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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

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

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 5—Working Hours, Holidays and Leaves of Absence

PROPOSED AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The Personnel Advisory Board is amending subsections (5)(A), (B), and (C); amending subparagraph (7)(A)1.A.; deleting paragraph (8)(B)4. and renumbering the remaining paragraphs accordingly.

PURPOSE: The amendments to subsections (5)(A), (B) and (C) are necessary to comply with the provisions of recent legislation which expanded disaster service leave to individuals certified by entities other than the American Red Cross that are recognized by the State Emergency Management Agency. The amendment to subparagraph (7)(A)1.A. is necessary to correct a reference in the rules to the Family and Medical Leave Act (FMLA) provisions of the rules. The deletion of paragraph (8)(B)4. is necessary because paid leaves of absence for tutoring in a metropolitan school district, according to 105.268, RSMo, expired June 30, 2002.

(5) Leave for disaster relief shall be governed by the following provisions:

(A) Leave under this section shall be limited to persons who have completed the necessary training for, and have been certified as, disaster service specialists by the American Red Cross **or certified by a volunteer organization with a disaster service commitment recognized by the state emergency management agency**;

(B) Employees who are certified *[by the American Red Cross as disaster service specialists]* **in accordance with subsection (5)(A)** may, with appointing authority approval, be granted leave of absence from their respective duties, without loss of pay or leave, impairment of performance appraisal, or loss of any rights or benefits to which otherwise entitled. This will cover all periods of *[Red Cross]* disaster service during which they are engaged in the performance of duty under *[a Red Cross]* **an applicable** letter of agreement for a period not to exceed a total of one hundred twenty (120) work hours in any state fiscal year. Other absences for service for the Red Cross **or other volunteer organization**, not elsewhere provided for in these rules, may be charged to accrued annual leave, compensatory time or leave of absence without pay;

(C) In the event of a need for the specialist's services, the local Red Cross **or the State Emergency Management Agency** will send a *[request for the services]* **service agreement for disaster operations** to the employee**.** *[and to the employee's supervisor with a copy to the Office of Administration, Division of Personnel stating that the employee has met all Red Cross requirements for assignment as a disaster specialist volunteer. If the request is approved by the appointing authority, the approval will state whether the employee is able to respond only to local disasters (due to the work of the employee) or whether the employee is able to be on call for disaster outside the employee's local area]* **The employee will present the service agreement to their supervisor and appointing authority for approval. Upon approval, the employee will return the signed service agreement to the American Red Cross or the State Emergency Management Agency who will provide a copy to the Office of Administration, Division of Personnel**;

(7) Leaves of absences without pay shall be governed by the following provisions:

(A) Employees whose employment is of a continuing or permanent nature, upon application in writing to, and upon written approval of, the appointing authority, may obtain a leave of absence without pay under the following circumstances and regulations:

1. Leaves of absence without pay may be granted for any of the following reasons:

A. Because of medical disability of the employee which is not covered by the provisions in subsection *[(6)(B)]* **(7)(B)**;

B. Because the employee is entering upon a course of training or study for the purpose of improving the quality of service to the state or of preparing the employee for promotion; and

C. Because of extraordinary reasons, sufficient in the opinion of the appointing authority to warrant that leave of absence; and

2. Leaves for any of these reasons shall be subject to the following regulations:

A. These leaves shall not be granted for more than twelve (12) months, but upon written application, prior to the expiration of

the leave, the appointing authority may grant extensions of leaves of absence as appear best to serve the interest of the division of service;

B. At the expiration of a leave of absence or any extension of a leave of absence, the employee shall be returned to active duty in the division of service;

C. The individual, upon making written application and with the approval of the appointing authority, may be returned to active duty in the division of service prior to the expiration of a leave of absence or any extension of a leave of absence;

D. Failure on the part of the appointing authority to approve the individual's application to return to active duty prior to the expiration of a leave of absence or any extension of a leave of absence shall not affect the individual's right to return to active duty at the expiration of a leave of absence or any extension of a leave of absence;

E. Failure on the part of an individual to report within three (3) working days after the expiration of a leave of absence or extension of a leave of absence shall be treated as an absence without leave; and

F. Unless the appointing authority shall otherwise provide, before any such leave shall commence, the employee's accumulated annual and compensatory leave, and in the event leave is granted because of medical disability, all accumulated sick leave shall be exhausted; and

(8) Time off with compensation shall be governed by the following provisions:

(B) With the approval of the appointing authority, an employee may be granted time off from duty, with compensation, for any of the following reasons:

1. Attendance at professional conferences, institutes or meetings when attendance, in the opinion of the appointing authority, may be expected to contribute to the betterment of the service. Proof of actual attendance at these meetings may be required by the appointing authority;

2. Attendance at in-service training and other courses designed to improve the employee's performance or to prepare the employee for advancement;

3. Absence, not to exceed five (5) consecutive workdays, due to the bereavement of an employee as a result of the death of the employee's spouse, child, sibling, parent, step-parent, grandparent or grandchild, and spouse's child, parent, step-parent, grandparent or grandchild, or a member of the employee's household. The final decision concerning the applicability and length of such leave under this section shall rest with the appointing authority. Other absences due to the death of loved ones, when approved by the appointing authority, shall be charged to an employee's accumulated annual or compensatory leave;

[4. Leaves of absence for volunteers tutoring in a formal tutoring or mentoring program as defined in section 105.268, RSMo;]

[5.] **4.** Leaves of absence for five (5) workdays to serve as a bone marrow donor and leaves of absence for thirty (30) workdays to serve as a human organ donor as defined in section 105.266, RSMo. Leave is authorized under these circumstances only when the employee is serving as the donor and written verification is provided to the appointing authority; and

[6.] **5.** Because of extraordinary reasons sufficient in the opinion of the appointing authority to warrant such time off with compensation.

AUTHORITY: section 36.070, RSMo 2000. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Oct. 17, 2005.*

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 is scheduled at 1:00 p.m., Tuesday, January 10, 2006, in Room 400 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Comments should be directed to the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102.

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

PROPOSED AMENDMENT

3 CSR 10-7.450 Furbearers: Hunting Seasons, Methods. The commission proposes to amend provisions of this rule.

PURPOSE: This amendment reorganizes the rule for consistency; clarifies provisions for selling furbearer pelts; and standardizes terminology used when referring to the deer rule.

(1) *[Striped skunk, raccoon, opossum, badger, red fox, gray fox and bobcat]* **Badger, bobcat, gray fox, opossum, raccoon, red fox, and striped skunk** may be taken in any numbers by hunting from November 15 through February 15. Pelts of furbearers may be possessed, transported, consigned for processing and sold only by the taker from November 15 through March 1 **(except as provided in 3 CSR 10-10.711)**, except that bobcats or their pelts shall be delivered by the taker to an agent of the department for registration or tagging before selling, transferring, tanning or mounting, but not later than March 1. **Furbearers may be purchased and sold only under provisions of this rule, Chapter 10, and 3 CSR 10-4.135. No person shall accept payment for furbearers taken by another.**

(2) Tagged bobcats or their pelts may be possessed and sold throughout the year. It shall be illegal to purchase or sell untagged bobcats or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year.

(3) Coyotes may be taken by hunting, and pelts and carcasses may be possessed, transported and sold in any numbers throughout the year; except that coyotes may not be chased, pursued or taken during daylight hours from April 1 through the day prior to the beginning of the prescribed spring turkey hunting season, and may not be chased, pursued or taken through the prescribed spring turkey hunting season*[, and no]*.

(4) No furbearers may be chased, pursued or taken during daylight hours with the aid of dogs from November 1 through the prescribed November portion of the firearms deer hunting season, during the *[a]***A**ntlerless*[-only]* portion of the firearms deer hunting season in *[deer management units]* **counties** open to deer hunting or with firearms from a boat at night.

(5) The dens or nests of furbearers shall not be molested or destroyed. *[No person shall accept payment for furbearers taken by another.]*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1972, effective Dec. 31, 1972. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Oct. 13, 2005.*

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

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

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

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 8—Wildlife Code: Trapping: Seasons, Methods

PROPOSED AMENDMENT

3 CSR 10-8.515 Furbearers: Trapping Seasons. The commission proposes to amend section (4).

PURPOSE: This amendment allows holders of the Fur Handler's Permit, as provided in 3 CSR 10-10.711, to possess pelts of furbearers beyond the dates established in this section.

(4) **Except as provided in 3 CSR 10-10.711,** *[P]***p**elts of furbearers may be possessed, transported, consigned for processing and sold only by the taker from November 15 through March 1, pelts of beaver may be possessed, transported, consigned for processing and sold by the taker from November 15 through April 10, and tagged bobcats and otters or their pelts may be possessed and sold throughout the year. Bobcats or their pelts shall be delivered by the taker to an agent of the department for registration or tagging; otters shall be delivered by the taker to an agent of the department only in the Otter Management Zone of harvest for registration or tagging. Bobcats and otters shall be registered or tagged before selling, transferring, tanning or mounting not later than March 1, except for otters taken in Otter Management Zone E, not later than March 4. It shall be illegal to purchase or sell untagged bobcats and otters or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year. (Certain Department of Health and Senior Services rules also govern how furbearer carcasses might be utilized.)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 23, 1974, effective Dec. 31, 1974. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Oct. 13, 2005.*

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

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

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

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

PROPOSED RULE

3 CSR 10-10.711 Resident Fur Handlers Permit

PURPOSE: This rule establishes a new permit that provides for an extended possession period for hunters and trappers to hold and process raw furs intended for shipment to established fur auction sites or to licensed fur dealers through June 1.

To possess, process, transport and ship legally taken pelts and carcasses of furbearers from March 2 through June 1. Possession of the appropriate resident hunting or trapping permit to take furbearers, or evidence of exemption, is required as a prerequisite to this permit. Pelts and carcasses of furbearers taken by others may not be possessed under this permit. Pelts sold by the permittee within Missouri to a fur dealer must be fleshed, stretched and dried. Fee: ten dollars ($10).

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 13, 2005.

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

PRIVATE COST: This proposed rule is estimated to cost Missouri Resident trappers approximately two thousand dollars ($2,000) per year based on two hundred (200) trappers purchasing the ten-dollar ($10) permit. The five (5)-year cost is estimated to be ten thousand dollars ($10,000).

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

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 10 Commercial Permits: Seasons, Methods, Limits

Type of Rulemaking: Proposed Rule

Rule Number and Name: **3 CSR 10-10.711 Resident Fur Handlers Permit**

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Resident trappers and hunters	n/a	$10,000

III. WORKSHEET

It's estimated that approximately 200 Missouri resident trappers and hunters would take advantage of this permit for the additional privileges it offers them.
200 trappers & hunters X $10 permit fee X 5 years = $10,000.

IV. ASSUMPTIONS

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

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

PROPOSED RULE

3 CSR 10-10.716 Resident Fur Handlers: Reports, Requirements

PURPOSE: This rule establishes the requirements and reporting procedures required by the holder of the Resident Fur Handler's Permit.

All resident fur handlers shall keep accurate, up-to-date records of the number and species of all furbearers kept in possession beyond the normal possession periods established in 3 CSR 10-7.450 and 3 CSR 10-8.515, and the dates and destinations of all shipments of fur on a form provided by the department. These records and wildlife and/or pelts shall be available for inspection by an authorized agent of the department at any reasonable time. All such records shall be submitted annually by June 10. Issuance of a permit after the first year shall be conditioned on compliance with this rule and receipt by the department of satisfactory reports for the preceding permit period.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule Oct. 13, 2005.

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 John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 405—Homestead Preservation Credit

PROPOSED AMENDMENT

12 CSR 10-405.100 Homestead Preservation Credit—Procedures *(2005)*. The director proposes to amend the title, add a new section (1) and renumber existing sections.

PURPOSE: This rule is being amended to apply only to applications filed in 2005.

(1) This rule only applies to applications filed in 2005.

[(1)] **(2)** Definition of Terms.

(A) Application year—the calendar year in which the application for property tax credit is filed.

(B) Assessor—the county assessor for the county in which the homestead is located.

(C) Credit year—the calendar year immediately following the application year.

(D) Department—the Missouri Department of Revenue.

(E) Homestead—the dwelling in Missouri owned and occupied by a taxpayer and up to five (5) acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. The dwelling may be a mobile home.

(F) Homestead Preservation Credit—the credit provided pursuant to section 137.106, RSMo.

(G) Levy codes—the nine (9)-digit number used by the Missouri state auditor in the annual property tax compliance report.

(H) Prior year—the calendar year immediately preceding the application year.

(I) Homestead exemption limit—a single, statewide percentage increase in property tax liability from the prior year to the credit year.

(J) Verified eligible owners—taxpayers who have met the qualifications for the Homestead Preservation Credit.

[(2)] **(3)** Application of Rule.

(A) A taxpayer must complete an application on the form prescribed by the department. The taxpayer must obtain from the assessor the information the assessor is required to provide on the form. The taxpayer must submit the properly completed application to the department between April 1 and September 30 of the application year. An application postmarked on or before September 30 is timely.

(B) Upon presentation by the taxpayer, the assessor must complete the portion of the application designated for completion by the assessor using the levy codes applicable to the homestead. If an application is presented to the assessor for completion before the assessor has all the information necessary to complete the application, the assessor may hold the application until the information is available and forward the application to the department when it is completed. If the assessor elects to hold the application and forward it to the department, the assessor must submit the properly completed application to the department between April 1 and September 30 of the application year or the application will be denied.

(C) Upon receipt of the application, the department will determine if the taxpayer is a verified eligible owner. The department must provide a list of all verified eligible owners to the county collectors, or in township counties, the county clerk, by December 15 of the application year. By January 15 of the credit year, the collectors or township clerks must provide the department with a list of verified eligible owners who failed to pay property taxes due for the application year, which owners shall be disqualified from receiving property tax credit in the current tax year. If a collector, or a clerk in a township county, is unable to provide this information to the department by January 15 of the credit year, the collector or clerk must provide the information as soon as possible and in no event later than April 1 of the credit year.

(D) The Department of Revenue will calculate the level of appropriations necessary to set the homestead exemption limit for all verifiable homestead owners as follows:

1. In odd application years, the appropriation amount will be the amount by which the aggregate tax liability for the application year exceeds a five percent (5%) increase from the prior year's aggregate tax liability for all qualifying homestead property, plus one-quarter of one percent (1/4 of 1%) of the total; and

2. In even application years, the appropriation amount will be the amount by which the aggregate tax liability for the application year exceeds a two and one-half percent (2.5%) increase from the prior year's aggregate tax liability for all qualifying property, plus one-quarter of one percent (1/4 of 1%) of the total.

(E) The department will provide the appropriation calculation to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Director of the Office of Budget and Planning by January 31 of the credit year. The department will provide an updated calculation, if necessary, no later than April 10 of the credit year.

(F) If funds are appropriated for the Homestead Preservation Credit, the department will set the homestead exemption limit by

July 31 of the credit year. If no appropriation is made, then no Homestead Preservation Credit shall apply in that year.

(G) After setting the homestead exemption limit, the department will calculate the credit, if any, applicable to each verified eligible owner. By August 31 of the credit year, the department will send to county collectors and township county clerks:

1. A list of verified eligible owners;
2. The amount of each credit;
3. The certified parcel number of the homestead; and
4. The address of the homestead property.

(H) The department will instruct the state treasurer to distribute the appropriation to the collector's fund in each county to exactly offset the homestead exemption credit being issued, plus one-quarter of one percent (1/4 of 1%) to the county assessment fund. The funds shall be forwarded to the collectors and clerks of township counties by October 1 of the credit year.

(I) In the event an applicant dies or transfers ownership of the homestead property after application but prior to the mailing of the tax bill in the credit year, the credit is void and any money allotted for a credit on the property tax for that property lapses to the state to be credited to the general revenue fund.

AUTHORITY: section 137.106, RSMo Supp. 2004. Emergency rule filed March 10, 2005, effective March 20, 2005, expired Sept. 16, 2005. Original rule filed March 10, 2005, effective Sept. 30, 2005. Amended: Filed Oct. 17, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. 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 405—Homestead Preservation Credit

PROPOSED RULE

12 CSR 10-405.105 Homestead Preservation Credit—Procedures

PURPOSE: This rule establishes the procedures for implementation of the Homestead Preservation Credit created by section 137.106, RSMo. This rule reflects recent statutory changes for applications filed after 2005.

(1) This rule only applies to applications filed after 2005.

(2) Definition of Terms.

(A) Application year—the calendar year in which the application for property tax credit is filed.

(B) Assessor—the county assessor for the county in which the homestead is located.

(C) Base year—the calendar year immediately preceding the prior year.

(D) Credit year—the calendar year immediately following the application year.

(E) Department—the Missouri Department of Revenue.

(F) Homestead—the dwelling in Missouri owned and occupied by a taxpayer and up to five (5) acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. The dwelling may be a mobile home.

(G) Homestead Preservation Credit—the credit provided pursuant to section 137.106, RSMo.

(H) Prior year—the calendar year immediately preceding the application year.

(I) Homestead exemption limit—a single, statewide percentage increase in property tax liability from the prior year to the credit year.

(J) Verified eligible owners—taxpayers who have met the qualifications for the Homestead Preservation Credit.

(3) Application of Rule.

(A) A taxpayer must complete an application on the form prescribed by the department. The taxpayer must submit the properly completed application to the department between April 1 and September 30 of the application year. An application postmarked on or before September 30 is timely.

(B) Upon receipt of the application, the department will determine if the taxpayer is a verified eligible owner. The department must provide a list of all verified eligible owners to the county assessors by December 15 of the application year. By January 15 of the credit year, the assessors must provide the department with a list of verified eligible owners who made improvements to the homestead that were not for accommodation of a disability and the dollar amount of the assessed value of such improvements. If the dollar amount of the appraised value of such improvements totaled more than five percent (5%) of the base year appraised value, the owners shall be disqualified from receiving the homestead preservation credit in the credit year.

(C) The Department of Revenue will calculate the level of appropriations necessary to set the homestead exemption limit for all verifiable eligible owners as follows:

1. In odd application years, the appropriation amount will be the amount by which the aggregate tax liability for the prior year exceeds a five percent (5%) increase from the base year's aggregate tax liability for all qualifying homestead property; and
2. In even application years, the appropriation amount will be the amount by which the aggregate tax liability for the prior year exceeds a two and one-half percent (2.5%) increase from the base year's aggregate tax liability for all qualifying homestead property.

