in the industry, wages for a pharmacy technician, including benefits, would be approximately \$12 per hour.

Assume one FTE would work 40 hours per week 52 weeks per year, or 2080 hours per year.

Each repository site will require storage for records related to the eligibility determination process.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.020 Standards and Procedures for Donating Prescription Drugs**

*PURPOSE:* This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will determine a person eligible to donate drugs under the Prescription Drug Repository Program.

(1) The following may donate a prescription drug, pursuant to 19 CSR 30-5.025, to a pharmacy, hospital, or nonprofit clinic that elects to participate in the Prescription Drug Repository Program:

- (A) A licensed dispenser of prescription drugs;
- (B) A licensed wholesale distributor of prescription drugs; or
- (C) A person who was legally dispensed a prescription drug pursuant to a patient-specific prescription or drug order.

(2) An individual electing to donate a prescription drug shall not have taken custody of the drug prior to the donation. The individual may direct the donation through a dispenser of prescription drugs.

(3) A person designated to do so under a durable power of attorney, or acting in their capacity as legal guardian may make the decision to donate a prescription drug on behalf of another person who has lawful possession of the prescription drug.

(4) A person who resides in an institutional facility and was legally dispensed a prescription drug pursuant to a patient-specific prescription or order may elect to sign and date an ownership record prior to donating a drug, which shall state "from this day forward I wish to donate all my remaining unused drugs, pursuant to 19 CSR 20-50.025, to a participating pharmacy, hospital or nonprofit clinic of the Prescription Drug Repository Program. I authorize the institutional facility in which I reside to make the donation on my behalf."

(A) The record shall include the resident's typed or printed name, and the name and address of the institutional facility.

(B) If the institutional facility is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the facility shall comply with HIPAA regarding the transfer of any personal health information that may occur as part of the donation.

(5) Each donor must sign an ownership record stating that the donor is the owner of the drug and intends to voluntarily donate the drug to the drug repository program. The ownership record must be completed prior to any donation and include at least the following:

- (A) The name of the person to whom the drug was originally dispensed, or the name of the dispenser of prescription drugs or wholesale distributor of prescription drugs that owns the drug;
- (B) The signature of the donor or the donor's representative, or the signature of the responsible person or his/her designee from a dispenser of prescription drugs or a wholesale distributor of prescription drugs; and
- (C) The date the record was signed.

(6) The following donor information must also be documented on the original signed ownership record or on an alternate donor record that is kept with the ownership record:

- (A) The name of the donor of the drug;
- (B) The name and address of the institutional facility donor location, when applicable;
- (C) The brand name or the generic name of the drug;
- (D) Either the name of the manufacturer or the national drug code number (NDC #), if available;

- (E) The lot number of the drug, if available;
- (F) The strength of the drug;
- (G) The quantity of the drug;
- (H) The date the drug was donated to a participating pharmacy, hospital or nonprofit clinic;

(I) A statement that the drug has been stored according to manufacturer and/or *United States Pharmacopoeia* requirements;

(J) A statement that the drug has been examined to determine that no controlled substance or drug that requires storage temperatures other than normal room temperature has been included; and

(K) The name and address of the receiving pharmacy, hospital or nonprofit clinic.

(7) A copy of the ownership record or the alternate donor record that contains the required information shall be maintained by the donor or the institutional facility, when applicable, and the receiving pharmacy, hospital or nonprofit clinic.

*AUTHORITY:* section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 cost one hundred seventeen (17) licensed pharmacies, seven hundred thirty-one thousand two hundred fifty dollars (\$731,250), sixteen (16) hospitals one hundred thousand dollars (\$100,000) and fifteen (15) nonprofit clinics ninety-three thousand seven hundred fifty dollars (\$93,750) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.



**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Title 19 -- Department of Health and Senior Services  
 Division: Division 20 -- Division of Environmental Health and Communicable Disease Prevention  
 Chapter: Chapter 50 -- Prescription Drug Repository Program  
 Type of Rule Making: Proposed Rule  
 Rule Number and Name: 19 CSR 20-50.020 Standards and Procedures for Donating Prescription Drugs

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
117	Pharmacies	\$731,250 annually
16	Hospitals	\$100,000 annually
15	Non-profit clinics	\$ 93,750 annually

**III. WORKSHEET**

Ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

One-fourth (1/4) of one (1) full time employee (FTE ) per participating repository site at \$12 per hour (including benefits)

$\$12 \times 2080$  hours per year = \$24,960 or \$25,000 per year

\$25,000 annual wages times the number of repository sites:

$117$  pharmacies  $\times$  \$25,000 per pharmacy =  $\$2,925,000 \times 0.25 = \$731,250$

$16$  hospitals  $\times$  \$25,000 per hospital =  $\$400,000 \times 0.25 = \$100,000$

$15$  non-profit clinics  $\times$  \$25,000 per clinic =  $\$375,000 \times 0.25 = \$93,750$

**IV. ASSUMPTIONS**

Assume that ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Assume that ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Assume that fifteen (15) non-profit clinics will choose to participate. The total number of non-profit clinics is unknown.

For pharmacies participating as repository sites, one full time pharmacy technician will be required to perform the required functions. One fourth of this individual's time will be spent performing functions related to acceptable donation per standards and procedures established in this rule.

For hospitals and non-profit clinics participating as repository sites will require one full time employee at approximately the same pay rate as for pharmacies. One fourth of this individual's time will be spent performing functions related to acceptable donation per standards and procedures established in this rule.

Per contacts in the industry, wages for a pharmacy technician, including benefits, would be approximately \$12 per hour.

Assume one FTE would work 40 hours per week 52 weeks per year, or 2080 hours per year.

Each repository site will require storage for records related to the eligibility determination process.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.025 Standards and Procedures for Accepting  
Donated Prescription Drugs**

*PURPOSE:* This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will determine drugs to be acceptable for donation under the Prescription Drug Repository Program.

(1) No controlled substances or drugs that require storage temperatures other than normal room temperature as specified by the manufacturer and/or *United States Pharmacopoeia* shall be donated or accepted as part of the Prescription Drug Repository Program.