(D) The department will provide the appropriation calculation to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Director of the Office of Budget and Planning by January 31 of the credit year.

(E) If funds are appropriated for the Homestead Preservation Credit, the department will set the homestead exemption limit by July 31 of the credit year. If no appropriation is made, then no Homestead Preservation Credit shall apply in that year.

(F) After setting the homestead exemption limit, the department will calculate the credit, if any, applicable to each verified eligible owner. By August 31 of the credit year, the department will send to county collectors and township county clerks:

1. A list of verified eligible owners;
2. The amount of each credit;
3. The certified parcel number of the homestead; and
4. The address of the homestead property.

(G) The department will instruct the state treasurer to distribute the appropriation to the collector's fund in each county to exactly offset the homestead exemption credit being issued. The funds shall be forwarded to the collectors and clerks of township counties by October 1 of the credit year.

(H) If an applicant failed to pay the property tax liability for the homestead in full for the application year, the prior year, or the base year, the credit is void and any money allotted for a credit on the

property tax for that property lapses to the state to be credited to the general revenue fund.

(I) If an applicant dies or transfers ownership of the homestead property after application but prior to the mailing of the tax bill in the credit year, the credit is void and any money allotted for a credit on the property tax for that property lapses to the state to be credited to the general revenue fund.

AUTHORITY: section 137.106, RSMo Supp. 2004, and Senate Committee Substitute for House Bill 229 enacted by the 93rd General Assembly, 2005. Original rule filed Oct. 17, 2005.

PUBLIC COST: The proposed rule is estimated to cost the state two hundred thirty-six thousand six hundred sixty-one dollars ($236,661) per year for FY06 and in FY07. It is estimated that the cost for county officials is sixty thousand dollars ($60,000) in FY06 and eighty thousand dollars ($80,000) in FY07. The cost for the actual credits cannot be determined at this time. The increase in tax rates statewide and the number of applicants will determine the appropriation amount.

PRIVATE COST: The proposed rule is estimated to cost private entities two hundred ninety thousand six hundred fifty dollars ($290,650) in the aggregate with that cost recurring over the life of the rule. These return preparation costs directly related to the filing of the claims are expected to be more than offset by the credit they will receive.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-405.105 Homestead Preservation Credit - Procedures
Type of Rule Making:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	**Estimated Cost of Compliance in the Aggregate**
Missouri Department of Revenue	$236,661 (FY06/07)
County Officials	$60,000 (FY06), $80,000 (FY07)

III. WORKSHEET

During FY2006 and 2007, it will cost for Department of Revenue $236,661 each year to continue processing applications, redesign/print the applications, program systems changes and maintain the two associated systems in accordance with section 106 to Chapter 137, RSMo, as per Senate Bill 730 and House Bill 229. This includes $232,052 in salaries and benefits for the TPTs as well as IT and MINITS programmers. Continuation of the program requires one TPT IV, one TPT III, 1 TPT I/II and 5 full-time employees utilized from other areas to process the applications, correct errors, respond to correspondence, and prepare reports.

The total cost for the county assessors, clerks and collectors is estimated at $60,000 in FY 06 and $80,000 in FY 07. The estimated cost for the county is $2.00 per application.

IV. ASSUMPTIONS

The appropriations for the actual credit will be approved each year of the program. As real property tax rates continue to increase, as has been the trend, more individuals will be eligible for the credit. House Bill 229 allows only one application for the period April 1, 2005 to September 30, 2006, which will reduce the number of applicants in 2006. The department expects the number of applicants to increase in 2007 for two reasons: 2005 applicants will be eligible again; and there will be a greater awareness of the program. The department also estimates 75,000 booklets will be needed to meet the requirement that the department provide booklets to county assessor offices.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-405.105 Homestead Preservation Credit - Procedures
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities that would likely to be affected by the adoption of the proposed rule.	**Classification by types of entities that would likely be affected.**	**Estimate in the aggregate as to cost of compliance with the rule.**
30,000 individuals (06) 40,000 individuals (07)	Over 65 years of age and 100% disabled	$124,650 (06) $166,000 (07)

III. WORKSHEET

The Department of Revenue estimates 30,000 applications will be filed in 2006 and 40,000 in 2007. This is based on legislative change that prohibits applicants from filing for both 2005 and 2006. The estimated cost is for the individual to complete the front portion of the application. Removing the requirement for the county assessor to complete page 2 will reduce the overall time required by the applicant. While there are a few more entries on the front of the application, the savings will result from not having to take it to the assessor's office. The total aggregate cost for all affected individuals is $124,650 for 2006 and $166,000 for 2007.

IV. ASSUMPTIONS

The cost to complete the application is estimated to cost the applicant $4.15.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 405—Homestead Preservation Credit

PROPOSED AMENDMENT

12 CSR 10-405.200 Homestead Preservation Credit—Qualifications and Amount of Credit *(2005)*. The director proposes to amend the title, add a new section (1) and renumber existing sections.

PURPOSE: This rule is being amended to apply only to applications filed in 2005.

(1) This rule only applies to applications filed in 2005.

[(1)] **(2)** In general, individuals who are at least sixty-five (65) years old on January 1 of the year of application and disabled individuals may receive a credit on their property taxes for their homesteads if those taxes increase more than two and one-half percent (2.5%) in an even numbered year or five percent (5%) in an odd numbered year and the individual's federal adjusted income does not exceed the statutory limit. The amount of the credit is determined by the amount the General Assembly appropriates to fund the credit.

[(2)] **(3)** Definition of Terms.

(A) Disabled individual—an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(B) Homestead—the dwelling in Missouri owned and occupied by a taxpayer and up to five (5) acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. The dwelling may be a mobile home.

(C) Homestead Preservation Credit—the credit provided pursuant to section 137.106, RSMo.

(D) Maximum upper limit—for applications filed in calendar year 2005, seventy thousand dollars ($70,000). For later calendar years, the maximum limit will be increased by a percentage equal to the percentage increase since 2005 in the general price level, as defined pursuant to Article X, Section 17 of the *Missouri Constitution*.

(E) Property tax credit—the credit provided pursuant to sections 135.010–135.035, RSMo.

[(3)] **(4)** Application of Rule.

(A) To qualify for the Homestead Preservation Credit, a taxpayer must fit one (1) of the following descriptions:

1. The taxpayer is at least sixty-five (65) years old on January 1 of the year of application or one hundred percent (100%) disabled and owns the homestead in the taxpayer's name only;

2. The taxpayer is married and at least sixty-five (65) years old on January 1 of the year of application and owns the homestead individually or jointly with a spouse and the spouse is at least sixty (60) years old on January 1 of the year of application; or

3. The taxpayer owns the homestead jointly with a spouse and either the taxpayer or the spouse is one hundred percent (100%) disabled.

(B) If property is held in trust, the trust qualifies for the credit if the previous owner of the homestead:

1. Is the settler of the trust with respect to the homestead;

2. Currently resides in such homestead; and

3. Would qualify for the credit as an individual but for the transfer of the homestead to the trust.

(C) To qualify for the Homestead Preservation Credit, the taxpayer's federal adjusted gross income for the tax year preceding the year of application must be equal to or less than the maximum upper limit. If the taxpayer is married and the homestead is owned individually or jointly with a spouse, the joint federal adjusted gross income of the taxpayer and spouse must be equal to or less than the maximum upper limit.

(D) To qualify for the Homestead Preservation Credit, the taxpayer's property tax liability for the homestead, not including any increase due to improvements to the homestead, must increase from the year preceding the application year to the application year by more than two and one-half percent (2.5%) for applications filed in even numbered years or by more than five percent (5%) in odd numbered years.

(E) To qualify for the Homestead Preservation Credit, the taxpayer must have owned and paid property tax in full, including any interest and penalty, on the homestead for the two (2) calendar years prior to application, and must continue to own it during the year of application and the following year. The taxpayer must pay the property tax in full on the homestead for the year of application by December 31.

(F) The taxpayer does not qualify for the Homestead Preservation Credit if the taxpayer owns the homestead jointly with anyone other than a spouse. A title that provides that the homestead transfers to another on death does not disqualify a taxpayer or reduce the amount of the potential credit.

(G) The taxpayer does not qualify for the Homestead Preservation Credit if the appraised value of the homestead increased by more than five percent (5%) due to improvements made in the calendar year prior to application unless the improvements are made to accommodate a disabled person.

(H) A taxpayer who properly claims a property tax credit for the tax year preceding the year in which the application for the Homestead Preservation Credit is filed is disqualified from receiving the Homestead Preservation Credit.

(I) The amount of the credit is the amount by which the increase in the taxpayer's liability from the year preceding the application to the application year, exclusive of any increase due to improvements to the homestead, exceeds a single, statewide percentage increase calculated to use all but one-quarter of one percent (1/4 of 1%) of the amount appropriated by the General Assembly to fund the credit.

(J) The credit is calculated annually based on the increase in liability between the application year and the prior year and does not carry forward to future years.

[(4)] **(5)** Examples:

(A) Taxpayer is 65 years old and his wife is 60 years old. The taxpayers are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(B) Taxpayer is 65 years old, but his wife is 55 years old and totally disabled. The taxpayers are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(C) Taxpayer is single and 60 years old. He is totally disabled. Taxpayer is eligible for the Homestead Preservation Credit if he meets the other eligibility criteria.

(D) Taxpayer owns his home jointly with his wife. Their federal adjusted gross income is $69,000. The taxpayers are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(E) Taxpayer owns his home as an individual. His federal adjusted gross income is $40,000. His wife's federal adjusted gross income is $35,000. Taxpayer is not eligible for the Homestead Preservation Credit because the joint federal adjusted gross income exceeds the maximum upper limit of $70,000.

(F) Taxpayers purchased their home after January 1 two (2) years ago but before January 1 of the year before the application year. They are eligible for the Homestead Preservation Credit.

(G) Taxpayers have owned their home for ten years, but they no longer live there. They are not eligible for the Homestead Preservation Credit.

(H) Taxpayers live in a home that is titled in a trust for their benefit. Prior to transfer to the trust, the home was titled in taxpayers'

name. Taxpayers currently reside in the home and meet the other eligibility requirements. Taxpayers qualify for the credit.

(I) Taxpayer owns his home jointly with his grown daughter. Taxpayer is not eligible for the Homestead Preservation Credit.

(J) Taxpayer owns a life estate in her home, and her son has a right of survivorship. Taxpayer is eligible for 100% of the Homestead Preservation Credit if she meets the other eligibility criteria.

(K) Taxpayers own two homes and spend equal time living in each. The taxpayers can claim the Homestead Preservation Credit for only the one home they have designated as their "homestead."

(L) Taxpayers rent their house. They are not eligible for the Homestead Preservation Credit.

(M) Taxpayer's home is located on a ten-acre lot. Taxpayer can only claim the Homestead Preservation Credit for his house and up to five acres around the house that are used for residential purposes.

(N) Taxpayer has owned and occupied a mobile home for ten years. Taxpayer is eligible for the Homestead Preservation Credit if taxpayer meets the other eligibility criteria.

(O) Taxpayers have paid taxes for the past ten years on their home, but last year they paid the taxes late. They paid all penalties and interest due on the late payment. They are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(P) Taxpayers' property tax liability increased four percent in a reassessment year. They are not eligible for a Homestead Preservation Credit because the difference in the property tax liability in a reassessment year must exceed five percent.

(Q) Taxpayers' property tax liability increased four percent in a non-reassessment year. Taxpayers are eligible for a Homestead Preservation Credit if they meet the other eligibility criteria because the difference in the property tax liability in a non-reassessment year must exceed two and one-half percent.

(R) Taxpayers' home is valued at $60,000. In the past year they made improvements that increased the appraised value by $8,000. The improvements were not made to accommodate a disabled person. Taxpayers are not eligible for the Homestead Preservation Credit because the value of the improvements exceeds five percent of the value of the home.

(S) Taxpayers have applied and qualify for the property tax credit pursuant to sections 135.010 to 135.035, RSMo. They are not eligible for the Homestead Preservation Credit based on the same property tax assessment.

(T) Taxpayer lives in the homestead and his wife lives in a nursing home. They cannot apply for both the Homestead Preservation Credit on the jointly owned home and the property tax credit under sections 135.010 to 135.035, RSMo, on the rental amount of the nursing home.

(U) Taxpayers are eligible for a $100 Homestead Preservation Credit, but the General Assembly did not appropriate funding for the Homestead Preservation Credit. Taxpayers do not receive a Homestead Preservation Credit for the credit year.

(V) Taxpayer is eligible for a $100 Homestead Preservation Credit, but the General Assembly only appropriates fifty percent of the money required to fund the credit. Taxpayer will receive a reduced Homestead Preservation Credit for the credit year based on the amount appropriated.

AUTHORITY: section 137.106, RSMo Supp. 2004. Emergency rule filed March 10, 2005, effective March 20, 2005, expired Sept. 16, 2005. Original rule filed March 10, 2005, effective Sept. 30, 2005. Amended: Filed Oct. 17, 2005.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. 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 405—Homestead Preservation Credit

PROPOSED RULE

12 CSR 10-405.205 Homestead Preservation Credit—Qualifications and Amount of Credit

PURPOSE: Section 137.106, RSMo, provides a credit on property taxes under certain circumstances. This rule describes the requirements to qualify for this credit and the amount of the credit. This rule reflects recent statutory changes for applications filed after 2005.

(1) This rule only applies to applications filed after 2005.

(2) In general, individuals who are at least sixty-five (65) years old on January 1 of the year of application and disabled individuals may receive a credit on their property taxes for their homesteads if those taxes increase more than two and one-half percent (2.5%) in an even numbered year or five percent (5%) in an odd numbered year and the individual's federal adjusted income does not exceed the statutory limit. The amount of the credit is determined by the amount the General Assembly appropriates to fund the credit.

(3) Definition of Terms.

(A) Disabled individual—an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(B) Homestead—the dwelling in Missouri owned and occupied by a taxpayer and up to five (5) acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. The dwelling may be a mobile home.

(C) Homestead Preservation Credit—the credit provided pursuant to section 137.106, RSMo.

(D) Maximum upper limit—seventy thousand dollars ($70,000), increased by a percentage equal to the percentage increase since 2005 in the general price level, as defined pursuant to Article X, Section 17 of the *Missouri Constitution*.

(E) Property tax credit—the credit provided pursuant to sections 135.010–135.035, RSMo.

(4) Application of Rule.

(A) To qualify for the Homestead Preservation Credit, a taxpayer must fit one (1) of the following descriptions:

1. The taxpayer is at least sixty-five (65) years old on January 1 of the year of application or one hundred percent (100%) disabled and owns the homestead in the taxpayer's name only;

2. The taxpayer is married and at least sixty-five (65) years old on January 1 of the year of application and owns the homestead individually or jointly with a spouse and the spouse is at least sixty (60) years old on January 1 of the year of application; or

3. The taxpayer owns the homestead jointly with a spouse and either the taxpayer or the spouse is one hundred percent (100%) disabled.

(B) If property is held in trust, the trust qualifies for the credit if the previous owner of the homestead:

1. Is the settlor of the trust with respect to the homestead;

2. Currently resides in such homestead; and

3. Would qualify for the credit as an individual but for the transfer of the homestead to the trust.

(C) To qualify for the Homestead Preservation Credit, the taxpayer's federal adjusted gross income for the tax year preceding the year of application must be equal to or less than the maximum upper limit. If the taxpayer is married and the homestead is owned individually or jointly with a spouse, the joint federal adjusted gross income of the taxpayer and spouse must be equal to or less than the maximum upper limit. If the property is held in trust, the taxpayer must combine the federal adjusted gross income of the settlor and the federal adjusted gross income of the trust to determine the federal adjusted gross income for purposes of the maximum upper limit.

(D) To qualify for the Homestead Preservation Credit, the taxpayer's property tax liability for the homestead, not including any increase due to improvements to the homestead that were not made to accommodate a disabled person, must increase from two (2) years preceding the application year to one (1) year preceding the application year by more than two and one-half percent (2.5%) for applications filed in even numbered years or by more than five percent (5%) in odd numbered years.

(E) To qualify for the Homestead Preservation Credit, the taxpayer must have owned and paid property tax in full, including any interest and penalty, on the homestead for the two (2) calendar years prior to application and the application year, and must continue to own it during the year following the application year.

(F) The taxpayer does not qualify for the Homestead Preservation Credit if the taxpayer owns the homestead jointly with anyone other than a spouse. A title that provides that the homestead transfers to another on death does not disqualify a taxpayer or reduce the amount of the potential credit.

(G) The taxpayer does not qualify for the Homestead Preservation Credit if the appraised value of the homestead increased by more than five percent (5%) due to improvements made in the calendar year prior to application unless the improvements are made to accommodate a disabled person.

(H) A taxpayer who properly claims a property tax credit for the tax year preceding the year in which the application for the Homestead Preservation Credit is filed is disqualified from receiving the Homestead Preservation Credit.

(I) A taxpayer who receives a Homestead Preservation Credit based on an application filed in 2005 is disqualified from receiving a Homestead Preservation Credit based on an application filed in 2006.

(J) The amount of the credit is the amount by which the increase in the taxpayer's liability from the year preceding the application to the application year, exclusive of any increase due to improvements to the homestead, exceeds a single, statewide percentage increase calculated to use all of the amount appropriated by the General Assembly to fund the credit.

(K) The credit is calculated annually based on the increase in liability from two (2) years prior to the application year immediately prior to the application year and does not carry forward to future years.

(5) Examples:

(A) Taxpayer is 65 years old and his wife is 60 years old. The taxpayers are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(B) Taxpayer is 65 years old, but his wife is 55 years old and totally disabled. The taxpayers are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(C) Taxpayer is single and 60 years old. He is totally disabled. Taxpayer is eligible for the Homestead Preservation Credit if he meets the other eligibility criteria.

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(F) Taxpayers purchased their home after January 1 two years ago but before January 1 of the year before the application year. They are eligible for the Homestead Preservation Credit.

(G) Taxpayers have owned their home for ten years, but they no longer live there. They are not eligible for the Homestead Preservation Credit.

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(I) Taxpayer owns his home jointly with his grown daughter. Taxpayer is not eligible for the Homestead Preservation Credit.

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(K) Taxpayers own two homes and spend equal time living in each. The taxpayers can claim the Homestead Preservation Credit for only the one home they have designated as their "homestead."

(L) Taxpayers rent their house. They are not eligible for the Homestead Preservation Credit.

(M) Taxpayer's home is located on a ten-acre lot. Taxpayer can only claim the Homestead Preservation Credit for his house and up to five acres around the house that are used for residential purposes.