(A) Controlled substances shall not be donated or accepted because a pharmacy, hospital or nonprofit clinic cannot accept controlled substances from a person to whom they have been dispensed, according to applicable state and federal law.

(B) Drugs that require storage temperatures other than normal room temperature as specified by the manufacturer and/or *United States Pharmacopoeia* shall not be donated or accepted because of the potential for these drugs to become adulterated.

(2) A prescription drug may only be accepted by a pharmacy, hospital, or nonprofit clinic that elects to participate in the drug repository program if the following requirements are met:

(A) The drug is in its original sealed and tamper-evident unit dose packaging;

(B) The packaging is unopened except that a drug packaged in single-unit doses may be accepted and dispensed when the outside packaging is opened if the single-unit-dose packaging is undisturbed;

(C) The drug has been in the possession of a licensed dispenser of prescription drugs, a licensed wholesale distributor of prescription drugs or a licensed health care professional and not in the possession of the ultimate user;

(D) The drug has been stored according to manufacturer and/or *United States Pharmacopoeia* storage requirements;

(E) The drug has an expiration date of six (6) months or greater;

(F) The packaging contains the lot number and expiration date of the drug;

(G) The drug does not have any physical signs of tampering or adulteration, and there is no reason to believe that the drug is adulterated as defined in section 196.095, RSMo;

(H) The packaging does not have any physical signs of tampering, deterioration, compromised integrity or adulteration; and

(I) Drugs that were dispensed for individuals are packaged and labeled in compliance with 4 CSR 220-2.130, 4 CSR 220-2.140 and 4 CSR 220-3.040.

(3) Prior to receiving each donation of donated drugs, a pharmacy, hospital or nonprofit clinic shall inquire of the donor or donor's representative if the drugs have been examined to determine that no controlled substances or drugs that require storage temperatures other than normal room temperature as specified by the manufacturer and/or *United States Pharmacopoeia* are included.

*AUTHORITY:* section 196.984, RSMo Supp. 2004. Emergency rule filed Dec.15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 cost one hundred seventeen (17) licensed pharmacies nine hundred thirty-six thousand dollars (\$936,000), sixteen (16) hospitals one hundred twenty-eight thousand dollars (\$128,000) and fifteen (15) nonprofit clinics two hundred twenty-five thousand dollars (\$225,000) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

FISCAL NOTE  
PRIVATE ENTITY COST

**I. RULE NUMBER**

Title: Title 19 -- Department of Health and Senior Services

Division: Division 20 -- Division of Environmental Health and Communicable Disease Prevention

Chapter: Chapter 50 -- Prescription Drug Repository Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 20-50.025 Standards and Procedures for Accepting Donated Prescription Drugs

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
117	Pharmacies	\$936,000 annually
16	Hospitals	\$128,000 annually
15	Non-profit clinics	\$225,000 annually

**III. WORKSHEET**

Ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Ten (10) percent of one (1) full time employee pharmacist (FTE pharmacist) per participating pharmacy or hospital repository site at \$80,000 per year (including benefits)

Ten (10) percent of one (1) full time physician per participating non-profit clinic site at \$150,000 per year \$80,000 annual wages times the number of pharmacy and hospital repository sites:

$117 \text{ pharmacies} \times \$80,000 \text{ per pharmacy} = \$9,360,000 \times 0.10 = \$936,000$

$16 \text{ hospitals} \times \$80,000 \text{ per hospital} = \$1,280,000 \times 0.10 = \$128,000$

$15 \text{ non-profit clinics} \times \$150,000 \text{ per clinic} = \$2,250,000 \times 0.10 = \$225,000$

**IV. ASSUMPTIONS**

Assume that ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Assume that ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Assume that fifteen (15) non-profit clinics will choose to participate. The total number of non-profit clinics is unknown.

For pharmacies and hospitals participating as repository sites, a registered pharmacist will be required to perform the required functions. Ten percent of this individual's time will be spent performing the functions described in this rule.

For non-profit clinics participating as repository sites a physician will be required to perform the required functions. Ten (10) percent of this individual's time will be spent performing the functions described in this rule.

Per contacts in the industry, salary for a pharmacist, including benefits, would be approximately \$80,000 per year. The salary for a physician would be approximately \$150,000 per year.



**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.030 Standards and Procedures for Inspecting and Storing Donated Prescription Drugs**

*PURPOSE:* This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will determine drugs to be acceptable for dispensing under the Prescription Drug Repository Program. This rule also establishes documentation of receipt of donated drugs.

(1) A pharmacy, hospital or nonprofit clinic shall inspect donated prescription drugs to determine that they are safe and suitable for dispensing, the drug and the packaging are in compliance with 19 CSR 20-50.025, and there are no controlled substances or drugs that require storage temperatures other than normal room temperature as specified by the manufacturer and/or *United States Pharmacopoeia*. The person who inspects the drugs shall sign an inspection record stating the above and attach it to the copy of the ownership record or alternate donor record provided with the drugs.

(2) Donated drugs shall be stored in the pharmacy, hospital or nonprofit clinic in a location separate from other drugs.

(3) When donated drugs are not inspected immediately upon receipt, they shall not be placed in the dispensing area until they have been inspected.

(4) Donated non-controlled substances that are not suitable for dispensing, shall be destroyed and a record made of such destruction.

(5) Controlled substances found upon inspection shall not be accepted for donation.

(A) Controlled substances submitted for donation shall be documented and returned immediately to the donor or the donor's representative that provided the drugs.

(B) In the event that it is not possible to return the controlled substances to the donor or donor's representative due to inability to identify the donor or donor's representative or due to refusal by the donor or donor's representative to receive them, abandoned controlled substances shall be documented, quarantined and destroyed as required in this subsection.

1. Abandoned controlled substances shall be documented as required in subsection (C) of this section.

2. Abandoned controlled substances shall be quarantined separate from other controlled substances in a location that meets requirements of 19 CSR 30-1.

3. Abandoned controlled substances shall be destroyed beyond reclamation. Such destruction shall be performed by a pharmacist or other person that has authority to dispense controlled substances and witnessed by another responsible employee of the pharmacy, hospital or nonprofit clinic according to 19 CSR 30-1.078 and 21 CFR 1307.21.

(C) A controlled substance donor return or destruction record shall be prepared and retained by the pharmacy, hospital or nonprofit clinic. The controlled substance donor return or destruction record shall include the following when applicable:

1. The name and address of the pharmacy, hospital or nonprofit clinic;

2. The date the drug was received by the pharmacy, hospital or nonprofit clinic;

3. The brand name of the drug; or the generic name and either the name of the manufacturer or the national drug code number (NDC #) when available;

4. The strength of the drug;
5. The quantity of the drug;
6. The lot number of the drug when available;
7. The expiration date of the drug;
8. The name and address of the donor;
9. The name and address of the donor's representative;
10. The circumstances under which the drug was abandoned;
11. The signature of the donor or donor's representative when the drug is returned to the donor;
12. The signature of the representative of the pharmacy, hospital or nonprofit clinic when the drug is returned to the donor;
13. The signature of the individual performing the destruction of the drug;
14. The signature of the individual witnessing the destruction of the drug; and
15. The date the drug was returned or destroyed.

*AUTHORITY:* section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 cost one hundred seventeen (17) licensed pharmacies \$1,681,250, sixteen (16) hospitals two hundred twenty-eight thousand dollars (\$228,000) and fifteen (15) nonprofit clinics three hundred eighteen thousand dollars (\$318,750) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE  
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Title 19 -- Department of Health and Senior Services

Division: Division 20 -- Division of Environmental Health and Communicable Disease Prevention

Chapter: Chapter 50 -- Prescription Drug Repository Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 20-50.030 Standards and Procedures for Inspecting and Storing Donated Prescription Drugs

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
117	Pharmacies	\$1,681,250 annually
16	Hospitals	\$ 228,000 annually
15	Non-profit clinics	\$ 318,750 annually

III. WORKSHEET

Twenty-five (25) percent of one (1) full time employee (FTE ) per participating repository site at \$12 per hour (including benefits)

\$12 x 2080 hours per year = \$24,960 or \$25,000 per year

\$25,000 annual wages times the number of repository sites:

117 pharmacies x \$25,000 per pharmacy = \$2,925,000 x 0.25 = \$731,250

16 hospitals x \$25,000 per hospital = \$400,000 x 0.25 = \$100,000

15 non-profit clinics x \$25,000 per clinic = \$375,000 x 0.25 = \$93,750

Ten (10) percent of one (1) full time employee pharmacist (FTE pharmacist) per participating pharmacy or hospital repository site at \$80,000 per year (including benefits)

Ten (10) percent of one (1) full time physician per participating non-profit clinic site at \$150,000 per year \$80,000 annual wages times the number of pharmacy and hospital repository sites:

117 pharmacies x \$80,000 per pharmacy = \$9,360,000 x 0.10 = \$ 936,000

16 hospitals x \$80,000 per hospital = \$ 1,280,000 x 0.10 = \$ 128,000

15 non-profit clinics x \$150,000 per clinic = \$ 2,250,000 x 0.10 = \$225,000

10 sq.ft x \$12 per sq ft x 117 pharmacies = \$14,040 or \$14,000

Pharmacy costs: \$731,250 + \$936,000 + \$14,000 = \$1,681,250

Hospital costs: \$100,000 + \$128,000 = \$228,000

Non-profit clinic costs: \$93,750 + \$225,000 = \$318,750

IV. ASSUMPTIONS

Assume that ten (10) percent of pharmacies will choose to participate: 1172 x 0.10 = 117 pharmacies participating as repository sites.

Assume that ten (10) percent of hospitals will choose to participate: 164 x 0.10 = 16 hospitals

Assume that fifteen (15) non-profit clinics will choose to participate. The total number of non-profit clinics is unknown.

For pharmacies participating as repository sites, one full time pharmacy technician will be required to perform the required functions. One fourth of this individual's time will be spent performing recordkeeping related requirements established in this rule.

For hospitals and non-profit clinics participating as repository sites will require one full time employee at approximately the same pay rate as for pharmacies. One fourth of this individual's time will be spent performing recordkeeping functions related to requirements established in this rule.

Per contacts in the industry, wages for a pharmacy technician, including benefits, would be approximately \$12 per hour.

Assume one FTE would work 40 hours per week 52 weeks per year, or 2080 hours per year.

For pharmacies and hospitals participating as repository sites, a registered pharmacist will be required to perform the required functions. Ten percent of this individual's time will be spent performing the functions described in this rule.

For non-profit clinics participating as repository sites a physician will be required to perform the required functions. Ten (10) percent of this individual's time will be spent performing the functions described in this rule.

Per contacts in the industry, salary for a pharmacist, including benefits, would be approximately \$80,000 per year. The salary for a physician would be approximately \$150,000 per year.

Per contacts in the industry, additional space in a retail pharmacy would cost \$10-12 per square foot.

Assume that participating repository sites will require an additional ten square feet of space to store donated and abandoned medications.

Assume that participating hospitals and non-profit clinics, being larger facilities than most retail pharmacies, will be more able to reallocate existing space for storage of records related to this program.



**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.035 Standards and Procedures for Dispensing  
Donated Prescription Drugs**

*PURPOSE: This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will dispense donated drugs under the Prescription Drug Repository Program.*

(1) A pharmacy, hospital or nonprofit clinic shall dispense donated prescription drugs in compliance with applicable federal and state laws and regulations for dispensing prescription drugs.

(2) A pharmacy, hospital or nonprofit clinic shall dispense donated prescription drugs in compliance with section 338.059, RSMo Prescriptions, how labeled; 4 CSR 220-2.130 Drug Repackaging; and 4 CSR 220-3.040 Return and Reuse of Drugs and Devices.

(3) A pharmacy, hospital or nonprofit clinic shall have an established mechanism to notify recipients in the event of a drug recall.

(4) A pharmacy, hospital or nonprofit clinic shall remove the original donor's identification from the package when the drug is dispensed.