(N) Taxpayer has owned and occupied a mobile home for ten years. Taxpayer is eligible for the Homestead Preservation Credit if taxpayer meets the other eligibility criteria.

(O) Taxpayers have paid taxes for the past ten years on their home, but last year they paid the taxes late. They paid all penalties and interest due on the late payment. They are eligible for the Homestead Preservation Credit if they meet the other eligibility criteria.

(P) Taxpayers' property tax liability increased 4% in a reassessment year. They are not eligible for a Homestead Preservation Credit because the difference in the property tax liability in a reassessment year must exceed 5% in a reassessment year.

(Q) Taxpayers' property tax liability increased 4% in a non-reassessment year. Taxpayers are eligible for a Homestead Preservation Credit if they meet the other eligibility criteria because the difference in the property tax liability in a non-reassessment year must exceed 2 1/2% percent.

(R) Taxpayers' home is valued at $60,000. In the past year they made improvements that increased the appraised value by $8,000. The improvements were not made to accommodate a disabled person. Taxpayers are not eligible for the Homestead Preservation Credit because the value of the improvements exceeds 5% of the value of the home.

(S) Taxpayers have applied and qualify for the property tax credit pursuant to sections 135.010 to 135.035, RSMo. They are not eligible for the Homestead Preservation Credit based on the same property tax assessment.

(T) Taxpayer lives in the homestead and his wife lives in a nursing home. They cannot apply for both the Homestead Preservation Credit on the jointly owned home and the property tax credit under sections 135.010 to 135.035, RSMo, on the rental amount of the nursing home.

(U) Taxpayers are eligible for a $100 Homestead Preservation Credit, but the General Assembly did not appropriate funding for the Homestead Preservation Credit. Taxpayers do not receive a Homestead Preservation Credit for the credit year.

(V) Taxpayer is eligible for a $100 Homestead Preservation Credit, but the General Assembly only appropriates 50% of the money required to fund the credit. Taxpayer will receive a reduced

Homestead Preservation Credit for the credit year based on the amount appropriated.

AUTHORITY: section 137.106, RSMo Supp. 2004, and Senate Committee Substitute for House Bill 229 enacted by the 93rd General Assembly, 2005. Original rule filed Oct. 17, 2005.

PUBLIC COST: This proposed rule is estimated to cost the state two hundred thirty-six thousand six hundred sixty-one dollars ($236,661) per year for FY06 and in FY07. It is estimated that the cost for county officials is sixty thousand dollars ($60,000) in FY06 and eighty thousand dollars ($80,000) in FY07. The cost for the actual credits cannot be determined at this time. The increase in tax rates statewide and the number of applicants will determine the appropriation amount.

PRIVATE COST: This proposed rule is estimated to cost private entities two hundred ninety thousand six hundred fifty dollars ($290,650) in the aggregate with that cost recurring over the life of the rule. These return preparation costs directly related to the filing of the claims are expected to be more than offset by the credit they will receive.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-405.205 Homestead Preservation Credit – Qualifications and Amount of Credit
Type of Rule Making:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	**Estimated Cost of Compliance in the Aggregate**
Missouri Department of Revenue	$236,661 (FY06/07)
County Officials	$60,000 (FY06), $80,000 (FY07)

III. WORKSHEET

During FY2006 and 2007, it will cost for Department of Revenue $236,661 each year to continue processing applications, redesign/print the applications, program systems changes and maintain the two associated systems in accordance with section 106 to Chapter 137, RSMo, as per Senate Bill 730 and House Bill 229. This includes $232,052 in salaries and benefits for the TPTs as well as IT and MINITS programmers. Continuation of the program requires one TPT IV, one TPT III, 1 TPT I/II and 5 full-time employees utilized from other areas to process the applications, correct errors, respond to correspondence, and prepare reports.

The total cost for the county assessors, clerks and collectors is estimated at $60,000 in FY 06 and $80,000 in FY 07. The estimated cost for the county is $2.00 per application.

IV. ASSUMPTIONS

The appropriations for the actual credit will be approved each year of the program. As real property tax rates continue to increase, as has been the trend, more individuals will be eligible for the credit. House Bill 229 allows only one application for the period April 1, 2005 to September 30, 2006, which will reduce the number of applicants in 2006. The department expects the number of applicants to increase in 2007 for two reasons: 2005 applicants will be eligible again; and there will be a greater awareness of the program. The department also estimates 75,000 booklets will be needed to meet the requirement that the department provide booklets to county assessor offices.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-405.205 Homestead Preservation Credit - Qualifications and Amount of Credit
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities that would likely to be affected by the adoption of the proposed rule.	**Classification by types of entities that would likely be affected.**	**Estimate in the aggregate as to cost of compliance with the rule.**
30,000 individuals (06) 40,000 individuals (07)	Over 65 years of age and 100% disabled	$124,650 (06) $166,000 (07)

III. WORKSHEET

The Department of Revenue estimates 30,000 applications will be filed in 2006 and 40,000 in 2007. This is based on legislative change that prohibits applicants from filing for both 2005 and 2006. The estimated cost is for the individual to complete the front portion of the application. Removing the requirement for the county assessor to complete page 2 will reduce the overall time required by the applicant. While there are a few more entries on the front of the application, the savings will result from not having to take it to the assessor's office. The total aggregate cost for all affected individuals is $124,650 for 2006 and $166,000 for 2007.

IV. ASSUMPTIONS

The cost to complete the application is estimated to cost the applicant $4.15.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 34—Homeless, Dependent and Neglected Children

PROPOSED RULE

13 CSR 35-34.080 Children's Income Disbursement System (KIDS)

PURPOSE: This rule sets procedures for the handling of monies which are received on behalf of a child in the custody of the Children's Division.

(1) The administration of monies deposited in Children's Income Disbursement System (KIDS) accounts shall be governed by the provisions of 210.560, RSMo, applicable federal statutes and regulations and this section.

(2) When a child is placed in the legal custody of the Children's Division (CD) under Chapter 211, RSMo, the CD shall establish an account to receive and hold any money received by the division on behalf of the child. All monies received by a child in the custody of the CD shall be processed through the Children's Services Income Disbursement System (KIDS), also known as the Alternative Care Trust Fund.

(A) An account within KIDS shall be established upon the initial receipt of funds on behalf of the child.

(B) The funds received must be applied toward the care of the child prior to authorizing payment from state or federal funds for the child's care.

(C) These funds shall be received by the Division of Budget and Finance (DBF) for deposit with a financial institution and disbursement in the Alternative Care Trust Fund and accounted for in the name of the child.

(D) KIDS accounts may not be combined with any other funds, and these funds may not be accessed for any other purpose than the maintenance and special expenses of the individual child.

(3) All money received on behalf of the child shall be processed through DBF.

(A) The director of the Children's Division shall be designated as payee for any independent source of benefits for children in the care and custody of CD.

(B) Once the child's KIDS account has been established, the payer shall be instructed to send the income directly to DBF who will enter the funds into the KIDS account.

(C) Any monies received by the county office for deposit in a child's KIDS account must be registered on the appropriate form and sent to DBF for deposit into the KIDS account.

(D) Each Children's Division Circuit Manager shall designate a three (3) person monitoring team of three (3) CD employees within the circuit to monitor the KIDS accounts for children within that circuit to assure program integrity.

(4) Except as may be otherwise provided in section (5), the KIDS account will automatically be debited for maintenance payments and other expenses incurred for the benefit or care of the child. Department of Social Services (DSS) shall process fund recoupments on all active KIDS accounts. The fund recoupment process takes money from the child's account and refunds it to the state for services paid from CD program funds.

(A) If the child has a source of income, but for any reason the income is not received during a given month, and there are insufficient funds in the KIDS account, payment for the child's expenses that month will be made from CD program appropriations by the type of funding source for which the child is eligible. When the income for that month is actually received, it will be deposited in the child's KIDS account and a manual fund recoupment will be done to pay maintenance and/or special expenses for subsequent months.

(B) The receipt, administration and disbursement of all monies that the division receives on the child's account from any department or agency of the United States government, including but not limited to the Social Security Administration and the Veteran's Administration, shall be governed by the applicable statutes, regulations and rules of the respective federal government programs.

(C) The receipt, administration and disbursement of all monies that the division receives on the child's account from any department or agency of the state of Missouri, shall be governed by the applicable statutes, regulations and rules of the respective state government programs.

(5) The division may accept funds which a parent, guardian or other person voluntarily wishes to provide for the use and benefit of the child. The use and deposit of such funds shall be governed by 210.560, RSMo and any additional directions given by the provider of the funds.

(A) Any monies received voluntarily from any parent, guardian or other person on behalf of a child for deposit in the child's KIDS account shall be disbursed as provided in section (4) of this rule unless the person providing the funds furnishes specific, clear written instructions at the time that the funds are provided directing how the funds shall be used. The division shall keep the instructions with the child's records as provided in section (6) below. If the division is unable to disburse the funds in the manner provided in the written instructions, or if the written instructions are unclear, the division shall provide written notice to the person providing the funds and request further written instructions regarding disbursement of the funds. If the division does not receive written instructions within thirty (30) days of the date that the notice is given, the division may, at the division's discretion, disburse the funds as provided in section (4) of this rule or refund the balance of monies provided to the person providing the funds.

(B) The division shall provide an itemized statement detailing the disbursement of any voluntary funds as described in subsection (5)(A) above received from a parent, guardian, or other person upon request by the person providing the funds.

(6) A copy of all forms, statements and information on each child's KIDS account shall be maintained with child's records for six (6) years after the child's case is closed.

(7) When a child leaves alternative care, the CD shall contact the Family Support Division (FSD), Financial Management and Operational Services Section (FM and OS), for the determination of prior expenses which should be paid from the KIDS account. FSD (FM and OS) shall determine prior expenses for five (5) years prior to the date the child left alternative care pursuant to section 516.120, RSMo. FSD (FM and OS) will process prior expenses to be paid from the KIDS account through fund recoupments for payments made on behalf of the child.

(8) The division shall furnish an annual, itemized statement to the child and the child's guardian *ad litem* listing all transactions involving the funds which have been deposited or disbursed on the child's behalf from the account. The statements and supporting documentation shall be open to inspection to the guardian *ad litem* and the child.

(9) Nothing in this section shall be deemed to apply to funds regularly due to the state of Missouri for the support and maintenance of children in the care and custody of the division or collected by the state of Missouri as reimbursement for state funds expended on behalf of the child. This includes, but is not limited to, payments for child support and state debt.

(10) When the child is released from the custody of the division or the child dies and the division is holding funds in a KIDS account, the division shall use all proper diligence to dispose of the balance accumulated in the child's account as set forth in 210.560.8, 9 and 10, RSMo or as may be otherwise provided by law.

AUTHORITY: section 210.560, RSMo 2000. Original rule filed Oct. 7, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Children's Division, 615 Howerton Court, 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 14—DEPARTMENT OF CORRECTIONS
Division 80—State Board of Probation and Parole
Chapter 5—Intervention Fee

PROPOSED RULE

14 CSR 80-5.010 Definitions for Intervention Fee

PURPOSE: This rule identifies definitions used in this chapter.

(1) For the purpose of 14 CSR 80-5:

(A) The term "intervention fee" refers to the monthly fee authorized by section 217.690.3, RSMo and required to be paid by all offenders under probation, parole, or conditional release supervision of the Board of Probation and Parole;

(B) The term "sanction" is an approved penalty or action intended to enforce compliance;

(C) The term "waiver" means an offender is relieved of an obligation to pay all or part of the intervention fee, as authorized by the supervising officer and the district administrator; and

(D) "Willful nonpayment" means the offender refuses to pay the intervention fee despite having sufficient financial assets to pay the fee.

AUTHORITY: sections 217.040 and 217.755, RSMo 2000 and 217.690, RSMo as amended by House Bill 700 enacted by the 93rd General Assembly, 2005. Emergency rule filed Oct. 6, 2005, effective Nov. 1, 2005, expires April 29, 2006. Original rule filed Oct. 6, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Corrections, State Board of Probation and Parole, Scott Johnston, Chief State Supervisor, 1511 Christy Drive, Jefferson City, MO 65101 or by e-mail at Scott.Johnston@doc.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 14—DEPARTMENT OF CORRECTIONS
Division 80—State Board of Probation and Parole
Chapter 5—Intervention Fee

PROPOSED RULE

14 CSR 80-5.020 Intervention Fee Procedure

PURPOSE: This rule establishes a process by which a monthly intervention fee is collected from offenders under probation, parole or conditional release supervision of the Board of Probation and Parole.

(1) The following procedures apply to the collection of an offender intervention fee.

(A) Except as provided in subsections (1)(E), (F), (G) and (H), all offenders placed under probation, parole or conditional release supervision of the Board of Probation and Parole are required to pay an intervention fee in the amount set by the department not to exceed sixty dollars ($60) per month.

(B) Offenders shall be notified of the intervention fee in the following ways:

1. Offenders assigned to supervision on or after the effective date of this rule shall sign the revised Order of Probation/Parole which includes the condition requiring payment of the intervention fee; or

2. Offenders under supervision before the effective date of this rule shall be issued a written directive pursuant to Written Directive Condition #8, included herein, requiring payment of the intervention fee.

(C) Fees will be collected as follows:

1. Offenders shall be provided instructions on payment methods and procedures. Staff shall not accept money in any form from an offender;

2. The intervention fee shall be due on the first day of the first full month following placement under board supervision on probation, parole, or conditional release;

3. Payments shall be deemed delinquent after the fifteenth day of the month, including the final month of supervision;

4. Pre-printed envelopes, payment vouchers, and payment instructions will be provided to the offender; and

5. Payment instructions to the offender will indicate the following:

A. Payments must be submitted directly to the designated collection authority. Probation and parole staff will not accept payments;

B. Only money orders will be accepted. Personal checks and cash will not be accepted;

C. The completed payment voucher shall accompany the payment; and

D. Payments may not be made in advance and shall be submitted on or after the first working day of the month for which the payment is being made.

(D) Should an offender be declared an absconder, intervention fees will continue to accrue until such time as the case is closed.

(E) Offenders will be exempted from paying intervention fees under the following circumstances:

1. In that offenders in community release centers, residential facilities, and in the Electronic Monitoring Program already pay a daily maintenance or program fee, intervention fees will be exempt in these cases. Intervention fees will start or resume on the first day of the month following release from these facilities or programs; and

2.Pre-trial and deferred prosecution cases are exempted from paying the intervention fee.

(F) If the case is an interstate transfer, once the receiving state submits a Notice of Arrival, collection of intervention fees will be terminated.

(G) If an offender on probation, parole, or conditional release is subsequently confined in a jail or correctional facility for thirty (30)

days or longer, the fee is suspended effective the thirty-first day of confinement. Fees shall resume on the first day of the month following release.

(H) If an offender is unable to pay due to being indigent, fees may be waived in whole or in part. In these cases the following steps shall be taken:

1. Indigent status should be assessed as instances of non-payment occur. However, the supervising officer should closely scrutinize the offender's financial situation and establish a payment plan with the offender to address any short-term arrearages, rather than waiving fees;

2. If the supervising officer believes an offender is unable to pay the intervention fee, the officer shall complete the Offender Financial Statement, included herein, and forward it to the district administrator for review and approval. The offender has the burden of providing the necessary documentation to verify their financial situation;

3. Should the district administrator not concur with the officer's indigent assessment, the offender will continue to be required to pay the intervention fee.

4. If a waiver is approved, the supervising officer must review the offender's indigent status every ninety (90) days, or anytime any of the conditions which initially resulted in the indigent status change. If the officer determines that the offender is again capable of paying intervention fees, supervisory approval is not necessary to remove the offender from indigent status.

(I) The following process for sanctions regarding nonpayment shall be applied:

1. Within ten (10) working days of becoming aware an offender has failed to submit the intervention fee, the offender will be contacted in writing, by phone, or in person to remind them of the payment obligation;

2. The supervising officer will direct the offender to specific programs or services that will assist him/her in addressing their inability to pay (i.e., financial management program, employment counseling and/or job seeking classes, substance abuse counseling, mental health counseling, etc.);

3. The supervising officer shall establish a payment plan, via a written directive, with the offender, to address any arrearage within a reasonable time, given the offender's individual circumstances;

4. Should the offender become three (3) months in arrears on intervention fee payments, either consecutively or in the cumulative, or it is determined the offender is willfully failing to submit the required payments, the supervising officer shall submit a violation report;

5. Offenders who are not current on their intervention fee payments shall not be eligible for transfer to minimum supervision, interstate transfer or early discharge consideration;

6. Sanctions for nonpayment of intervention fees include, but are not limited to the following:

A. Written reprimand from district administrator or parole board;

B. Travel restriction;

C. Community service;

D. Asset interception and/or wage garnishment;

E. Increased level of supervision; and

F. Shock detention; and

7. Unpaid intervention fees owed by offenders committed to the Division of Adult Institutions (DAI) will be collected from the inmate's account.

STATE OF MISSOURI
DEPARTMENT OF CORRECTIONS
BOARD OF PROBATION & PAROLE
WRITTEN DIRECTIVE

OFFENDER NAME	DOC NUMBER

Condition #8 - Reporting/Directives: I will report as directed to my Probation & Parole Officer. I agree to abide by any directives given me by my Probation and Parole Officer.

You are being directed under Condition #8 - Reporting/Directives of your Probation/Parole to:

Pay a monthly Intervention Fee of $30.00, as required by 217.690 RSMo, for the term of your supervision, beginning _____. Payments are due and payable on the first day of each month.

Failure to comply with this directive will place you in violation of your probation/parole and may result in a violation report being submitted to the Court/Board, a warrant being issued for your arrest, and/or the revocation of your probation/parole.

I have read, or have had read to me, and I understand the above directive(s). I acknowledge that I have received a copy of this directive. Should I desire to appeal, the first step is to appeal to the District Administrator. If necessary, I may then appeal to the Court/Board.

OFFENDER SIGNATURE	DATE
OFFICER SIGNATURE	DATE

MO 931-4415 (9-03) **DISTRIBUTION: ORIGNAL** – FILE **COPY** - OFFENDER

BOARD OF PROBATION AND PAROLE

OFFENDER FINANCIAL ASSESSMENT

Offender Name:	Mo DOC ID#
Date:	Total # of Adults at your Residence:
# of Adults with Income:	Total # of Dependents:

MONTHLY HOUSEHOLD INCOME	**HOUSEHOLD EXPENSES**
Offender Income:	Rent/House Payment:
Welfare:	Food:
Food Stamps:	Utilities:
Social Security:	Phone:
Unemployment:	Laundry:
Child Support:	Cable/Satellite:
Spouse's/Significant Other's Income:	Car Payment:
Other Adult Income:	Gas/Fuel:
Savings:	Loan Payments:
Other (identify):	Medical:
	Fine/Costs/Restitution:
	Incidentals:
	Child Support:
	Other:
TOTAL INCOME:	**TOTAL EXPENSES:**

Offender Statement:

Officer Fee Waiver Recommendation:	
Officer Name/Number:	**Date:**

Supervisor:	**Approved:**	**Disapproved:**	**Date:**
Comments:			

OFFENDER MAY BE REMOVED FROM INDIGENT STATUS AT THE DISCRETION OF THE OFFICER WITHOUT SUPERVISORY APPROVAL

AUTHORITY: sections 217.040 and 217.755, RSMo 2000 and 217.690, RSMo as amended by House Bill 700 enacted by the 93rd General Assembly, 2005. Emergency rule filed Oct. 6, 2005, effective Nov. 1, 2005, expires April 29, 2006. Original rule filed Oct. 6, 2005.

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

PRIVATE COST: This proposed rule will cost private entities (offenders under community supervision by the Board of Probation and Parole) approximately $24,012,000 (three hundred sixty dollars ($360) per offender) annually for the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Corrections, State Board of Probation and Parole, Scott Johnston, Chief State Supervisor, 1511 Christy Drive, Jefferson City, MO 65101 or by e-mail at Scott.Johnston@doc.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.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	14 CSR 80-5.020 Intervention Fee Procedure (Department of Corrections, State Board of Probation and Parole)
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule	Classification by types of the business entities which would likely be affected	Estimated annual cost of compliance with the amendment by affected entities
66, 700 Offenders	Offenders under community supervision by the Board of Probation and Parole	$24,012,000.00

III. WORKSHEET

Each of the 66,700 offenders will be directed to pay a $30 monthly intervention fee to the contracted collection agency. The officer with supervisor approval will be able to waive the fee if the offender is indigent, confined in a jail or correctional facility or transferred out of state.

$30.00 (monthly intervention fee) x 12 (mos. of the year) = $360.00 (annual cost per offender)

$360.00 x 66,700 (offenders) = $24,012,000.00

IV. ASSUMPTIONS

1. Approximately 66,700 offenders will be directed to pay a $30 monthly supervision fee.
2. The supervising probation and parole officer with supervisory approval will grant some waivers to offenders who are indigent, confined or transferred out of state.
3. Some offenders will fail to pay the monthly fee even though a waiver has not been granted.
4. Funds generated from this fee will be utilized to pay for intervention services for offenders being supervised in the community by the Board of Probation and Parole.

Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 14—Legal Expense Fund Coverage *[for Attorneys Practicing Law Without Compensation]*

PROPOSED RULE

15 CSR 60-14.040 Claims by the Boards of Police Commissioners of St. Louis and Kansas City

PURPOSE: This rule prescribes procedures for requesting representation for purposes of section 105.726, RSMo, as amended by Senate Bills 420 and 344, 93rd General Assembly 2005.

(1) All requests for representation pursuant to section 105.726.4, RSMo, must come from the Board of Police Commissioners of St. Louis or Kansas City, or their designees. The name and title of any designee must be provided by the Board to the Chief Counsel, Litigation Division, Attorney General's Office (AGO).

(2) All requests for representation must be made to:

(A) For lawsuits and non-automobile accident claims: Chief Counsel, Litigation Division, AGO, PO Box 899, Jefferson City, MO 65102; or fax (573) 751-9456 (with original to follow).

(B) For automobile accident claims: Office of Administration, Risk Management, PO Box 809, Jefferson City, MO 65102; or fax (573) 751-7819 (no original to follow).

(3) All requests for representation must be made within the following time frames:

(A) For lawsuits: within five (5) business days after the board receives service of summons or waiver of service forms, or within five (5) business days after notice to the board that an individual for whom the board seeks representation has received service of summons or waiver of service forms;

(B) For non-automobile accident claims: within five (5) business days of notice of the claim, but sooner whenever possible;

(C) For automobile accident claims: within ninety-six (96) hours, or four (4) business days, of the accident, but sooner whenever possible.

(4) All requests for representation must be made in the following manner.

(A) For lawsuits and non-automobile accident claims:

1. A letter requesting representation which includes the following information:

A. The individual or entity for whom board is requesting representation;

B. The date service was obtained (in cases involving summons), the date the waiver of service form was received (in cases involving waiver of service forms), or the date when notified of the claim (in cases involving non-automobile accident claims); and

C. The street address, telephone number and any other relevant contact information for the individual or entity to be represented;

2. The following items must be attached to the letter requesting representation:

A. The summons and petition or complaint and any other documents delivered with the summons (in cases involving summons);

B. The waiver of service form and petition or complaint and any other documents which accompanied the waiver of service form (in cases involving waiver of service forms);

C. The notice of the claim and any police report regarding the incident, if available (in cases involving non-automobile accident claims). If the police report is not available at the time the letter is sent, it must be sent as soon as it is available.

(B) For automobile accident claims: a completed claim form (available from the AGO) and the police report regarding automobile accident, if available. If the police report is not available at the time the letter is sent, it must be sent as soon as it is available.

(5) All persons or entities represented shall cooperate with the attorneys and risk management specialists conducting investigations and preparing any defense by assisting such attorneys and risk management specialists in all respects, including the making of settlements, the securing and giving of evidence, and the attending and obtaining witnesses to attend hearings and trial. Failure to cooperate, including failure to communicate as set forth above, will be cause for the AGO or the Office of Administration to decline or withdraw from representation. The AGO or the Office of Administration will promptly notify the board of any perceived failure to cooperate, and give the board an opportunity to respond to the notification and/or rectify the situation, before making the determination whether to decline or withdraw from representation.

(6) Payment of all tendered claims will be submitted by the AGO or the Office of Administration, Risk Management to the Board of Police Commissioners of St. Louis or Kansas City, or their designees upon settlement of a claim. Payment must be issued within ten (10) business days of payment request and returned to the AGO or the Office of Administration, Risk Management for disposition of settlement.

(7) Reimbursement up to a maximum of one (1) million dollars per fiscal year for each board of police commissioners established under Chapter 84, RSMo, pursuant to section 105.726.3, RSMo, shall occur at the end of each quarter following submission to the Chief Counsel, Litigation Division, AGO, PO Box 899, Jefferson City, MO 65102, of disbursement vouchers and supporting documentation (judgment or settlement documents) for claims paid during that quarter.

AUTHORITY: section 105.726.4, RSMo Supp. 2005. Emergency rule filed Oct. 7, 2005, effective Oct. 17, 2005, expires April 14, 2006. Original rule filed Oct. 7, 2005.

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 amendment with the Office of the Attorney General, Attn: Gail Vasterling PO Box 899, Jefferson City, MO 65102-0899, by faxing (573) 751-0774 or via e-mail at gail.vasterling@ago.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.*

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

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

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 4—Vendor Payroll Deduction Regulations

ORDER OF RULEMAKING

By the authority vested in the Office of Administration under section 33.103, RSMo Supp. 2004, the commissioner amends a rule as follows:

1 CSR 10-4.010 State of Missouri Vendor Payroll Deductions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2005 (30 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 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 15—Cafeteria Plan

ORDER OF RULEMAKING

By the authority vested in the Office of Administration under section 33.103, RSMo Supp. 2004, the commissioner amends a rule as follows:

1 CSR 10-15.010 Cafeteria Plan **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2005 (30 MoReg 1697–1707). 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 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under section 34.050, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 40-1.060 Vendor Registration, Notification of Bidding Opportunities, Suspension and Debarment **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2005 (30 MoReg 1527–1528). 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 is amended.

This amendment establishes fishing seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.135 by establishing winter fishing methods on Kiwanis Lake in the City of Mexico.

3 CSR 10-12.135 Fishing, Methods

PURPOSE: This amendment establishes winter fishing methods on Kiwanis Lake in the City of Mexico.

(7) Only flies, artificial lures and soft plastic baits (unscented) may be used from November 1 through January 31 on the following lakes:
(E) Mexico (Kiwanis Lake)
(F) Overland (Wild Acres Park Lake)
(G) St. Louis City (Jefferson Lake)
(H) St. Louis County (Tilles Park Lake)

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed October 13, 2005, effective **November 1, 2005**.

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 10-12.140 is amended.

This amendment establishes fishing seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.140 by establishing a winter catch and release trout fishery for the City of Mexico on Kiwanis Lake.

3 CSR 10-12.140 Fishing, Daily and Possession Limits

PURPOSE: This amendment establishes a winter catch and release trout fishery for the City of Mexico on Kiwanis Lake; removes the special possession limit at Lewis County Public Water Supply District #1 (Ewing Lake); corrects an inconsistency in the Wildlife Code; and, restricts harvest of fish at Missouri Western State University ponds.

(3) The daily and possession limit for black bass is twelve (12) in the aggregate on Cuivre River State Park (Lincoln Lake).

(11) The daily limit for fish other than those species listed as endangered in 3 CSR 10-4.111 or defined as game fish is twenty (20) in the aggregate, except on the following lakes where the daily limit is ten (10) in the aggregate, and except for those fish included in (4), (8), (9) and (10) of this rule:

(12) Trout must be returned to the water unharmed immediately after being caught from November 1 through January 31 on the lakes listed below. Trout may not be possessed on these waters during this season.
(E) Mexico (Kiwanis Lake)
(F) Overland (Wild Acres Park Lake)
(G) St. Louis City (Jefferson Lake)
(H) St. Louis County (Tilles Park Lake)

(14) On St. Charles County (Henry's Pond) and Missouri Western State University (Ponds 2 and 6), fish must be returned to the water unharmed immediately after being caught.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed October 13, 2005, effective **November 1, 2005**.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 20—Labor and Industrial Relations Commission
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Labor and Industrial Relations Commission under section 286.060, RSMo 2000, the commission amends a rule as follows:

8 CSR 20-2.010 Governing Rules **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2005 (30 MoReg 1801). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission (commission) under section 644.026, RSMo 2000, the commission amends a rule as follows:

10 CSR 20-7.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 2, 2005 (30 MoReg 838–843). Those sections with changes are reprinted here. This proposed amendment becomes effective **December 31, 2005**.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held July 6, 2005, and the public comment period ended July 14, 2005. Comments made at the public hearing and during the public comment period are presented here followed by the department's response.

1-Effluent Requirements Based on Bacteria Standards
COMMENT #1-1: Increasing the number of wastewater treatment facilities (WWTFs) that must disinfect will result in a greater risk of chemical accidents among those who will operate the facilities as well as a decrease in water quality as a result of the byproducts of disinfection.
RESPONSE #1-1: The risks associated with chlorine use can be minimized by the proper handling of the chemical and each review of a National Pollutant Discharge Elimination System (NPDES) permit includes an evaluation for the potential for disinfection byproducts to affect downstream uses. Where a discharge poses a reasonable potential for an impact to downstream uses, the permit will include the conditions to ensure maintenance of water quality necessary to protect the uses.

COMMENT #1-2: Proposed trihalomethane standards will limit the use of chlorine disinfection. Ultraviolet light disinfection will be unavailable since it will not effectively disinfect lagoon effluent. With both chlorine and ultraviolet light disinfection unavailable, lagoons will be eliminated as a result of this proposal. Money for disinfection would be better spent in upgrading an aging collection system or eliminating small WWTF that are scheduled to be connected to a regional WWTF than adding disinfection. The impact on public health due to disinfection is nominal and not justified by the cost.
RESPONSE #1-2: The possibility exists for some wastewater treatment plants to need significant improvements to meet the proposed bacteria standards. This includes the possible elimination of some lagoons that are not able to accommodate disinfection processes. Several options are available for compliance with these new standards, including disinfection waivers, wet weather suspensions, and non-discharging options. An additional option, if necessary, is a compliance schedule that reflects the extent of needed changes in treatment as well as any other significant challenges those changes impose.

COMMENT #1-3: Reference to *E. coli* should be made wherever there is mention of fecal coliform in the effluent regulations in order to begin the transition to the new indicator species. Several comments were received supporting the rule's transition from fecal coliform to *E. coli* as the appropriate indicator bacteria to measure protection for recreational uses.
RESPONSE #1-3: The transition to *E. coli* continues to be supported by this rulemaking. However, the department has not yet determined what would be an appropriate effluent limit for *E. coli*. Discussion of an appropriate effluent limit and the available methods to test *E. coli* in effluent water will be proposed in future rulemakings.

COMMENT #1-4: Fecal coliform limitations within the effluent regulations should be based upon a geometric mean, rather than the current arithmetic average. Another comment suggested the geometric mean be calculated over the recreational period.
RESPONSE AND EXPLANATION OF CHANGE #1-4: The department has revised the fecal coliform limitations from monthly averages to monthly geometric means in 10 CSR 20-7.015(2)(B)4., (3)(B)3., (4)(B)4., and (8)(B)4.

COMMENT #1-5: The regulation should specify that bacterial effluent limitations are not required for discharges greater than two (2) miles upstream of a whole body contact recreational water body.
RESPONSE #1-5: Discharges within two (2) miles upstream of areas designated for whole body contact are required to meet effluent bacteria limits as stated in subparagraph 10 CSR 20-7.015(8)(B)4.A. Disinfection could also be required for facilities that discharge greater than two (2) miles upstream of areas designated for whole body contact if the discharge would endanger either human health or downstream uses.

COMMENT #1-6: Contact with water is not dependent upon a monthly average. Therefore, a monthly average for bacteria in the effluent regulations is meaningless. The daily maximum effluent limit is not protective of public health. Effluent bacteria limits should only have a daily maximum set at the water quality standard.
RESPONSE #1-6: The proposed bacteria criteria in the water quality standards (WQS) are based on human health risk levels determined through studies at actual public swimming beaches. The studies considered the risks over a thirty (30)-day use period. Therefore, the recommended limits are based on exposure occurring over a one (1)-month period. Effluent limits are developed to implement the water quality standards. If standards are based on thirty (30)-day exposure periods, then the effluent limits should also reflect that scenario. Once a reliable study presents the risk factors associated with single-day exposure scenarios, then appropriate daily maximum limits may be developed.

COMMENT #1-7: Disinfection may not be needed for protection of secondary contact recreational uses in all cases. The criteria developed for this use was selected at nine (9) times the Category A whole body contact recreation (WBCR) criteria, which is not supported by peer-reviewed epidemiological studies. The department should remove references to secondary contact recreation within 10 CSR 20-7.015(9)(H). Situations in which disinfection is appropriately required to protect secondary contact recreation uses may be better managed on a site-specific basis.
RESPONSE #1-7: Secondary contact recreation creates an exposure pathway where bacterial levels within the water body need to be managed. Disinfection may not be needed in all cases, and each discharger may apply for a disinfection waiver. In the absence of a waiver, the standard provides a method to ensure each recreational water has a standard from which to base an assessment of risks to public health during recreation. Because no studies have been done on the risk factors associated with secondary contact, the department has chosen the least restrictive standard approved by U.S. EPA in another state. The department may revisit this standard once more information becomes available on the risks from secondary contact with surface waters at various bacterial levels.

COMMENT #1-8: Either revise the current rule or adopt a formal policy to define the requirements by which the department may waive or relax the effluent limitations for bacteria. Several factors require consideration, such as mixing zones, critical-flow conditions, upstream levels of bacteria, and other watershed sources.
RESPONSE #1-8: A use attainability analysis (UAA) and a high flow exemption are two (2) methods that may be used to propose alternative effluent limitations for bacteria. Both methods are available as a result of this rulemaking.

2-Dechlorination of Effluent
COMMENT #2-1: All chlorinated effluent should be dechlorinated to protect aquatic life.
RESPONSE #2-1: Chlorinated effluent must be dechlorinated before being discharged to losing streams. Dechlorination may also be required for discharges to many other waters, depending on the uses designated to the waters. Exceptions may be given where the discharges enter an unclassified stream where no aquatic life exists, or where the discharge is at least one (1) mile from a classified stream or a flowing stream where the seven (7)-day Q_{10} flow is equal to or greater than fifty (50) times the design flow. In either of these instances, chlorine affects on aquatic life is normally minimal if not non-existent.

COMMENT #2-2: Dechlorination requirements for discharges to the Missouri and Mississippi Rivers are not specified for facilities where chlorine is used as a disinfectant. The comment makes two (2) suggestions: 1) the department should not require dechlorination, and 2) if the department requires dechlorination, it should be based on a comparison of the effluent flow to the flow of the water body.
RESPONSE #2-2: Staff agrees that dechlorination requirements are applicable for discharges to the Missouri and Mississippi Rivers as well as lakes and reservoirs. The department may propose in future rulemakings adding dechlorination language similar to that found in 10 CSR 20-7.015(8)(B)4. to sections (2) and (3) of the rule.

3-Schedule of Compliance for New Effluent Limits
COMMENT #3-1: Several comments addressed the proposed schedule of compliance at 10 CSR 20-7.015(9)(H):
•Implementation schedule should be extended to allow up to five (5) years for compliance with the proposed rules;
•Permit holders who have applied for permit renewals but receive a permit after the effective date of the rule due to no fault of their own should get eight (8) years to comply;
•Implementation schedule should be lengthened and should consider time necessary to conduct studies and to implement plans following

the completion of studies;
•Compliance schedule should be expanded from three (3) years to five (5);
•Temporary waivers from the new rules should be granted for facilities that have submitted an application for a permit prior to the effective date of the rule;
•The rules should provide up to five (5) years for compliance upon issuance of a permit;
•All facilities should not be granted more than three (3) years from the effective date of the rule to comply with the bacteria standard;
•The implementation schedule should also consider the socio-economic impact to communities;
•More flexibility in schedule for complying with new bacteria standards (allow for five (5) years); and
•Rule should be amended to allow for a compliance schedule longer than three (3) years, and suggests five (5) years. Longer period is suggested for combined sewer overflow (CSO) communities.
RESPONSE AND EXPLANATION OF CHANGE #3-1: The department has revised the schedule of compliance to allow discharges up to five (5) years from date of next permit issuance or significant modification to comply with the disinfection requirement. However, all discharges must comply with the disinfection requirements by no later than December 31, 2013.