(5) Recipients of a donated drug from the drug repository program shall sign an immunity acceptance record form stating they understand the criminal and civil immunity provisions of the program pursuant to section 196.981, RSMo. The immunity acceptance record shall also include at least the following:

- (A) The printed name and address of the recipient;
- (B) The signature of the recipient;
- (C) The date the form was signed by the recipient;
- (D) The brand name of the drug received; or the generic name and either the name of the manufacturer or the national drug code number (NDC #);
- (E) The lot number of the drug if available;
- (F) The strength of the drug received by the recipient;
- (G) The quantity of the drug received by the recipient;
- (H) The name and address of the dispensing pharmacy, hospital or nonprofit clinic; and
- (I) The dispenser's initials.

(6) Each recipient of a donated drug from the drug repository program shall sign a waiver of the requirement for child-resistant packaging of the Poison Prevention Packaging Act.

(7) A pharmacy, hospital or nonprofit clinic may charge the recipient of a donated drug a handling fee, not to exceed a maximum of two hundred percent (200%) of the standard Medicaid professional dispensing fee to cover stocking and dispensing costs.

(8) A pharmacy, hospital or nonprofit clinic may transfer donated drugs to another governmental entity or nonprofit private entity, to be dispensed to persons who meet the eligibility requirements of the program, when the other governmental entity or nonprofit private entity is a pharmacy, hospital or nonprofit clinic.

(A) The transferring pharmacy, hospital or nonprofit clinic shall be licensed as a drug distributor with the Board of Pharmacy.

(B) If the transferring pharmacy, hospital or nonprofit clinic is a covered entity under the Health Portability and Accountability Act (HIPAA), it shall comply with HIPAA regarding the disclosure of any personal health information that may occur as a result of the

transfer of a donated drug. A copy of any authorization to release patient identifying information received by the transferring pharmacy, hospital or nonprofit clinic in relation to a donated drug shall be provided to the pharmacy, hospital or nonprofit clinic receiving any transferred drug.

(C) Both the transferring and receiving pharmacy, hospital or nonprofit clinic shall maintain a record that includes:

- 1. The brand name of the drug received; or the generic name and either the name of the manufacturer or the national drug code number (NDC #);
- 2. The lot number of the drug, if available;
- 3. The strength of the drug;
- 4. The quantity of the drug;
- 5. The name and address of both the transferring and receiving pharmacy, hospital or nonprofit clinic; and
- 6. The date of the transfer.

*AUTHORITY: section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 cost one hundred seventeen (17) licensed pharmacies nine hundred thirty-six thousand dollars (\$936,000), sixteen (16) hospitals one hundred twenty-eight thousand dollars (\$128,000) and fifteen (15) nonprofit clinics two hundred twenty-five thousand dollars (\$225,000) annually in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Title 19 -- Department of Health and Senior Services

Division: Division 20 -- Division of Environmental Health and Communicable Disease Prevention

Chapter: Chapter 50 -- Prescription Drug Repository Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 20-50.035 Standards and Procedures for Dispensing Donated Prescription Drugs

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
117	Pharmacies	\$936,000 annually
16	Hospitals	\$128,000 annually
15	Non-profit clinics	\$ 225,000 annually

**III. WORKSHEET**

Ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Ten (10) percent of one (1) full time employee pharmacist (FTE pharmacist) per participating pharmacy or hospital repository site at \$80,000 per year (including benefits)

Ten (10) percent of one (1) full time physician per participating non-profit clinic site at \$150,000 per year \$80,000 annual wages times the number of pharmacy and hospital repository sites:

117 pharmacies x \$80,000 per pharmacy = \$9,360,000 x 0.10 = \$ 936,000

16 hospitals x \$80,000 per hospital = \$ 1,280,000 x 0.10 = \$ 128,000

15 non-profit clinics x \$150,000 per clinic = \$2,250,000 x 0.10 = \$225,000

**IV. ASSUMPTIONS**

Assume that ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Assume that ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Assume that fifteen (15) non-profit clinics will choose to participate. The total number of non-profit clinics is unknown.

For pharmacies and hospitals participating as repository sites, a registered pharmacist will be required to perform the required functions. Ten percent of this individual's time will be spent performing the functions described in this rule.

For non-profit clinics participating as repository sites a physician or other licensed individual, delegated this duty by the physician, will be required to perform the required functions. Potentially, ten (10) percent of this individual's time will be spent performing the functions described in this rule.

Per contacts in the industry, salary for a pharmacist, including benefits, would be approximately \$80,000 per year. The salary for a physician would be approximately \$150,000 per year.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 50—Prescription Drug Repository Program**

**PROPOSED RULE**

**19 CSR 20-50.040 Record Keeping Requirements**

*PURPOSE:* This rule contains the criteria by which pharmacies, hospitals and nonprofit clinics will maintain records required under the Prescription Drug Repository Program.

(1) All records required to be maintained as a part of the Prescription Drug Repository Program shall be maintained for a minimum of five (5) years by participating pharmacies, hospitals, nonprofit clinics and institutional facilities.

(2) Records required as part of the program shall be maintained separate from other records.

*AUTHORITY:* section 196.984, RSMo Supp. 2004. Emergency rule filed Dec. 15, 2004, effective Jan. 1, 2005, expires June 29, 2005. Original rule filed Dec. 15, 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 have a one-time cost to one hundred seventeen (117) licensed pharmacies of eleven thousand two hundred fifty dollars (\$11,250) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Bryant McNally, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.



**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Title 19 -- Department of Health and Senior Services

Division: Division 20 -- Division of Environmental Health and Communicable Disease Prevention

Chapter: Chapter 50 -- Prescription Drug Repository Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 20-50.040 Record Keeping Requirements

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
117	Pharmacies	\$11,250 one time cost
16	Hospitals	Less than \$500 in the aggregate
15	Non-profit clinics	Less than \$500 in the aggregate

**III. WORKSHEET**

8 sq.ft x \$12 per sq ft x 117 pharmacies = \$11,232 rounded to \$11,250

**IV. ASSUMPTIONS**

Assume that ten (10) percent of pharmacies will choose to participate:  $1172 \times 0.10 = 117$  pharmacies participating as repository sites.

Assume that ten (10) percent of hospitals will choose to participate:  $164 \times 0.10 = 16$  hospitals

Assume that fifteen (15) non-profit clinics will choose to participate. The total number of non-profit clinics is unknown.

Per contacts in the industry, additional space in a retail pharmacy would cost \$10-12 per square foot.

Assume that participating repository sites will require an additional eight square feet of space to store required records.

Assume that participating hospitals and non-profit clinics, being larger facilities than most retail pharmacies, will be more able to reallocate existing space for storage of records related to this program.

**T**his 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*.

**T**he 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 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 2—Health Requirements for  
Movement of Livestock, Poultry and Exotic Animals**

**ORDER OF RULEMAKING**

By the authority vested in the director of agriculture under section 267.645, RSMo 2000, the director amends a rule as follows:

**2 CSR 30-2.010 Health Requirements Governing the Admission of  
Livestock, Poultry and Exotic Animals Entering Missouri is  
amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1437-1438). 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 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 6—Livestock Markets**

**ORDER OF RULEMAKING**

By the authority vested in the director of agriculture under section 277.160, RSMo 2000, the director amends a rule as follows:

**2 CSR 30-6.020 Duties and Facilities of the Market/Sale  
Veterinarian is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1438-1439). 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 3—Wildlife Code: Monetary Values of Fish and  
Wildlife**

**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 10-3.010 Monetary Values Established for Fish and Wildlife  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1689). 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 4—Wildlife Code: General Provisions**

**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 10-4.110 General Prohibition; Applications is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1689-1690). 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 4—Wildlife Code: General Provisions**

**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 10-4.111 Endangered Species is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1690). 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 4—Wildlife Code: General Provisions**

**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 10-4.113 Ginseng is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1690). 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 5—Wildlife Code: Permits**

**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 10-5.205 Permits Required; Exceptions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1690–1691). 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 5—Wildlife Code: Permits**

**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 10-5.215 Permits and Privileges: How Obtained; Not Transferable is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1691). 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 5—Wildlife Code: Permits**

**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 10-5.225 Permits: Permit Issuing Agents; Service Fees; Other Provisions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1691). 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 5—Wildlife Code: Permits**

**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 10-5.430 Trout Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1691–1692). 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 5—Wildlife Code: Permits**

**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 10-5.565 Nonresident Turkey Hunting Permits is amended.**



A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1692). 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 5—Wildlife Code: Permits**

**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 10-5.579** Nonresident Landowner Firearms Turkey Hunting Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1692). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.410** Fishing Methods is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1692). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.415** Restricted Zones is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1692-1693). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.510** Channel Catfish, Blue Catfish, Flathead Catfish is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1693). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.525** Paddlefish is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1693-1694). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.533** Shovelnose Sturgeon is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1694). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.535 Trout is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1694-1695). 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 Conservation received one (1) comment on the proposed amendment.

COMMENT: Frank E. Bellew, Lebanon, Missouri, expressed opposition to lowering the daily trout limit from five (5) to four (4) trout. RESPONSE: Prior to proposing this regulation change, the department proposed the daily limit reduction as a method of spreading the harvest of trout among more anglers and creating more successful fishing trips. The department engaged the comment of trout anglers on this proposal through three (3) public focus group meetings, presentations to trout angling groups and through correspondence with trout anglers, trout fishing organizations and other agencies. While comments on the proposal varied widely, most supported the reduction in the daily limit. As a result of this public approval, the need to reduce the daily limit on trout was officially adopted as Objective 1.2 in the department's "A Plan for Missouri Trout Fishing." Copies of this plan and a summary of public comment on it are available on request or from the department's website at: [http://www.mdc.state.mo.us/documents/fish/trout/trout\\_plan.pdf](http://www.mdc.state.mo.us/documents/fish/trout/trout_plan.pdf). No changes have been made to the rule as a result of this comment.

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

**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 10-6.605 Live Bait is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1695). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.610 Mussels and Clams is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1695). 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 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**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 10-6.615 Bullfrogs and Green Frogs is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1695-1696). 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 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**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 10-7.410 Hunting Methods is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1696). 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 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**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 10-7.427** Groundhogs: Seasons, Limits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1696). 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 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**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 10-7.431** Deer Hunting Seasons: General Provisions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1697). 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 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**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 10-7.455** Turkeys: Seasons, Methods, Limits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1697). 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 8—Wildlife Code: Trapping: Seasons, Methods**

**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 10-8.510** Use of Traps is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1697-1698). 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 8—Wildlife Code: Trapping: Seasons, Methods**

**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 10-8.515** Furbearers: Trapping Seasons is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1698). 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 10-9.105** General Provisions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1698). 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 November 1, 2004 (29 MoReg 1699). 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 10-9.240 Class II Wildlife is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1699). 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 10-9.425 Wildlife Collector's Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1699–1700). 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 10-9.440 Resident Falconry Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1700). 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 10-9.566 Licensed Hunting Preserve: Records Required is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1700). 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 10-9.570 Hound Running Area Operator and Dealer Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1,

2004 (29 MoReg 1700-1701). 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 10-9.575** Hound Running Area: Privileges, Requirements **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1701). 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 10-9.625** Field Trial Permit **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1701). 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 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

**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 10-10.705** Commercialization **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1701-1702). 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 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

**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 10-10.725** Commercial Fishing: Seasons, Methods **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1702). 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 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

**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 10-10.732** Tag and Release Fishing Promotion Permit **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1702-1703). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.120 Pets and Hunting Dogs is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1703). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.125 Field Trials is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1703). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.145 Tree Stands is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1703). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.150 Target Shooting and Shooting Ranges is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1704). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.155 Decoys and Blinds is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1704). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.186 Waterfowl Hunting is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1704–1705). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.187 Trapping is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1705). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.205 Fishing, Methods and Hours is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1705-1706). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.210 Fishing, Daily and Possession Limits  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1706-1707). 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 11—Wildlife Code: Special Regulations for  
Department Areas**

**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 10-11.215 Fishing, Length Limits is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1707). 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 12—Wildlife Code: Special Regulations for Areas  
Owned by Other Entities**

**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 10-12.109 Closed Hours is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1707-1708). 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 12—Wildlife Code: Special Regulations for Areas  
Owned by Other Entities**

**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 10-12.135 Fishing, Methods is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1708). 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 12—Wildlife Code: Special Regulations for Areas  
Owned by Other Entities**

**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 10-12.150 Fishing, Trout Parks is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2004 (29 MoReg 1708). 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 45—Athlete Agents  
Chapter 1—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the Division of Professional Registration under sections 436.227, 436.218 and 436.239, RSMo Supp. 2004, the division adopts a rule as follows:

**4 CSR 45-1.010 Fees is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1441-1443). 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: 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 30-54.215 Accredited Investor Exemption is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1468). 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 adopts a rule as follows:

15 CSR 30-54.215 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1468-1469). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner received two (2) comments regarding this amendment.