COMMENT #3-2: Effluent rule should clarify that only facilities needing to disinfect are subject to the compliance schedule.
RESPONSE #3-2: The rule is clear that all facilities discharging treated domestic wastewater to classified water bodies are subject to bacteria standards and the requirement to disinfect unless it is shown that the standards or disinfection is unnecessary through a UAA or a water quality study.

4-Effluent Disinfection Waivers
COMMENT #4-1: The rule should define the method for doing a water quality study to show no impacts from lack of disinfection.
RESPONSE #4-1: This is a new issue that was not part of the purpose of the current proposed revisions, but may be discussed with stakeholders and possibly addressed in future rulemakings.

COMMENT #4-2: A disinfection waiver should be specifically established in rule for lagoon systems that have a total surface area of 1.3 acres or more per two hundred (200) population equivalents served. A waiver should be provided to account for the lack of seasonal effluent flow or low flow and the significant natural reduction in bacterial levels from lagoon systems. The waiver should become invalid if the department or any other interested party provides site-specific information that documents a need for disinfection.
RESPONSE #4-2: A waiver applicable to certain types of lagoons may not ensure that Missouri's water resources are adequately protected. A site-specific waiver from disinfection, rather than a waiver based on treatment scenarios, requires staff to assess each situation individually and better ensures that disinfection is performed when needed and waived when unnecessary.

5-Wet Weather Suspension (High Flow Exemption)
COMMENT #5-1: Most comments supported a high flow suspension (or exemption) of bacterial standards, but found the proposed language confusing and therefore unclear as to its consistency with federal guidance. Several requests were made to clarify the rule on specific points, including:
•How the suspension applies to waters within two (2) miles of an effluent point;
•Consideration of downstream discharges;
•Suspension during either existing uses, attainable uses, or both;
•The application of the suspension to other pollutants during wet weather;
•The use of specific flow measurements to determine the applicable period for the suspension;
•Definitions for "wet weather," "use assessment," and "period of suspension";
•How the suspension applies during times that treatment (vs. hydraulic) capacity of the plant is exceeded;
•How recreational uses are protected after the period of suspension;
•Where recreational uses are found to not exist, amendment of the state's WQS are needed; and
•An ability for approval of a suspension through the permitting process.
RESPONSE AND EXPLANATION OF CHANGE #5-1: Most of the comments can be addressed through further clarification of the suspension process; although, not all of the comments can be satisfied by this rulemaking. Of the suggestions made, several are in conflict with federal guidance. Specifically, federal guidance does not allow for an exemption of a water quality standard without either the removal (through a UAA) of the designated use to which the standard is designed to protect, or the development of site-specific criteria reflecting the natural conditions (or pollutant levels) of the water during high flows. Therefore, the department must consider the uses of waters or the naturally limited use conditions of the water during wet weather before applying a suspension of a standard or effluent limit. The department has added or revised the language of this section of the rule to better describe the process for creating a wet weather suspension that incorporates the requirements mentioned above. Further explanation was added to clarify how conditions of waters can be measured during wet weather and how those conditions can be related to existing uses (or to the absence thereof). The rule now describes more clearly the requirements for a Use Attainability Analysis during a wet weather event as the basis for a suspension.

COMMENT #5-2: The Effluent Regulations should be amended to remove the effluent limits on biological oxygen demand (BOD) and total suspended solids (TSS) during wet weather. The rule should instead impose reasonable controls that reflect the protection of existing uses in streams during high flows.
RESPONSE #5-2: This is a new issue that was not part of the purpose of the current proposed revisions, but is being discussed with stakeholders and possibly addressed in future rulemakings.

6-Operational Challenges Caused by Proposed Effluent Rule
COMMENT #6-1: The rule may create a movement toward mechanical treatment and create operational challenges due to the lack of sufficiently trained operators.
RESPONSE #6-1: The rule provides for a compliance schedule that can allow up to five (5) years from the next permit issuance or significant modification but not later than December 31, 2013, giving the owners of treatment systems the opportunity to acquire experience or to get appropriate training to successfully operate the upgraded wastewater treatment systems.

7-Effluent Limits for TRC
COMMENT #7-1: Effluent limits that are below analytical detectability are inappropriate. An example is Total Residual Chlorine where the warm-water chronic criterion is 0.019 mg/L and the detectability of that pollutant is 0.200 mg/L.
RESPONSE #7-1: The effluent limits that are below laboratory detection levels were derived through equations aimed at calculating (through procedures such as extrapolation) the stress risk to aquatic life. Therefore, the potential or probable effect of pollutants can be determined without actually measuring down to or observing the harmful levels. To implement a nonmeasurable standard, the department uses the derived numbers as the limits while setting the noncompliance at the detection level. In the case of total residual chlorine, the discharger is required to measure only to the detection level, which is at ten (10) times higher than the standard warm-water chronic criterion.

8-Temperature Standards as Effluent Limits
COMMENT #8-1: "Industrial process water and industrial cooling" water should in no event be allowed to exceed general water quality standards, especially those regarding thermal limits.
RESPONSE #8-1: Depending on the receiving stream's characteristics, including flow, velocity, volume, and pollutant concentration and fate, the department can determine the pollutant load limitation needed to avoid exceeding water quality standards. This load limitation is then expressed as an allowable concentration within the effluent. Thermal limits are determined in the same way.

COMMENT #8-2: The plus or minus five degrees (+/- 5°) of ambient water temperature should be the standard for all discharges into waters of the state.
RESPONSE #8-2: The comment does not provide enough information to receive appropriate response or to cause a change in the rules. Until further evidence shows otherwise, the current rules pertaining to ambient water temperature would appear to provide adequate protection to water quality.

9-Need for Public Notice When Effluent Exceeds Limits
COMMENT #9-1: Any discharge of untreated or partially treated wastewater should require a public notice.
RESPONSE #9-1: The department does not allow discharge of untreated wastewater to the waters of the state. The owners and operators of wastewater treatment facilities are required to notify the department, within a reasonable time frame, of any incident of noncompliance which may endanger human health or the environment. Such requirements are contained within the standard conditions for NPDES permits. Once notified, the department will take appropriate action to protect the public and the environment and to prevent the incident from reoccurring. These steps have been effective at protecting public health.

10-Effluent Limitations to Special Stream (Outstanding Resource Waters)
COMMENT #10-1: All of the comments support a high level of protection for Outstanding National (ONRW) and State Resource Waters (OSRW). However, comments did not agree on when discharges should be allowed within the tributaries of these special streams. Some opposed any change that would lessen the current protection. Two (2) parts of the proposed revisions to the effluent rule drew the greatest concern: 1) the allowance for any temporary lowering of water quality in these waters from short-term construction projects adjacent to these waters and 2) the allowance for a discharge to tributaries of ONRWs. Both of these comments were directed primarily to changes proposed in the discharge restrictions to the Wild and Scenic Rivers and Ozark National Scenic Riverways (which are ONRWs). The comments concerning temporary lowering of water quality create an impression that any and all lowering of water quality should be avoided. The second concern is largely based on a belief that without a discharge ban the department is unable, because of limited budget, to ensure adequate inspection and monitoring of the permitted operations and their discharges. Some comments expressed a concern that degradation will go undetected and therefore unaddressed. Several comments expressed doubt that discharges could be adequately overseen by the department to ensure against impact, especially in areas of karst topography where discharges have the potential of entering subterranean water routes and reappear in surface streams via springs. Some comments urged the department to consider the department's limited ability to ensure proper operation of the discharging facilities. This concern exists even where the required demonstration is made that the discharges are designed to avoid a reasonable potential for lowering of water quality in the designated segment. Others felt that antidegradation rule at 10 CSR 20-7.031(2) as currently written strictly prohibits any discharge either directly to or within the watersheds of Outstanding National Resource Waters. The underlying basis for this interpretation is that any discharge within the watershed creates a potential for lowering water quality downstream. A few comments thought that the proposed changes were creating restrictions that were too stringent and would hinder normal and legitimate business activities within the watershed. The same comments urged the department to make the state's regulations consistent with the federal guidance on antidegradation.
RESPONSE AND EXPLANATION OF CHANGE #10-1: In its initial drafting of this proposed rule, the department intended to address only the deficiencies identified in EPA's September 8, 2000 letter. That letter identified only one (1) deficiency: the current rule's exemption for discharges into ONRWs from Publicly Owned Treatment Works (POTWs) and mine dewatering water. This current exemption is contradictory to the antidegradation rule at 10 CSR 20-7.031(2). That rule prohibits any new or expanded discharges to an Outstanding National Resource Water (these waters are the Jacks Fork, Current and Eleven Point Rivers). To respond to EPA's comment, only one (1) change in the state effluent limitations is required: the exceptions and effluent limitations published in the rule for POTWs and mine dewatering water must be removed or shown through a proper analysis that the effluent limits would always be protective. That analysis has not been done and would likely show that the effluent limits currently in rule would not always result in no lowering of water quality. While both types of waters require protection from any degradation under the antidegradation rule at 10 CSR 20-7.031(2), only the ONRWs are protected by a strict discharge prohibition in the watershed. Therefore, the department is returning to the current format of the rule and changing only subsection (A) which applies to ONRWs to address EPA's comment. In summary, the only change contained in this final order is the removal of the special effluent exceptions for POTWs and mine dewatering water. No changes are being made to the effluent regulations in subsection (B) that affect discharge limitations to OSRWs.

The department did not make any changes in the proposed rule based on the perceived limitations of the department's effort to oversee compliance with these standards through its inspection and monitoring efforts. The department will be developing antidegradation implementation procedures through stakeholder discussions and is scheduling the completion of these procedures by April 30, 2007. Program or administrative considerations that relate to the implementation of the antidegradation rule should be addressed through the development of the implementation procedure.

COMMENT #10-2: Protect OSRWs, particularly Spring and Noblett Creeks in Howell and Douglas counties. Allow no degradation. Do not allow "temporary" lowering of water quality. Ozark streams do not recover from gravel mining (referenced research by Dr. Art Brown, University of Arkansas). It is impossible to be sure that no long-term effects will result from repeated (such as occurs with gravel operations) temporary lowering of water quality—even if not below WQS—on the health of the creek.
RESPONSE #10-2: The department will be developing antidegradation implementation procedures through stakeholder discussions and is scheduling the completion of these procedures by April 30, 2007. Program or administrative considerations that relate to the implementation of the antidegradation rule should be addressed through the development of the implementation procedure.

10 CSR 20-7.015 Effluent Regulations

(1) Designations of Waters of the State.

(A) For the purpose of this rule, the waters of the state are divided into the following categories:

1. The Missouri and Mississippi Rivers;

2. Lakes and reservoirs, including natural lakes and any impoundments created by the construction of a dam across any waterway or watershed. An impoundment designed for or used as a disposal site for tailings or sediment from a mine or mill shall be considered a wastewater treatment device and not a lake or reservoir. Releases to lakes and reservoirs include discharges into streams one-half (1/2) stream mile (.80 km) before the stream enters the lake as measured to its normal full pool;

3. A losing stream is a stream which distributes thirty percent (30%) or more of its flow through natural processes such as through permeable geologic materials into a bedrock aquifer within two (2) miles' flow distance downstream of an existing or proposed discharge. Flow measurements to determine percentage of water loss must be corrected to approximate the seven (7)-day Q_{10} stream flow. If a stream bed or drainage way has an intermittent flow or a flow insufficient to measure in accordance with this rule, it may be determined to be a losing stream on the basis of channel development, valley configuration, vegetation development, dye tracing studies, bedrock characteristics, geographical data and other geological factors. Only discharges which in the opinion of the department reach the losing section and which occur within two (2) miles upstream of the losing section of the stream shall be considered releases to a losing stream. A list of known losing streams is available in the Water Quality Standards, 10 CSR 20-7.031 Table J—Losing Streams. Other streams may be determined to be losing by the Missouri Department of Natural Resources;

4. Metropolitan no-discharge streams. These streams and the limitations on discharging to them are listed in the commission's Water Quality Standards 10 CSR 20-7.031. This rule shall in no way change, amend or be construed to allow a violation of the existing or future water quality standards;

5. Special streams—wild and scenic rivers, Ozark National Scenic Riverways and Outstanding State Resource Waters;

6. Subsurface waters in aquifers; and

7. All other waters except as noted in paragraphs (1)(A)1.–6. of this rule.

(2) Effluent Limitations for the Missouri and Mississippi Rivers.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or from publicly-owned treatment works (POTWs) shall undergo treatment sufficient to conform to the following limitations:

1. Biochemical Oxygen Demand$_5$ (BOD_5) and nonfilterable residues (NFRs) equal to or less than a monthly average of thirty milligrams per liter (30 mg/L) and a weekly average of forty-five milligrams per liter (45 mg/L);

2. pH shall be maintained in the range from six to nine (6–9) standard units;

3. Exceptions to paragraphs (2)(B)1. and 2. are as follows:

A. If the facility is a wastewater lagoon, the NFRs shall be equal to or less than a monthly average of eighty (80) mg/L and a weekly average of one hundred twenty (120) mg/L and the pH shall be maintained above 6.0, and the BOD_5 shall be equal to or less than a monthly average of forty-five (45) mg/L and a weekly average of sixty-five (65) mg/L;

B. If the facility is a trickling filter plant the BOD_5 and NFRs shall be equal to or less than a monthly average of forty-five (45) mg/L and a weekly average of sixty-five (65) mg/L;

C. Where the use of effluent limitations set forward in this section is known or expected to produce an effluent that will endanger or violate water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation or a total maximum daily load study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the study;

D. The department may require more stringent limitations than authorized in subsections (3)(A) and (B) under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD_5 and NFR limits based upon an analysis of the past performance, rounded up to the next five (5) mg/L range; and

(II) If the facility is a new facility, the department may set the BOD_5 and NFR limits based upon the design capabilities of the plant considering geographical and climatic conditions;

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD_5 equal to or less than a monthly average of forty-five (45) mg/L, a weekly average of sixty-five (65) mg/L, NFRs equal to or less than a monthly average of seventy (70) mg/L and a weekly average of one hundred ten (110) mg/L.

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD_5 and NFRs equal to or less than a monthly average of forty (40) mg/L and a weekly average of sixty (60) mg/L; and

E. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed provided that:

(I) BOD_5 and NFRs are equal to or less than a weekly average of forty-five (45) mg/L. The NFR (total suspended solids) limit may be higher than forty-five (45) mg/L for combined sewer overflow treatment devices when organic solids are demonstrated to be an insignificant fraction of total inorganic storm water generated solids, and the permittee can demonstrate that achieving a limit of forty-five (45) mg/L is not cost effective relative to water quality benefits. In these cases, an alternative total suspended solids limit would be developed.

(II) pH shall be maintained in the range from six to nine (6–9) standard units; and

(III) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged;

4. Fecal coliform. Discharges into segments identified as whole body contact areas shall not contain more than a monthly geometric mean of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1,000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the owner or operator of the wastewater treatment facility can demonstrate that neither health nor water quality will be endangered by failure to disinfect. Facilities without disinfected effluent shall comply with the implementation schedule found in subsection (9)(H) of this rule. During periods of wet weather, a temporary suspension of accountability for bacteria standards may be established through the process described in subsection (9)(I) of this rule.

5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed or used in accordance with a sludge management practice approved by the department; and

6. When the wastewater treatment process causes nitrification which affects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD_5 testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/L less than the regular BOD_5 in the operating permit.

(3) Effluent Limitations for the Lakes and Reservoirs.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or from POTWs shall undergo treatment sufficient to conform to the following limitations:

1. BOD_5 and NFRs equal to or less than a monthly average of twenty (20) mg/L and a weekly average of thirty (30) mg/L;

2. pH shall be maintained in the range from six to nine (6–9) standard units;

3. Discharge to lakes and reservoirs identified as whole body contact areas shall not contain more than a monthly geometric mean of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1,000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the permittee can demonstrate that neither health nor water quality

will be endangered by failure to disinfect. Facilities without disinfected effluent shall comply with the implementation schedule found in subsection (9)(H) of this rule. During periods of wet weather, a temporary suspension of accountability for bacteria standards may be established through the process described in subsection (9)(I) of this rule;

4. Where the use of effluent limitations set forth in section (3) is known or expected to produce an effluent that will endanger or violate water quality, the department may either—conduct waste load allocation studies in order to arrive at a limitation which protects the water quality of the state or set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study;

5. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed subject to the following:

A. BOD_5 and NFRs equal to or less than a weekly average of forty-five (45) mg/L;

B. pH shall be maintained in the range from six to nine (6–9) standard units; and

C. Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged;

6. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

7. When the wastewater treatment process causes nitrification which effects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD_5 testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/L less than the regular BOD_5 in the operating permit.

(4) Effluent Limitations for Losing Streams.

(B) If the department agrees to allow a release to a losing stream, the permit will be written using the limitations contained in subsections (4)(B) and (C). Discharges from wastewater treatment facilities which receive primarily domestic waste or from POTWs permitted under this section shall undergo treatment sufficient to conform to the following limitations:

1. BOD_5 equal to or less than a monthly average of ten (10) mg/L and a weekly average of fifteen (15) mg/L;

2. NFRs equal to or less than a monthly average of fifteen (15) mg/L and a weekly average of twenty (20) mg/L;

3. pH shall be maintained in the range from six to nine (6–9) standard units;

4. Discharges to losing streams shall not contain more than a monthly geometric mean of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1,000) fecal coliform colonies per one hundred milliliters (100 ml);

5. All chlorinated effluent discharges to losing streams or within two (2) stream miles flow distance upstream of a losing stream shall also be dechlorinated prior to discharge;

6. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed subject to the following:

A. BOD_5 and NFRs equal to or less than a weekly average of forty-five (45) mg/L;

B. pH shall be maintained in the range from six to nine (6–9) standard units; and

C. Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged;

7. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

8. When the wastewater treatment process causes nitrification which effects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD_5 testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/L less than the regular BOD_5 in the operating permit.

(6) Effluent Limitations for Special Streams.

(A) Limits for Wild and Scenic Rivers and Ozark National Scenic Riverways and Drainages Thereto.

1. The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities, which receive primarily domestic waste or from POTWs are limited as follows:

A. New releases from any source are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed.

3. Industrial, agricultural and other non-domestic contaminant sources, point sources or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. shall not be allowed to discharge. Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, all transferring, loading, unloading, mixing and repackaging of bulk agrichemicals shall be conducted in an operational area. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

(I) Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

(II) Point sources that discharge more than one point three (1.3) mgd will be required at a minimum to collect fifty-two (52) wastewater samples per year; and

(III) Sludge sampling will be established in the permit.