COMMENT: Securities staff recommended the word “state” be changed to “stage” in accordance with the NASAA model accredited investor exemption.

RESPONSE AND EXPLANATION OF CHANGE: The commissioner agrees with this recommendation, and the change will be made.

COMMENT: A comment was received recognizing an incorrect statute site.

RESPONSE AND EXPLANATION OF CHANGE: The commissioner agrees with this recommendation, and the change will be made to reference the appropriate filing fee provision.

**15 CSR 30-54.215 Accredited Investor Exemption**

(2) The exemption is not available to an issuer that is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(11) The issuer shall file with the securities division a notice of transaction, a consent to service of process, a copy of the general announcement, and a registration fee in compliance with rule 15 CSR 30-50.030 within fifteen (15) days after the first sale in this state.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 3—General Sanitation**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 701.033, RSMo Supp. 2004 and 701.040, RSMo 2000, the department rescinds a rule as follows:

**19 CSR 20-3.080 Description of Persons Qualified to Perform  
Percolation Tests or Soils Morphology Examinations in  
Determining Soil Properties for On-Site Sewage Disposal Systems  
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 15, 2004 (29 MoReg 1560). 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 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 3—General Sanitation**

## ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 701.033, RSMo Supp. 2004 and 701.040, RSMo 2000, the department adopts a rule as follows:

19 CSR 20-3.080 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 15, 2004 (29 MoReg 1560-1566). The entire rule is reprinted here for clarification purposes. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Department of Health and Senior Services (DHSS) received three (3) letters of comment on this proposed rule.

**COMMENT:** Holly Neil with the James River Basin Partnership suggested that registration be required in Missouri for septage pumpers/haulers.

**RESPONSE:** At this time, DHSS does not have the statutory authority to require registration for septage pumpers/haulers. No changes have been made to the rule as a result of this comment.

**COMMENT:** David Casaletto with Table Rock Lake Water Quality, Inc. suggested that pumpers/haulers should be registered.

**RESPONSE:** At this time, DHSS does not have the statutory authority to require registration for pumpers/haulers. No changes have been made to the rule as a result of this comment.

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation suggested that DHSS substitute the word "basic" for the word "regular" in reference to on-site wastewater treatment systems and on-site wastewater treatment system installers.

**RESPONSE AND EXPLANATION OF CHANGE:** After consideration of this comment, DHSS will incorporate the wording change from "regular" to "basic" in (1)(G), (2)(C)1., (2)(C)2.A., (3)(D), (3)(E), (4)(B), (4)(B)1., (5), and (6).

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation noted concerns about the use and definition of the term "person."

**RESPONSE AND EXPLANATION OF CHANGE:** After consideration of this comment, DHSS will change the definition of installer in (1)(D) and incorporate the wording change from "person" to "individual" in the statement of Purpose and in (1)(B), (1)(G), (2), (2)(A)1, (2)(B)1., (2)(C)1., (2)(C)2., (3)(A), (3)(A)3., (3)(C), (3)(D), (3)(E), (5), (6), (6)(F), (6)(G), (7), (8), (9), (9)(A), (9)(B) and (10) and incorporate the wording change from "person" to "installer" in (2)(C).

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation suggested the wording in subsection (6)(A) is not necessary since it is covered sufficiently in paragraph (3)(A)3.

**RESPONSE AND EXPLANATION OF CHANGE:** After consideration of this comment, DHSS will remove the language from subsection (6)(A).

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation requested that a provision be added to revoke the on-site soil evaluator registration of any engineer or geologist who has his or her professional license revoked or suspended. He also requested that the procedure for renewal of the DHSS registration as an on-site soil evaluator be modified to require demonstration that their professional license is in good standing.

**RESPONSE AND EXPLANATION OF CHANGE:** After consideration of this comment, DHSS will change subsection (6)(A) to allow suspension or revocation of a professional engineer's and reg-

istered geologist's registration as a percolation tester or on-site soil evaluator, if they lose their professional license. Also, DHSS will change paragraph (3)(A)1. to require proof of current professional license for individuals whose original registration was based on that license.

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation requested that the exclusion for property owners to install their own septic systems be more narrowly construed.

**RESPONSE AND EXPLANATION OF CHANGE:** After consideration of this comment, DHSS will change subsection (1)(D) to more narrowly define an installer.

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation requested that the language be modified to allow an individual to register as basic and advanced on-site wastewater treatment system (OWTS) installer at the same time.

**RESPONSE:** Some DHSS basic and advanced registration training courses and tests will be offered consecutively to accommodate individuals who want to register as both basic and advanced OWTS installers at the same time. No changes have been made to the rule as a result of this comment.

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation suggested the need to have a transition plan for existing regular OWTS installers who are currently registered in one or more counties in the state.

**RESPONSE:** Numerous DHSS training courses were offered from July through September to allow OWTS installers registered in one (1) or more counties in the state prior to August 28, 2004 to become state registered. Using county supplied lists, all individuals registered by the counties were notified of the training. Approximately eight hundred seventy (870) county registered individuals became state registered through this process. No changes have been made to the rule as a result of this comment.

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation questioned whether the DHSS would have authority to enter onto private property without owner permission for the purpose of conducting subsequent tests and if the department currently has sufficient resources to conduct a meaningful audit program.

**RESPONSE:** 701.033.1(3), RSMo provides that authority. Audits would generally be conducted during the course of normal construction inspections. However, if necessary, entry onto a property after normal inspection and enforcement of the law and rules would generally be done with the property owner's permission. Audits of percolation testers and on-site soil evaluators (OSE) could also be conducted at alternate sites. Additional staff will not be needed for conducting audits. Adequate department staff, expertise, and resources are currently available. No changes have been made to the rule as a result of this comment.