B. Sampling frequency shall be spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall take samples on a regular schedule, while point sources with seasonal discharges shall collect samples during the season of discharge.

C. Sample types shall be as follows:

(I) Samples collected from lagoons may be grab samples;

(II) Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

(III) Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

D. The monitoring frequency and sample types stated in paragraph (6)(D)3. are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(B) Limits for Outstanding State Resource Waters as per Water Quality Standards.

1. Discharges shall not cause the current water quality in the streams to be lowered.

2. Discharges will be permitted as long as the requirements of paragraph (6)(B)1. are met and the limitations in section (8) are not exceeded.

(7) Effluent Limitations for Subsurface Waters.

(C) All abandoned wells and test holes shall be properly plugged or sealed to prevent pollution of subsurface waters, as per the requirements of the Missouri Department of Natural Resources.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(A)1.–6.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or POTWs shall undergo treatment sufficient to conform to the following limitations:

1. BOD_5 and NFRs equal to or less than a monthly average of thirty (30) mg/L and a weekly average of forty-five (45) mg/L;

2. pH shall be maintained in the range from six to nine (6–9) standard units;

3. The limitations of paragraphs (8)(B)1. and 2. will be effective unless a water quality impact study has been conducted by the department, or conducted by the permittee and approved by the department, showing that alternate limitation will not cause violations of the water quality standards or impairment of the uses in the standards. When a water quality impact study has been completed to the satisfaction of the department, the following alternate limitation may be allowed:

A. If the facility is a wastewater lagoon, the NFRs shall be equal to or less than a monthly average of eighty (80) mg/L and a weekly average of one hundred twenty (120) mg/L and the pH shall be maintained above 6.0 and the BOD_5 shall be equal to or less than a monthly average of forty-five (45) mg/L and a weekly average of sixty-five (65) mg/L;

B. If the facility is a trickling filter plant, the BOD_5 and NFRs shall be equal to or less than a monthly average of forty-five (45) mg/L and a weekly average of sixty-five (65) mg/L;

C. Where the use of effluent limitations set forth in section (8) is known or expected to produce an effluent that will endanger water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study;

D. The department may require more stringent limitations than authorized in subsections (3)(A) and (B) under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD_5 and NFR limits based upon an analysis of the past performance, rounded up to the next five (5) mg/L range; and

(II) If the facility is a new facility, the department may set the BOD_5 and NFR limits based upon the design capabilities of the plant considering geographical and climatic conditions;

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD_5 equal to or less than a monthly average of forty-five (45) mg/L, a weekly average of sixty-five (65) mg/L, NFRs equal to or less than a monthly average of seventy (70) mg/L and a weekly average of one hundred ten (110) mg/L;

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD_5 and NFR equal to or less than a monthly average of forty (40) mg/L and a weekly average of sixty (60) mg/L; and

E. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed provided that:

(I) BOD_5 and NFRs are equal to or less than a weekly average of forty-five (45) mg/L. The NFR (total suspended solids) limit may be higher than forty-five (45) mg/L for combined sewer overflow treatment devices when organic solids are demonstrated to be an insignificant fraction of total inorganic storm water generated solids, and the permittee can demonstrate that achieving a limit of forty-five (45) mg/L is not cost effective relative to water quality benefits. In these cases, an alternative total suspended solids limit would be developed;

(II) pH shall be maintained in the range from six to nine (6–9) units; and

(III) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged;

4. Fecal coliform.

A. Discharges to streams identified as whole body contact areas, discharges within two (2) miles upstream of these areas and discharges to streams with a seven (7)-day Q_{10} flow of zero (0) in metropolitan areas where the stream is readily accessible to the public shall not contain more than a monthly geometric mean of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1,000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the owner or operator of the wastewater treatment facility can demonstrate that neither health nor water quality will be endangered by failure to disinfect. Facilities without disinfected effluent shall comply with the implementation schedule found in subsection (9)(H) of this rule. During periods of wet weather, a temporary suspension of accountability for bacteria standards may be established through the process described in subsection (9)(I) of this rule.

B. Where chlorine is used as a disinfectant, the effluent shall be dechlorinated except when the discharge is—

(I) Into an unclassified stream at least one (1) mile from a water quality standards classified stream; or

(II) Into a flowing stream where the seven (7)-day Q_{10} flow is equal to or greater than fifty (50) times the design effluent flow;

5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

6. When the wastewater treatment process causes nitrification which affects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD_5 testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/L less than the regular BOD_5 in the operating permit.

(9) General Conditions.

(H) Implementation Schedule for Protection of Whole Body Contact and Secondary Contact Recreation.

1. For all permitted wastewater discharges containing bacteria, the department shall, upon the issuance or first renewal or first significant modification of each permit on or after December 31, 2005, include within each permit a compliance schedule that provides up to five (5) years for the permittee to either install disinfection systems, present an evaluation sufficient to show that disinfection is not required to protect one or both designated recreational uses, or present a use attainability analysis (UAA) that demonstrates

one or both designated recreational uses are not attainable in the classified waters receiving the effluent. This provision does not apply to permits issued for construction applications submitted to the department after December 31, 2005.

2. Notwithstanding the provisions of (9)(H)1., all permits shall insure compliance with effluent limits to protect whole body contact and secondary contact recreation by no later than December 31, 2013, unless the permittee presents an evaluation sufficient to show that disinfection is not required to protect one (1) or both designated recreational uses, or a use attainability analysis (UAA) demonstrates that one (1) or both designated recreational uses are not attainable in the classified waters receiving the effluent.

(I) Temporary Suspension of Accountability for Bacteria Standards during Wet Weather. The accountability for bacteria standards may be temporarily suspended for specific discharges when conditions contained in paragraphs (9)(I)1. through 3. are met.

1. No existing recreational uses downstream of the discharge will be impacted during the period of suspension as confirmed through a water quality review for reasonable potential for downstream impacts and a use attainability analysis performed in accordance with the Recreational Use Attainability Analysis Protocol approved by the Missouri Clean Water Commission on November 3, 2004.

2. The period of suspension must be restricted to the defined wet weather event that corresponds to the period when recreational uses are unattainable. The period must be determinable at any time by the discharger and the general public (such as from stream depth or flow readings or other stream conditions on which publicly accessible records are kept).

3. The suspension shall be subject to public review and comment, Missouri Clean Water Commission approval, and U.S. Environmental Protection Agency approval before becoming effective and shall be contained as a condition in a discharge permit or other written document developed through public participation.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission (commission) under section 644.026, RSMo 2000, the commission amends a rule as follows:

10 CSR 20-7.031 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 2, 2005 (30 MoReg 843–974). Those sections with changes are reprinted here. This proposed amendment becomes effective **December 31, 2005**.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held July 6, 2005, and the public comment period ended July 14, 2005. Comments made at the public hearing and during the public comment period are presented here followed by the department's response.

1-Definitions

COMMENT #1-1: Comments support clarification of acute and chronic criteria.

RESPONSE #1-1: The rules will continue to contain acute and chronic criteria. Further clarification on the application of these criteria may be reviewed in future rulemakings.

COMMENT #1-2: Definition of water hardness should consider effluent hardness in determining seasonal and effluent mixing conditions.

RESPONSE #1-2: When used in establishing water quality standards, water hardness relates to the ambient (natural) quality of the receiving water body. The standard would not represent the natural condition of a surface water if the influence of effluent hardness is considered. Usually, effluent has much higher hardness than surface water because it contains compounds of calcium, magnesium, and a variety of other metals. Consequently, if the effluent is considered in determining hardness, the resulting effluent metal limits will be less stringent and will allow for adding higher loads of metals to the water body, that will in turn increase its hardness and further degrade water quality of the receiving water body.

COMMENT #1-3: Revise definition of whole effluent toxicity (WET) tests.

RESPONSE #1-3: This is a new issue that was not part of the purpose of the current proposed revisions, but may be discussed with stakeholders and possibly addressed in future rulemakings.

2-Classification of Waters of the State

COMMENT #2-1: All waters of the state should be classified.

RESPONSE #2-1: The department recently received approval from the Clean Water Commission on a procedure for classifying waters. The department must follow that procedure until the procedure is modified through the commission. Nevertheless, the department's goal is to protect all waters of the state. And under the current classification procedure, waters are classified when the action is necessary to provide protection to beneficial uses on or in the water. Furthermore, until these uses are identified through classification, the unclassified waters are protected under general (narrative) criteria.

COMMENT #2-2: All lakes owned or controlled by governmental entities should be waters of the state and all standards applied.

RESPONSE #2-2: The proposed definition of "waters of the state" (WOTS) as it appears in 10 CSR 20-7.031(1)(Y) results in all lakes in Missouri that are owned or controlled by government entities falling within the definition of WOTS. The standards for these waters shall be determined through the identification of existing uses on or in these waters.

COMMENT #2-3: Man-made drainage ways, which covers the entire bootheel, are not rivers, streams, or creeks; they are storm water drains. These should be considered under a different category than rivers, streams, or creeks.

RESPONSE #2-3: Several waters in the bootheel are classified and have designated uses. Being classified, they are subject to a designation for whole body contact recreation until a Use Attainability Analysis (UAA) shows the use is unattainable. Man-made drainage ways can be limited in their capacity to support certain uses and might qualify through a UAA for a modified use designation or alternative standards to account for those limitations.

COMMENT #2-4: Harper Hollow Creek in Camden County should be listed as a Class P water. The creek has maintained a permanent flow since 1953, sufficient to operate a hatchery operation, catfish farm, and maintain aquatic life.

RESPONSE #2-4: This is a new issue that was not part of the purpose of the current proposed revisions, but may be discussed with stakeholders and possibly addressed in future rulemakings using the classification procedures as approved by the commission.

3-Criteria for Whole Body Contact Recreation (WBCR)

COMMENT #3-1: Comments supported the proposed tiered recreational uses (Category A and B) and criteria associated with those uses. Other comments support additional recreational use refinement

in the future by designating additional subcategories of use such as a subcategory for waters receiving combined sewer overflows. One (1) comment states that the way the department has attempted to assign the Class B recreational uses does not meet the goal of the Clean Water Act section 101(a)(2).

RESPONSE #3-1: Further revisions to the designations may be evaluated in future rulemakings once specific information is presented that promotes a different approach. Until then, the two (2)-tiered categories of Whole Body Contact Recreational (WBCR) use and the corresponding criteria appear to be appropriate designations for the WBCR use and are retained in final order of rulemaking.

COMMENT #3-2: While the cost to disinfect water which may never be used for recreation is an obvious consequence to disinfection, the need to dechlorinate, the production of trihalomethanes, and the inability to utilize alternative methods where high suspended solid levels exist all drive the cost of treatment upward and in many cases will not provide any additional benefit.

RESPONSE #3-2: The department recognizes that the costs to comply with the new standards will be significant in some cases. The department may make special arrangements to promote compliance while preventing unnecessary burdens. Options available to avoid these unnecessary burdens include modifying or rescinding standards through UAAs, developing a compliance schedule that allows for extra time to design, build and implement new pollution control measures, obtaining a temporary variance through the Clean Water Commission or entering into an administrative or enforcement agreement that provides additional time.

COMMENT #3-3: Missouri's original methodology, which allowed any party to add recreational waterways to the list of Missouri's classified streams, properly addressed the recreational waterway situation, placed the burden of determination and review upon the state, and allowed reasonable time for parties to be involved in the financial risk to assess their situation.

RESPONSE #3-3: Missouri's original methodology for select designation of waters for whole body contact was determined by U.S. EPA to be inconsistent with the federal Clean Water Act. In order to have a water quality standards program acceptable to U.S. EPA, Missouri must designate and protect all classified waters for a swimming use, until it can show the use is not attainable.

COMMENT #3-4: Some activities where whole body contact may be a concern is during scientific surveys where individuals snorkel and collect aquatic life, activities of citizen groups to clean and monitor water quality, and hand fishing.

RESPONSE #3-4: The department will apply the appropriate bacterial standard to protect these uses. If snorkeling, or any other form of recreational use, is occurring in waters less than the qualifying depth specified in the UAA protocol, then the department must rely on evidence of that use to be presented and documented during the performance of a UAA or during the public comment period on the UAA.

COMMENT #3-5: Waters designated for whole body contact recreation Category B (WBCR-B) should be upgraded to whole body contact recreation Category A (WBCR-A) only if supported by a structured and scientific study demonstrating that increased protection is appropriate. Clarification is requested in the definitions of WBCR-A and WBCR-B.

RESPONSE #3-5: Evidence obtained as part of a UAA and/or the public's input on the UAA can provide for the removal of whole body contact use or a redesignation to either subcategory WBCR-A or WBCR-B. The UAA protocol and the definitions of the use categories are sufficiently clear to achieve an understanding of the eligibility for the use designations.

COMMENT #3-6: The following sentence should be removed from section (1)(C)8. "All waters in Tables G and H of this rule are designated for whole body contact recreation." The use designations in Tables G and H are self-explanatory. After UAAs have been approved, it is possible that some waters in Tables G and H may not be designated for whole body contact recreation, resulting in potential inconsistencies with this statement.

RESPONSE AND EXPLANATION OF CHANGE #3-6: Revising the sentence would improve the rule. The rule has been rewritten. The final order of rulemaking reflects this change.

COMMENT #3-7: Recommend all or most lakes be placed in WBCR Category A.

RESPONSE #3-7: The current designations for WBCR Category B are appropriate when considering the public's lesser accessibility and less frequent use, and therefore less risk level, in water bodies designated as such. Should evidence be provided in the future that a particular lake qualifies under the definition of a WBCR-A designation, the department may change the designation at that time to reflect the greater use at that lake.

COMMENT #3-8: Revise the text in 10 CSR 20-7.031(1)(C)8. to state that whole body contact recreation may be removed or modified through a UAA for only those waters not identified as having whole body contact as an existing use.

RESPONSE AND EXPLANATION OF CHANGE #3-8: The structure of a UAA does not allow for existing uses to be removed. The Recreational Use Attainability Analysis Protocol (p.10) states that existing uses cannot be removed unless substituted for another use that has water quality criteria as stringent or more stringent than the original use. Federal requirements also require existing uses to be retained. While adding the suggested text to paragraph 8. would not appreciably change the existing rule, the change may help emphasize an important point. Therefore, the suggested language was added.

COMMENT #3-9: All streams within the boundaries of Ozark National Scenic Riverways should be designated for whole body contact since visitors have a reasonable expectation to find any stream in the park to be "fishable/swimmable." The standard in these streams should be no degradation from natural background levels, which are much lower than the proposed standards for both categories. Another similar comment stated that the proposed bacterial standards are above the natural background levels in the Outstanding National Resource Waters (ONRWs) and therefore do not represent the antidegradation rule. Site-specific standards should be developed for the ONRWs (such as what was done in the Jacks Fork River Total Maximum Daily Load (TMDL)) and those standards should be incorporated into rule.

RESPONSE #3-9: No new or expanded releases are allowed into the watershed of the Ozark National Scenic Riverways or any other ONRW. This prohibition eliminates the allowance for any degradation of these special streams from their current quality.

COMMENT #3-10: Of the several large springs managed by Ozark National Scenic Riverways, only Alley Spring is classified under the proposed rules and it is assigned to Category B. Most visitors assume that the water issuing from these springs are of the highest quality, and that is often true, but the importance of protecting springs is not reflected in the water quality standards.

RESPONSE #3-10: At this time, the department is not aware of any recreational uses within the waters at Alley Spring that qualifies that spring for Category A. However, within the water quality standards, the losing streams, which are often connected to springs, are protected against bacteria influences by having the same standard as whole body contact Category A. Therefore, while springs and their branches have not always been listed in the standards, they are likely receiving a higher level of protection through the groundwater standards. As the department receives information regarding the

recreational uses within springs, it will propose their classification with appropriate use designations.

COMMENT #3-11: The department should develop an approach to WBCR use designations that considered the socio-economic impact on communities.

RESPONSE #3-11: Socio-economic impacts can be considered as Criterion 6 of the Recreational Use Attainability Analysis Protocol. Any community that believes that the designation of whole body contact (in areas without an existing use) would cause substantial widespread social and economic impact, a use attainability analysis is a possible option for seeking an alternative standard.

4-Criteria for Secondary Contact Recreation (Boating and Canoeing)

COMMENT #4-1: Numerous areas have recreation that can be classified as secondary contact. In areas where whole body contact recreation is limited or unattainable because of natural reasons, a designation of secondary contact recreation may be more than adequate to protect recreational boating, canoeing, kayaking, and other limited contact recreational activities. The standards to protect secondary contact recreation will provide significant protection in waters where waters do not support whole body contact recreation (WBCR).

RESPONSE #4-1: WBCR is a separate designated use from secondary contact recreation (SCR) and each should be separately assessed and applied to waters independently. A water body that does not have WBCR use should not be automatically assumed to support SCR. Also, a WBCR use designation on a water segment does not justify the designation of SCR to the water segment. WBCR, until proven by a use attainability analysis, will be applied to all classified waters to satisfy the presumption required by the federal Clean Water Act. SCR will be designated as evidence is presented that demonstrates those activities are occurring in the water segment.

COMMENT #4-2: Support is given for the replacement of the beneficial use title "Boating and Canoeing" with "Secondary Contact Recreation." It is also appropriate to recognize a lower tier of protection for streams that only pose a risk of incidental or accidental contact where the probability of ingesting water is minimal.

RESPONSE #4-2: This proposed change to the definition title appears in the final order of rulemaking.

COMMENT #4-3: No water should be designated for secondary contact recreation and this entire section should be removed. Secondary contact recreation is recreation in and on the water. All waters should be designated for whole body contact recreation.

RESPONSE #4-3: All classified water will be designated for whole body contact, unless evidence presented in a use attainability analysis successfully rebuts that presumption. See RESPONSE #4-1.

5-Use Attainability Analysis (UAA)

COMMENT #5-1: Use Attainability Analyses (UAAs) on three hundred ninety-six (396) stream segments were submitted to the Clean Water Commission. The commission reviewed the UAAs and comment on the UAAs.

RESPONSE AND EXPLANATION OF CHANGE #5-1: The following conclusions were made: one hundred thirty-three (133) waters are unable to support a whole body contact recreational use and ten (10) waters are able to support the WBCR use on certain segments. Table H was revised to reflect where UAAs found the WBCR use as unattainable on the one hundred thirty-three (133) full stream segments and the ten (10) partial stream segments. The designation of WBCR was retained on all other classified streams where the WBCR use was determined attainable by a UAA or, if no UAA was performed, presumed to be suitable for WBCR.