**COMMENT:** H. Floyd Gilzow with the Upper White River Basin Foundation questioned the purpose and length of probation and whether an individual on probation may renew their registration.

**RESPONSE:** An individual might be placed on probation for a length of time, which may vary, and be subject to conditions or additional monitoring to come into compliance with standards. Registered individuals who continue to violate regulations while on probation may have their registration suspended or revoked. Individuals on probation will still be registered and may renew their registration. No changes have been made to the rule as a result of this comment.

**19 CSR 20-3.080 Requirements for Percolation Testers or On-Site Soils Evaluators and Registered On-Site Wastewater Treatment System Installers**



*PURPOSE: This rule establishes the criteria for inclusion on the lists of those individuals qualified to perform percolation tests and/or soils morphology evaluations in determining soil properties for on-site wastewater treatment systems and for inclusion on the registered on-site wastewater system installers list in accordance with sections 701.025 through 701.059, RSMo.*

(1) The following definitions shall apply to this rule:

(A) Administrative authority—The governing body which may include, but is not limited to, county health departments, planning and zoning commissions, county building departments, county public works departments, sewer districts, municipalities and the Missouri Department of Health and Senior Services which has, as authorized by statute, charter or other form of enabling authority, adopted regulations equal to or greater than sections 701.025 through 701.059, RSMo for individual on-site wastewater treatment systems;

(B) Advanced on-site wastewater treatment system (OWTS) installer—An individual registered by the department to install advanced OWTS as listed by the department;

(C) Department—The Missouri Department of Health and Senior Services;

(D) Installer—Any individual (other than a homeowner who installs a system for their own personal use) who alters, extends, repairs, or constructs, an OWTS, including but not limited to, excavating, or earthmoving work connected with the construction of OWTS on behalf of, or under contract with, the property owner;

(E) On-site soil evaluators (OSE)—Individuals including soil scientists, as defined by section 701.040.1(2), RSMo; licensed engineers, and registered geologists as defined by section 701.040.1(2), RSMo with ten (10) semester hours of soils course work including three (3) semester hours of course work in soil morphology and interpretations; and meeting the requirements of this rule;

(F) On-site wastewater treatment system (OWTS)—Any system defined in section 701.025(8), RSMo as an “on-site sewage disposal system”;

(G) Basic on-site wastewater treatment system (OWTS) installer—An individual registered by the department to install basic OWTS as listed by the department; and

(H) Soil morphology evaluation—The method of testing or evaluating absorption qualities of the soil by physical examination of the soils’ color, mottling, texture, structure, topography and hill-slope position.

(2) An individual must be registered by the department to conduct any part of a percolation test or soil morphology evaluation in which results are intended for use in the design of an OWTS or to install an OWTS according to the standards set forth in sections 701.025 through 701.059, RSMo and 19 CSR 20-3.060.

(A) Percolation Tests.

1. To obtain registration from the department to conduct a percolation test, an individual shall:

A. Successfully complete a training course conducted by or approved by the department. This training course shall include, at a minimum, course work, field work, a written examination and a practical examination; or

B. Submit documentation that he/she meets the definitions of OSE, licensed engineer or registered geologist; and

C. Complete the department’s registration process described in section (3).

(B) Soil morphology evaluations shall be conducted by individuals meeting the definition of an OSE and meeting the requirements of this rule.

1. To obtain registration from the department to perform soils morphology evaluations, an individual shall:

A. Provide the following information:

(I) An original transcript from the school or university attended mailed directly from the registrar to the department in Jefferson City;

(II) Course descriptions from the school attended to verify the nature of the course work if requested; and

(III) A copy of current applicable professional registration for licensed engineers or registered geologists indicating the registrant is in good standing;

B. Complete a written and a field test conducted by or approved by the department with a score of seventy percent (70%) or higher on each section; and

C. Complete the department registration process described in section (3).

(C) Installation of On-site Wastewater Treatment Systems. The installation of any OWTS can only be done by an installer registered with the department, with the exception of a property owner meeting the requirements of section 701.055, RSMo. After July 1, 2005, only installers registered as advanced OWTS installers shall install systems listed by the department as advanced OWTS.

1. To obtain registration from the department as a basic OWTS installer, an individual shall:

A. Complete a training course conducted by or approved by the department with a score of seventy percent (70%) or higher; and

B. Complete the department registration process described in section (3).

2. To obtain registration from the department as an advanced OWTS installer, an individual shall:

A. Possess a basic OWTS installer’s registration in good standing;

B. Complete an advanced OWTS installer training course approved by the department with a score of seventy percent (70%) or higher; and

C. Complete the department registration process described in section (3).

(3) Department Registration Process.

(A) To complete the department registration process, an individual shall:

1. Complete an application on a form approved by the department and submit proof of professional engineer or registered geologist license if necessary for percolation tester or OSE registration;

2. Pay the registration or registration renewal fee at the time the application is submitted. Payment shall be made in the form of a personal check, certified or cashier’s check or money order made payable to the Department of Health and Senior Services. This is a nonrefundable processing fee;

3. Pay a late charge of ten dollars (\$10) in addition to the registration renewal fee if an application is submitted more than fifteen (15) days after the previous registration expires. Registration renewal applications will not be accepted if more than forty-five (45) days after the previous registration expires. Individuals submitting registration renewal applications more than forty-five (45) days after expiration of their registration will be required to complete the original registration process, including any department training requirements for original registration; and

4. Each renewal application shall include a list of all continuing education units (CEU) completed for the thirty-six (36)-month period prior to the application. The department shall not grant a renewal of the registration unless the applicant provides documentation of successful completion of at least twenty (20) hours of department approved CEU, four (4) hours of which shall be provided by the department, within the thirty-six (36)-month period prior to the application.

(B) All individuals certified, listed, or registered with the department before August 28, 2004, will receive a registration during the first year of implementation of this rule, valid for not more than thirty-six (36) months which shall be renewable upon completion of the department registration process as described in section (3) and paying a fee not to exceed ninety dollars (\$90). Each registration issued during the first year will be assigned an expiration date by the department.