COMMENT #5-2: Defining what constitutes an existing beneficial use, particularly existing recreational uses, is needed, and the definition should be consistent with those of the Clean Water Act. Federal regulations (40 CFR 131.3) define an "existing use" as "those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." Another comment recommends that Missouri either adopt by rule or formal policy that "existing uses" are established by demonstrating that a frequent and recurring use has actually occurred and the water quality required to protect those uses have actually been attained since November 28, 1975. This definition is similar to that found in the state of Rhode Island's water quality standards. An additional comment noted that the UAA process assumes that stream use and conditions in 1975 and ensuing years are the same today. Many northern Missouri streams have been channelized. Another comment stated that uses that existed before November 28, 1975 should be protected.

RESPONSE AND EXPLANATION OF CHANGE #5-2: Adopting a definition for "existing use," as well as "designated use," would be beneficial toward ensuring a consistent understanding between the two (2) phrases. The department is adding these definitions as it appears in the federal rule as well as in the Recreational Use Attainability Analysis protocol.

COMMENT #5-3: The provisions regarding recreational use can be distorted under the present theories resulting in an inappropriate designation of many waters for whole body contact. This will result in UAAs not being approved based on false recreational data.

RESPONSE #5-3: The department relied on interviews or comments about recreational uses only when depth of the stream was less than the criterion established for use. While no absolute certainty can be achieved through interviews, the potential for false reports should be minimized by requiring that the interviews include descriptions on the type of recreational activity taking place, location and frequency of the activity, and the season or time period the activity took place.

COMMENT #5-4: A major effort using government staff and funds was launched to conduct UAAs, yet little to no effort was being made to notify members of the public who live along the streams at issue. Public comments and interviews with those living along affected streams were never made a priority.

RESPONSE #5-4: Although not required by the UAA protocol, interviews were conducted on some occasions. Where interviews were not possible because of time constraints, the department relied on careful observations for evidence of use. The publication of the completed UAAs on the web site for public comment also resulted in some new information. The public notice of the UAAs was sent statewide. For the most part, the comments received confirmed the accuracy of the UAA findings. The department received information contrary to the staff findings on only a small percentage of the UAAs.

COMMENT #5-5: Information already collected by the department through stream surveys and volunteer water quality monitoring should be considered before the department recommends removing recreational uses.

RESPONSE #5-5: For any data to be used to remove a recreation use designation, they must satisfy the criteria outlined in the UAA protocol. Most of the data collected during stream surveys and monitoring does not compliment the data required for a use attainability analysis. Most of these surveys are focused on protection of aquatic life and assessing the general water condition. If depth measurements are taken, most are located in runs or other wadable areas, and not areas likely to support swimming.

COMMENT #5-6: The depth criterion alone is not an adequate basis to remove recreational designations. The depth of a stream is not an automatic gauge of whether or not people use it for recreation. Physical characteristics of a stream are not even supposed to be used

to determine attainability of recreational uses (see *Water Quality Standards Handbook*, p. 2-3 (U.S. EPA 1994).)
RESPONSE #5-6: Under federal regulations at 40 CFR 131.10(g)2, states may remove a designated use which is not an existing use if attaining the designated use is not feasible because of natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use. The *Water Quality Standards Handbook*, as referenced above, states that swimming and/or wading may occur regardless of depth. The handbook goes on to say that the state must set criteria to reflect recreational uses if it appears that recreation will in fact occur in the stream. Whole body contact recreational uses have been and will continue to be designated for areas where recreation has been observed, regardless of the depth.

COMMENT #5-7: UAAs should not result in use removal because of lack of past use. The lack of use may be attributed to high bacteria counts, which if human related, should be addressed.
RESPONSE #5-7: Lack of use in areas with sufficient depth to support whole body contact recreational (WBCR) use was not a determining factor in the department's decision. If an area had adequate depth to support WBCR, then the use was retained. If an area lacked depth and did not show any evidence of use, the WBC use designation was removed.

COMMENT #5-8: A comment suggested adding the following definition of Use Attainability Analysis (UAA) from federal regulations at 40 CFR 131.3: "a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in § 131.10(g)."
RESPONSE AND EXPLANATION OF CHANGE #5-8: A definition for "Use Attainability Analysis" would be beneficial toward ensuring a consistent understanding of the phrase. The department is adding the definition for Use Attainability Analysis (UAA) as it appears in the federal rule as well as in the Recreational Use Attainability Analysis protocol.

6-Aquatic Life Criteria
COMMENT #6-1: The definition for the protection of aquatic life (general warm-water fishery) is confusing and isn't interpreted consistently. The comment suggests an alternative definition. All fish and aquatic life are important ecologically and recreationally in lakes, creeks, and streams of Missouri. Some waters classified as a limited warm-water fishery do have some recreationally important fish species. The higher limits for contaminants provide a toxic effect, therefore limiting the aquatic fauna in these streams. This comment recommends deletion of the limited warm-water fishery definition or at least a modified definition as suggested.
RESPONSE #6-1: These comments raise a new issue not included in the purpose of this rulemaking or in the regulatory impact report. The department may be considering revisions of designated uses for the protection of aquatic life (general warm-water fishery, limited warm-water fishery, cold-water fishery, and cool-water fishery). Future discussions on this issue will be discussed with stakeholders and may be part of the next rulemaking.

COMMENT #6-2: Acute and chronic numerical criteria for protection of aquatic life are listed in the water quality standards and should be mentioned in the text of 10 CSR 20-7.031(4). Add "protection of aquatic life" to the last sentence of the paragraph of this section.
RESPONSE AND EXPLANATION OF CHANGE #6-2: The sentence "Only waters designated for livestock and wildlife watering are considered to be long-term supplies and are subject to the chronic toxicity requirements of the specific criteria" does not provide any more or less protection of the classified waters of the state. All classified waters are protected according to the designated uses assigned to them in Tables G and H, and the criteria associated with each designated use as assigned in Tables A and B. All of the criteria in Tables A and B are chronic values, unless specifically identified as being acute, as stated in subsection (4)(A). Because the last sentence in section (4) has no effect on the standards, the department has deleted this sentence.

COMMENT #6-3: The rules should provide optimal water quality protection by utilizing the flexibility provided by an aquatic life use attainability analysis. The department should propose either an additional tier of aquatic life use protection or redefine limited warm-water fishery to include those waters whose designated use should be downgraded based upon use attainability analysis results. This comments suggests revised language for the limited warm-water fishery definition.
RESPONSE #6-3: This comment raises a new issue that was not included within the purpose of this rulemaking. Therefore, this issue was not discussed in the regulatory impact report that accompanied this rulemaking. See RESPONSE #6-1 for a similar discussion. Further discussion is needed on this topic, and if enough interest is generated, the department may develop an aquatic life use attainability analysis or alternative use designation for aquatic life in later revisions of the water quality standards.

7-Site-Specific Criteria for Wetland Protection
COMMENT #7-1: Site-specific criteria for wetlands should be developed and should consider regional differences in wetlands types. Another comment stressed that many questions should be answered about wetlands before any action is taken.
RESPONSE #7-1: Site-specific approaches, as proposed by this rule, considers, among other parameters, wetland type and regional location. Any site-specific criteria developed through the implementation of this rule will involve public participation. More detailed implementation procedures for this approach may be addressed in future revisions to the water quality standards.

COMMENT #7-2: The development of site-specific criteria for wetlands does not need to be in rule.
RESPONSE #7-2: The Administrative Procedures Act at Chapter 536, RSMo requires the promulgation of a rule on any departmental procedure, process, method, or any other guidance of general applicability, and may require that site-specific criteria for wetlands be implemented through rule.

8-Use of General Water Quality Criteria
COMMENT #8-1: The following comments were received on the use of general criteria for protecting water quality:
•Supports use of general criteria for protecting unclassified streams; and
•Industrial process water must comply with general water quality standards.
RESPONSE #8-1: General criteria apply to all waters including unclassified streams and are stated and enforced as permit conditions in all National Pollutant Discharge Elimination System (NPDES) permits.

9-Site-Specific Criteria for Aquatic Life Protection
COMMENT #9-1: Need specific water quality criteria for channelized or hydrologically modified lakes and reservoirs.
RESPONSE #9-1: The department recognizes that hydrologically modified water bodies are unique and may not maintain the same species and assemblages of aquatic life as natural water bodies within a similar ecoregion. Criterion 3 of the Use Attainability Analysis (UAA) protocol may be used to determine if changes to the designated uses of a hydrologically modified water body are appropriate. If so, the hydrologically modified water body may qualify for site-specific criteria to reflect the changed use designations. Therefore, the proposed procedures for developing site-specific criteria apply to hydrologically modified waters that have uses altered through a UAA.

COMMENT #9-2: The department should not delete paragraph 10 CSR 20-7.031(4)(A)3., which allows exception to dissolved oxygen (DO) criterion of five (5) mg/L until such time as the department can amend its DO water quality standard to incorporate lower DO levels under specified circumstances.
RESPONSE #9-2: Section (3) of this rule is proposed for deletion because it does not provide a specific implementation protocol. Instead of a blanket low DO standard of three (3) or four (4) mg/L, the department proposes procedures for developing DO site-specific criteria based on the specific characteristics of the stream in question. Those procedures are proposed in 10 CSR 20-7.031(4)(R).

COMMENT #9-3: Clarify whether subparagraphs (4)(R)1.A. and B. are conjunctive or disjunctive.
RESPONSE AND EXPLANATION OF CHANGE #9-3: The final order of rulemaking contains revised wording to clarify the intention of subparagraphs (4)(R)1.A. and B.

COMMENT #9-4: Clarify that site-specific criteria may apply to a sub-segment of a classified stream reach.
RESPONSE AND EXPLANATION OF CHANGE #9-4: The department will consider further segmenting a classified stream when applying site-specific criteria. The final order of rulemaking contains revised wording to clarify the possibility of sub-segmentation. In addition, the National Hydrography Dataset (NHD) will eventually replace the existing stream-reach indexing system. NHD provides smaller and more homogeneous stream segments than the current indexing system.

COMMENT #9-5: The use of test species as surrogates may be an acceptable practice in defining the sensitivity of an aquatic assemblage in a stream. Therefore, the fact that a stream has different species than the test organisms may not be a good reason to alter the water quality criteria.
RESPONSE #9-5: EPA's guidance provides for a special recalculation procedure based on species of the families present at the site. The following web link points to more information: http://www.epa.gov/region7/water/sprt.htm.

COMMENT #9-6: Making a full comparison between different streams, even those within the same watershed, is too difficult and will likely not achieve a confident finding on special aquatic life adaptations. Delete the allowance for considering several streams within a watershed as "one site."
RESPONSE #9-6: The allowance to use several streams within a watershed as "one site" is conditional and subject to scientific review. Only streams that have similar aquatic communities and have comparable water quality may be considered one site.

COMMENT #9-7: Several comments addressed the need for developing site-specific criteria for metals and toxics criteria:
•Requests opportunity in the rule to explore site-specific metals criteria, using water effect ratios, and total to dissolved metals translators; and
•The methods for determining biological availability of toxics should be broadened to include the use of water effect ratios and translators.
RESPONSE #9-7: The proposed rules are flexible in regard to the methodology for developing site-specific criteria. These methods are described in EPA guidance: *Water Quality Standards Handbook*, Second Edition, 1994, http://www.epa.gov/waterscience/standards/handbook/. The department encourages submittals that promote appropriate site-specific criteria, but also encourages coordination with the department early in the process.

COMMENT #9-8: Site-specific criteria development should include the use of a reference stream approach.
RESPONSE #9-8: The rule does not prohibit the use of reference stream approach. If sufficient interest in that approach exists, the department may develop a site-specific implementation procedure involving a reference stream approach.

COMMENT #9-9: Revise the definition for Water Effect Ratio (WER) to better clarify the use of this process for determining metals toxicity.
RESPONSE #9-9: WER describes a specific approach that compares the toxicity of a pollutant in actual site water to its toxicity in laboratory water for two (2) or more aquatic species. To deviate from this specific approach would be defining something other than WER. There may exist other comparable and acceptable methods and models to determine site-specific metal criteria, but they are not called WER. Examples are included in EPA guidance. The proposed definition of WER is the original and most descriptive of the procedure and is not intended to limit criteria development to the use of this approach.

COMMENT #9-10: The rule should contain a more detailed procedure for the department to develop site-specific DO criteria.
RESPONSE #9-10: The department may be further developing a procedure for determining site-specific DO criteria if significant interest exists.

COMMENT #9-11: The rule should contain a reference to the new subsection (4)(R) where language about site-specific criteria is being deleted.
RESPONSE #9-11: The rule should be entirely read in order to understand all available approaches to establishing water quality standards. Adding the references as suggested does not improve the rule and makes the rule unnecessarily lengthy.

COMMENT #9-12: Specific procedures should be in guidance instead of rule. EPA should approve the guidance to avoid having to approve each site-specific criterion. Site-specific criteria should be able to apply to regions and watersheds in addition to individual water bodies. State should discuss with EPA the circumstances in which the use of Cladocerans (a sensitive species) is not appropriate in developing metals criteria.
RESPONSE #9-12: In keeping with Chapter 536 of the Administrative Act, which requires the promulgation of a rule on any departmental procedure, process, method, or any other guidance of general applicability, site-specific criteria may be required as a rule. Whether it is or is not, the department will solicit stakeholders' input when developing site-specific procedures. Accordingly, the department will discuss the appropriateness of using Cladocerans when developing site-specific criteria for metals.

10-Mixing Zones

COMMENT #10-1: The elimination of the mixing zones on low flow streams does not account for the periods when aquatic life is not present in the stream.
RESPONSE #10-1: Mixing zone allows for effluent attenuation (natural reduction of pollutant effects on aquatic life) within the stream. Streams with a seven (7) Q_{10} of less than 0.1 cubic feet per second, have no significant capability to attenuate any effluent at this flow. However, they might maintain pools to support aquatic life during most of the year. When evidence indicates the presence of aquatic life, the mixing zone is not allowed. Where aquatic life naturally exists within the receiving stream, the discharge must meet aquatic life standards at the first location within the stream that can sustain life. In some cases, the effluent itself may establish conditions suitable to attract and support aquatic life. However, the department will convene future discussions on streams created by effluent and does not intend for this rulemaking to establish those standards at this time.

COMMENT #10-2: Opposes the deletion of the mixing zone on low-flow Class C streams.
RESPONSE #10-2: Class C streams with a seven (7) Q_{10} of less than 0.1 cubic feet per second do not provide significant attenuation of the effluent that would make a difference in effluent concentration. Should a study be presented to show otherwise, a variance from this mixing zone prohibition may be sought through the Clean Water Commission.

COMMENT #10-3: Clarify that mixing zone removal only applies to classified streams.
RESPONSE #10-3: The basis for a mixing zone is to allow for attenuation of the effluent that mitigates its effect on designated uses. Mixing zones are only allowed on classified waters, which have assigned designated uses. Unclassified streams normally have less flow than Class C streams, thus they do not likely provide any measurable attenuation, and consequently they do not qualify for a mixing zone allowance. Should a study be presented to show measurable attenuation within an unclassified stream, a variance from this mixing zone prohibition may be sought through the Clean Water Commission.

COMMENT #10-4: Consider alternatives to eliminating the mixing zones in low flow streams.
RESPONSE #10-4: Site-specific standards, use attainability analyses, and variances are some alternatives that already exist. The department will explore other ideas presented during future reviews for water quality standards revisions.

COMMENT #10-5: Clarify that mixing zones are allowed for bacteria.
RESPONSE #10-5: Like any other numerical criterion, bacteria limits are determined based on effluent and receiving water body characteristics, such as the potential for pollutant attenuation. Therefore, bacteria standards are eligible for a mixing zone allowance. The current wording of the rule does not expressly prohibit mixing for bacteria.

COMMENT #10-6: Instead of no mixing allowed on streams with less than 0.1 cubic feet per second, consider that one hundred percent (100%) and instantaneous mixing occurs.
RESPONSE #10-6: The receiving stream seven (7) Q_{10} flow (<0.1 cubic feet per second) is too small to have any significant mixing benefits, thus, the one hundred percent (100%) and instantaneous mixing does not provide any relief. Therefore, the proposed change has no effect on the water quality based effluent limits.

11-Biocriteria
COMMENT #11-1: The department should develop specific biocriteria for effluent dominated streams.
RESPONSE #11-1: Presently there is neither a special class nor unique water quality standards for streams where the physical, chemical, or biological properties are created or significantly influenced by effluent. The department may be exploring the need and options for developing specific criteria for those streams in future reviews of the water quality standards.

COMMENT #11-2: The department should develop an implementation procedure on biocriteria.
RESPONSE #11-2: Biological criteria (or biocriteria) are narrative or numeric expressions that describe the reference biological integrity (structure and function) of aquatic communities inhabiting waters of a given designated aquatic life use. Biocriteria are based on the numbers and kinds of organisms present and are regulatory-based biological measurements. Additional information on biocriteria can be found at http://www.epa.gov/ost/biocriteria/basics/. Biocriteria are the best way to gauge the health level of the environment. The department currently uses biocriteria for water assessment and listing, and may explore the need to include a biocriteria implementation procedure into Missouri's water quality standards as part of future revisions to the standards.

12-Criteria for Drinking Water Supplies
COMMENT #12-1: The water quality standards and effluent regulations utilize the drinking water standards in certain sections as the default standard of choice. This is unreasonable and makes the presumption that water in a natural occurring watercourse or stream meets MCLs without any treatment. This is not factual, and specific standards should be developed to provide for water quality and an allowance for discharge. The proposed trihalomethane standards are such that treatment plants cannot discharge their drinking water that is in full compliance with Drinking Water Standards into Missouri's waters.
RESPONSE AND EXPLANATION OF CHANGE #12-1: Two (2) criteria exist to protect waters designated as drinking water supplies: 1) Drinking Water Standards Maximum Contaminant Levels (MCLs) or 2) section 304(a) criteria for human health for consumption of water plus organism. MCLs are the highest level of a contaminant that is allowed in drinking water based on the best available analytical and treatment technologies and taking cost into consideration (*2004 Edition of the Drinking Water Standards and Health Advisories*, p. iv, EPA 822-R-04-005). The majority of the time the section 304(a) criteria are more stringent due to the values being based solely on science and not on current technologies and cost. Where only the MCL or 304(a) criteria exist, but not both, the one that exists must be used. For example for trihalomethanes, the MCL is eighty (80) μg/L for the group of trihalomethanes (rather than specific types) while the 304(a) criteria apply only to specific types (e.g., bromoform). Future rulemakings could explore alternative standards if the science and adequate data were available to support the proposal. However, secondary drinking water regulations are non-enforceable federal guidelines regarding cosmetic effects (such as tooth or skin discoloration) or aesthetic effects (such as taste, odor, or color) of drinking water (*2004 Edition of the Drinking Water Standards and Health Advisories*, p. v, EPA 822-R-04-005). Therefore, the water quality standards for the protection of drinking water for iron and manganese, which are based on secondary drinking water regulations, are removed from Table A.