(C) After August 28, 2004, individuals registering for the first time and paying a ninety-dollar (\$90) fee, will receive a registration valid for thirty-six (36) months, unless otherwise suspended, revoked or surrendered, and shall be renewable upon completion of the department registration process described in section (3), and paying a fee not to exceed ninety dollars (\$90).

(D) After August 28, 2004, the department may issue a one (1)-time temporary basic OWTS installer registration, valid for no more than one hundred eighty (180) days for work in a specific county or counties. The temporary basic OWTS registration will be converted to a basic OWTS installer registration upon completion of a department-approved training program and completion of the department registration process as described in section (3). Failure to complete the training or the department registration process will result in termination of the individual's temporary basic OWTS installer registration.

(E) After August 28, 2004, the department may issue a probationary basic OWTS installer registration for work in a specific county or counties. This registration will be valid for a specific period of time, as determined by the department, and will be dependent on the registered individual meeting and maintaining specific requirements as established by the department.

(4) Standards of Practice—Percolation Testers, OSE or OWTS Installers.

(A) A percolation tester or OSE shall:

1. Possess a current registration with the department before performing any activities related to a percolation test or morphology evaluation;

2. Record their registration number on all bids, proposals, contracts, invoices, soil evaluation reports, or other correspondence with the homeowner and administrative authority;

3. Provide true and accurate information on any application, percolation test report, soil evaluation report and any other OWTS documentation;

4. Maintain a current address and phone number with the department and submit any address or phone number changes to the department in writing within thirty (30) days of the change taking place;

5. Percolation tests must be conducted in accordance with section (2) of 19 CSR 20-3.060; and

6. Site/soil morphology evaluations completed by an OSE must comply with the standards detailed in sections (2) and (7) of 19 CSR 20-3.060 including but not limited to the following items:

A. Evaluate the nine (9) items listed in paragraphs (2)(A) 2.-10.;

B. Evaluate and classify six (6) site factors listed in subsection (7)(C), as suitable, provisionally suitable, or unsuitable according to subsections (7)(E) through (L);

C. Include a diagram showing location and extent of the area(s) evaluated;

D. Make recommendations regarding the use or effectiveness of water lowering systems when there is evidence of a high water table; and

E. Based on subsection (7)(M) and Tables 13 and 14, for horizons that are not classified as unsuitable, assign a conventional soil loading rate for each horizon and assign an alternative soil loading rate for each horizon at least to a depth of twelve inches (12") below the likely depth of an alternative system.

(B) A registered basic OWTS installer or a registered advanced OWTS installer shall:

1. Possess a current basic OWTS installer registration or advanced OWTS installer registration with the department before beginning construction of an on-site wastewater treatment system;

2. Record their registration number on all bids, proposals, contracts, invoices, permit application construction drawings, or other correspondence with the homeowner and administrative authority;

3. Provide true and accurate information on any application and any other OWTS documentation;

4. Begin the construction of an OWTS only after obtaining approval from the administrative authority, unless approval is not required;

5. Construct the OWTS meeting the construction and permit criteria required by sections 701.025–701.059, RSMo and any rule adopted thereunder or the more stringent requirements of the administrative authority, if applicable;

6. Construct the OWTS that has been authorized by the administrative authority for the specific location identified in the application;

7. Be present at the construction site during construction and supervise all construction activities;

8. Submit complete and accurate "certification without on-site inspection form," when requested; and

9. Maintain a current address and phone number with the department and submit any address or phone number changes to the department in writing within thirty (30) days of the change taking place.

(5) The department may audit the work of a percolation tester, OSE, registered basic OWTS installer or registered advanced OWTS installer at any time to determine whether the standards of practice, as defined by this rule are being met. Failure to adhere to department standards may be cause for placement on probation, suspension, or revocation of the registration, or for mandatory successful completion of a training course and/or testing as described in section (2). The audit may be an unannounced visit to the property on which the percolation test, soil morphology examination or on-site sewage system installation was conducted, which may include an independent soil percolation test or soil morphology examination, or a visit within the period of a soil percolation test, soil morphology examination or on-site sewage system installation with or without prior appointment with the registered individual.

(6) A percolation tester, OSE, registered basic OWTS installer, or registered advanced OWTS installer may have their registration placed on probation, suspended, or revoked if the individual:

(A) Fails to maintain any professional license necessary for registration as a percolation tester or OSE;

(B) Fails an audit or refuses to participate in an audit;

(C) Fails to submit reports, submits false reports or allows another individual to use his/her license;

(D) Is convicted of a violation of any provisions of sections 701.025 through 701.059, RSMo or any rules promulgated under these statutes;

(E) Has plead guilty or has been found guilty of an infraction, misdemeanor or felony involving misrepresentation, fraud or other crime relating to activities of percolation testing, soil morphology evaluations, installing, repairing, inspecting or otherwise associated with on-site sewage disposal systems;

(F) Directs or allows an unregistered individual to conduct a percolation test, or soil morphology examination;

(G) Directs or allows an unregistered individual to install an on-site wastewater treatment system without direct supervision; or

(H) Fails to comply with standards of practice established by this rule.

(7) The suspension or revocation of a percolation tester's or OSE's registration shall be served in writing by certified mail or personal service to the affected individual or his/her representative. The decision of the department may be appealed to the Administrative Hearing Commission as provided in Chapters 536 and 621, RSMo.

(8) Any individual whose registration has been revoked may not reapply for registration for at least one (1) year from date of revocation, and must complete the department training requirements for registration described in section (2) and complete the department registration process as described in section (3) above.

(9) An individual may be permanently barred from reapplying for registration if—

(A) The individual has plead guilty or has been found guilty of an infraction, misdemeanor or felony involving misrepresentation, fraud or other crime relating to activities associated with an OWTS; or

(B) The individual has his/her registration revoked a second time within five (5) years.

(10) No person as defined in section 701.025, RSMo may authorize, permit, or knowingly allow the installation of an on-site wastewater treatment system by an unregistered individual other than the property owner.