COMMENT #12-2: The standards as presented would not allow the discharge of drinking water to Missouri's streams which would meet the drinking water standards. Public drinking water under the new water quality standards may not be allowed to be discharged to a stream or lake as it is "too polluted" for the fish and biota, but not too polluted to drink.
RESPONSE #12-2: Criteria in Table A of the water quality standards are specific to each designated use. When more than one criterion is given for a certain pollutant (e.g., one for the protection of aquatic life and another for drinking water supplies) the most stringent criterion is applied to ensure that the most sensitive use in the water is protected. Drinking water criteria could be met (due to the criteria being based on MCLs, which take into account technology and costs) but be insufficient to protect aquatic life (due to the criteria being based on toxicology science). Future rulemakings could explore alternative standards if the science and adequate data were available to support the proposal.

COMMENT #12-3: One (1) comment supported changing the analytical method for Drinking Water Supply (DWS) metals from dissolved to total recoverable. Another noted that the department should make the effort now to develop adjusted metals criteria for drinking water supply that take into account the metals reductions that occur during drinking water treatment, and to provide scientifically defensible documentation to U.S. EPA for the adjusted criteria.
RESPONSE #12-3: The science and data are not available at this time to support a proposed change to U.S. EPA's guidance. The

department will consider changes in future standards revisions if the science and data are made available.

13-Bacteria Standards

COMMENT #13-1: *E. coli* standard of 126/100mL should be rounded to 130/100mL.
RESPONSE #13-1: An *E. coli* standard of 126/100mL is based on U.S. EPA's 1986 bacteria criteria and their science and statistical analysis. Deviating from U.S. EPA guidance, even slightly, requires justification beyond just desiring a simplification of the numbers.

COMMENT #13-2: Test methods for *E. coli* are significantly more complex and costly than fecal coliform. Additional trained laboratory technicians will be required as will new testing equipment.
RESPONSE #13-2: The test methods for *E. coli* can be more or less complex than the method for fecal coliform, depending on which method is chosen. Staff is aware that additional equipment and/or materials may need to be purchased to conduct the new tests. Up-front costs can be higher for *E. coli* than fecal coliform, but the long-term savings in labor can make up the cost for additional equipment. A transition period of three (3) years has been placed in the rule to enable laboratories and their staff to purchase the appropriate equipment and materials and to gain the necessary training.

COMMENT #13-3: Comments were divided on the need for a single sample maximum criterion for bacteria. Some comments support the criterion, others do not.
RESPONSE #13-3: According to U.S. EPA Region 7, a single sample maximum is not required, but is recommended. The use of a single sample maximum is primarily for compliance with assessment of waters under section 305(b) of the Clean Water Act and to facilitate beach closure or risk notices. The department may explore this issue further during future discussions on this rule to determine the need for a single sample maximum.

COMMENT #13-4: Supports the proposed numeric criteria for whole body contact Categories A and B. If Category B criterion should be lowered, a footnote should be added to Table A explaining the illness rate of 1.4% was considered acceptable to the Clean Water Commission.
RESPONSE #13-4: The relationship between the numeric standard and an illness rate is clearly established in U.S. EPA guidance. Should either of these factors change in the guidance published by U.S. EPA, the department may reopen the rule to address any concerns such a change raises with the commission.

COMMENT #13-5: Comments support the decision to protect recreational uses within unclassified waters with narrative or general criteria. These comments suggest that narrative criteria for protection of secondary contact recreation be applied rather than the proposed numeric criteria and further state that the numeric criteria proposed to protect secondary contact recreation have no meaningful scientific or risk basis. The comments also relay that U.S. EPA has not developed any water quality criteria for secondary contact recreation, that Missouri's water quality standards already have a narrative criterion at 10 CSR 20-7.031(3)(E) that applies to all waters of the state and that "there shall be no significant human health hazard from incidental contact with the water." Additional comments were opposed to the higher bacteria levels for SCR than WBCR. A nine (9)-fold increase is unacceptable, no matter how little the water bodies are used by the public for recreation.
RESPONSE #13-5: Secondary contact recreation is a designated use within the state. Designated uses should have criteria to protect those uses. While it is true that Missouri's narrative criteria do have protections for human health from incidental contact with the water, a numeric criterion, where available and supported by science, is preferable as it provides a ready reference to measurable levels of pollutants from which to derive effluent limits or other discharge requirements. U.S. EPA recommends a secondary contact recreation standard of five (5) times the primary or whole body contact, but has also approved standards within other states at nine (9) times the whole body contact standard. It is true such a method is not based on a specific risk factor, therefore, the department may revisit this standard once more information becomes available on the risks from secondary contact with surface waters at various bacterial levels.

COMMENT #13-6: The fecal coliform and *E. coli* standards contained in 10 CSR 20-7.031(4)(C)1. and 2. (200/100mL for fecal coliform and 126/100mL for *E. coli*) should be used instead of other standards (548/100mL for *E. coli*) within this proposed rule. There is no scientific justification for higher levels that are protective of whole body contact recreation.
RESPONSE #13-6: U.S. EPA guidance allows for subcategorizing of whole body contact for the purpose of meeting the goal of the federal Clean Water Act as long as the criteria associated with the subcategories are protective. The guidance states that for identified or popular beach areas a criterion based on risk levels of eight (8) or fewer illnesses per one thousand (1,000) swimmers is protective (126/100mL for *E. coli*). For other primary contact recreation waters a criterion based on a risk level not greater than fourteen (14) illnesses per one thousand (1,000) swimmers is protective (548/100mL for *E. coli*). The majority of Missouri's waters are not popular public beach areas, have a lower frequency of visitors, and present different risk levels. Therefore, most of Missouri's surface waters warrant different standards than those necessary for public beaches.

COMMENT #13-7: The secondary contact recreation standards in paragraph 10 CSR 20-7.031(4)(C)2. under the heading of *E. coli* bacteria is erroneously expressed as a fecal coliform count.
RESPONSE AND EXPLANATION OF CHANGE #13-7: The department corrected this error. The sentence now refers to *E. coli* and not fecal coliform.

COMMENT #13-8: May want to consider specifying that the bacteria criteria apply to anthropogenic sources of bacteria as in Kansas water quality standards. Defining the bacterial standard to apply to anthropogenic sources could be useful when bacterial source tracking studies identify migratory birds or other wildlife as a significant source.
RESPONSE #13-8: Bacteria levels, regardless of their source, must meet the applicable standard for the associated designated use. If non-anthropogenic sources are the cause of nonattainment of a use and those sources cannot be remedied, a use attainability analysis may be the appropriate method to address the situation, either by modifying the standard or removing the use designation.

COMMENT #13-9: An illness rate beyond the one percent (1%) risk level for whole body contact is not acceptable without extensive scientific justification such as an epidemiological study. The results of a recent external peer review of an U.S. EPA reevaluation of the 1986 bacteria guidance shows that it is not scientifically defensible to extrapolate beyond a one percent (1%) risk level or 206/100mL *E. coli*.
RESPONSE #13-9: Past U.S. EPA guidance allowed for the use of a criterion at the 1.4% risk level. The state proposed the 1.4% risk level before knowledge of the recent external peer review. Discussions with stakeholders are needed due to the potential fiscal impact such a change in the standard could have statewide. The bacteria criterion for whole body contact recreation Category B will remain as proposed until further discussions with stakeholders and U.S. EPA.

COMMENT #13-10: A comment recommends that the bacteria geometric mean be established by sampling not less than four (4) samples over a thirty (30)-day period.

RESPONSE #13-10: This issue needs to be discussed further to determine its appropriateness. Most water quality samples within the state are not taken weekly as would be suggested by the use of such a requirement.

COMMENT #13-11: The units for bacteria indicators should be "per 100 mLs" rather than CFU/100 mLs or colonies/100 mLs. This will allow for the analyst performing the tests to use either a membrane filter technique (CFU/100 mLs or colonies/100 mLs) or the most probable number technique (MPN/100 mLs). They are both comparable and acceptable methods, but it simplifies reporting if everything is reported the same, such as 126 per 100 mLs.
RESPONSE AND EXPLANATION OF CHANGE #13-11: The proposed language was not intended to exclude acceptable methods. Therefore "colonies" will be removed from the bacteria criteria resulting in a unit of "per 100 mL."

14-Metals Criteria

COMMENT #14-1: The calculation of metals limits based on cold-water fisheries species statewide is more stringent than suggested or even requested by the U.S. EPA. These rulemakings should focus on the issues identified by the U.S. EPA. The extensive changes to the metals standards resulting from the water quality standards are dramatic, significant, and overly burdensome.
RESPONSE #14-1: The metals criteria for the protection of aquatic life were developed using U.S. EPA toxicity study data and guidance. The four (4) most sensitive genera were used to calculate each standard, which could be cold water genera or others depending on the parameter. All sensitive species or their surrogates need to be considered when a statewide standard is adopted. Future discussions with U.S. EPA and stakeholders could result in more ecoregion specific standards if supported by local data.

COMMENT #14-2: Some comments stated the metals criteria are appropriate and should remain as proposed.
RESPONSE #14-2: Although several concerns have been expressed with the proposed criteria, the *Code of State Regulations* retains the criteria shown in the proposed rulemaking. As stated in earlier responses, the science and data are not available at this time to support a proposed change to U.S. EPA's guidance. The department will consider changes in future standards revisions if the science and data are made available.

COMMENT #14-3: Requests that the proposed rule includes the needed flexibility to cost-effectively evaluate site-specific water quality criteria for heavy metals and cyanide. This should include alternative methods for developing water effect ratios, such as the use of a biotic ligand model and total-to-dissolved metals translators. The comment requests that adequate time be given to assess, plan, and implement the necessary improvements.
RESPONSE #14-3: Under subsection (4)(R) of the water quality standards, the procedure for site-specific criteria development for the protection of aquatic life is provided. Specifically paragraph 2. states that the department will provide guidance for establishing site-specific criteria using scientific procedures including, but not limited to, U.S. EPA's *Water Quality Standards Handbook*. This allows the flexibility for many methods to be considered as long as all methods used are scientifically defensible. Section (10) allows the department to offer a schedule for a discharger to achieve compliance with water quality based limitations as well as the option to apply for a variance.

15-Criteria for Outstanding National Resource Waters
COMMENT #15-1: Discharges to losing streams connected to ONRWs should be prohibited. Discharges to groundwater should be avoided if possible.
RESPONSE #15-1: No new or expanded releases are allowed into the watershed of the Ozark National Scenic Riverways or any other ONRW. This prohibition eliminates the allowance for any degradation of groundwater from its current quality as a result of surface discharges.

COMMENT #15-2: Changes to the standards for ONRWs should not result in any lesser protection to these waters.
RESPONSE AND EXPLANATION OF CHANGE #15-2: The purpose of this rulemaking was to resolve any portion of the rule that may result in lesser protection to these waters as they might receive under the federal Clean Water Act. U.S. EPA pointed out two (2) portions of the rule that made special exceptions for discharges from Publicly Operated Treatment Works (POTWs) and mine dewatering. To ensure these discharges comply with the same requirements as all other discharges within the watersheds of ONRWs, the references to the exceptions were removed from the rule. Furthermore, to avoid any perception that the department intends to lessen any protection on these waters, the department is restoring all the existing language to sections (7) and (8) of the rule with exception of the deletions described above. The department intends to review the existing language in sections (7) and (8) during the development of an Antidegradation Implementation Procedure due to U.S. EPA by April 30, 2007.

16-Criteria for Rare and Endangered Species
COMMENT #16-1: The presence of populations of federally threatened and endangered species dictates that water bodies have outstanding national ecological significance and should therefore receive special protection against any degradation in quality. Recommend that those stream segments identified with the upstream and downstream milepoints of known occurrences of federally threatened and endangered species be added to Table D and the definition of Outstanding National Resource Waters be amended to include these waters.
RESPONSE #16-1: Paragraph 10 CSR 20-7.031(1)(C)13. defines the designated use entitled "habitat for resident and migratory wildlife species" and provides for the protection of rare and endangered species. However, this use has neither been assigned to any water as of yet nor has any criteria been assigned to protect that use. These issues, among others to protect threatened and endangered species within the state of Missouri, are scheduled to be discussed during future rulemakings.

17-Losing Streams/Protection of Groundwater
COMMENT #17-1: All streams south of I-70 should be considered losing until a geologic study is completed.
RESPONSE #17-1: Not all streams south of Interstate 70 were evaluated for potential groundwater connections, and it is likely that some of these streams are losing. Consequently, all streams are evaluated for potential groundwater connections as part of the permit application requirement. Therefore, designating all streams south of I-70 as losing would not necessarily add any protection to water quality but may pose unnecessarily stringent effluent limits where streams are found to not have a groundwater connection.

COMMENT #17-2: One (1) comment suggested requiring disinfection of all wastewater discharging below (south) I-70. Another comment suggested that a study to determine losing status should be conducted on all water bodies being considered for recreational use removal.
RESPONSE #17-2: Disinfection is necessary only where needed to protect whole body contact recreation use and groundwater. The proposed rule will designate all classified streams for whole body contact recreation except where a UAA has demonstrated that the use is not existing and not attainable. Groundwater will be protected as explained in RESPONSE #17-1.

18-Table A - Numeric Water Quality Criteria
COMMENT #18-1: The current levels of dissolved oxygen (DO) do not allow aquatic life to thrive in an aquatic system. Recommend

increasing the dissolved oxygen minimums during spawning periods and early life stages of aquatic life. The comment suggested alternative DO minimums.
RESPONSE #18-1: The current criterion for dissolved oxygen is based on USEPA guidance. The standards may accommodate specific criteria for different types of aquatic life uses. However, further discussion and research will be needed to develop the additional standards.

COMMENT #18-2: The department is proposing to adopt the same national water quality criteria for all aquatic life use subcategories (lakes, cold-water fisheries, cool-water fisheries, general warm-water fisheries, and limited warm-water fisheries) without taking into consideration the differences in sensitivities of resident populations. The department should use EPA approved procedures for developing and implementing site-specific criteria to adopt water quality standards that are neither overprotective nor underprotective.
RESPONSE #18-2: Based on available science and resources at the time of the proposed rule, only a statewide standard was adopted. More specific criteria may be developed in the future for certain parameters within the different designated uses of aquatic life once more information is available.

COMMENT #18-3: The synergistic effects of combined pollutants are not considered in the proposed rules. Urge the commission to study and consider how chemical actions combine to produce unforeseen effects.
RESPONSE #18-3: Currently, language at paragraph (4)(B)1. states that "More stringent criteria may be imposed if there is evidence of additive or synergistic effects." While this rule allows for the review of synergistic effects, this topic should be discussed in future rulemakings if more specific criteria are to be developed to address synergistic effects.

19-Ammonia Criteria and Early Life Stages
COMMENT #19-1: Three (3) comments support the adoption of U.S. Environmental Protection Agency's 1999 ammonia criteria.
RESPONSE #19-1: The portions of the proposed rule regarding total ammonia nitrogen are retained in the *Code of State Regulations* as proposed in the *Missouri Register*.

COMMENT #19-2: Several comments supported the protection of early life stages of aquatic life. Three (3) comments recognize that USEPA is performing studies that may show the need for more stringent standards for ammonia in order to protect more sensitive species such as freshwater mussels and other filter feeders. Because the proposed criteria for ammonia reduces the stringency of ammonia standards under certain circumstances, the comments state that the proposed standards may not be protective of these more sensitive species. The comments request that the current ammonia standards be retained in order to protect the more sensitive species.
RESPONSE #19-2: The most recent ammonia criteria developed by U.S. EPA are being proposed. The summary of the criteria states that some data for the fingernail clam indicate that the species would be affected at concentrations below the chronic criteria, while other data shows no effect. Since the criteria were approved by U.S. EPA, new data has indicated additional sensitive species. However, new criteria has not been fully developed as of yet. Upon the development of new criteria, the department may later propose revisions to the standards to protect those species shown by future studies to be sensitive to any lesser ammonia levels. Until then, the rules will reflect the latest guidance published by U.S. EPA, which at this time are the 1999 ammonia criteria.

COMMENT #19-3: Consider defining a seasonal period during which early life stages of fish are present.
RESPONSE #19-3: Each water body has different assemblages of fish with differing sensitivities during their early life stages. To define a statewide seasonal period during which early life stages are present would create standards that are overly restrictive in most water bodies. The department may consider for the future adding information into the rule to better describe when early life stages of certain species are present. In the interim, the department may consult with aquatic life biologists and/or toxicologists as well as scientific materials to address any specific concerns regarding variations in the seasonal presence of early life stages.

COMMENT #19-4: There is a need to develop seasonal effluent limitations where they are appropriate, such as for ammonia, dissolved oxygen, and hardness-dependent metals because of the dependency of these criteria on seasonal changes, such as temperature, pH, and hardness.
RESPONSE #19-4: Ammonia toxicity is highly dependent on water pH and temperature. The new rule proposes criteria for total ammonia nitrogen based on pH only (acute) or on pH and temperature of the receiving water (chronic). Currently, permitted facilities have winter and summer effluent limits for ammonia nitrogen. Having two (2) seasons for ammonia nitrogen limits seems to be the optimum number. Hardness varies more with stream flow (rainfall) than with temperature, consequently, seasonality for hardness-dependent metal criteria is not practical. Dissolved oxygen saturation and content are temperature dependent in that they are inversely related to water temperature. Because DO is not a pollutant but a measure of the health of a water body and its criteria is a minimum, seasonal variation does not affect the criterion.

COMMENT #19-5: Paragraph 10 CSR 20-7.031(4)(B)7. should be reconsidered. Single (instantaneous) pH and temperature measurement may be appropriate for acute ammonia criterion. However, chronic ammonia criteria determination should be based on thirty (30)-day appropriate central tendencies of ambient pH and temperature data.
RESPONSE #19-5: Instantaneous pH and temperature data are needed for each sample to ensure compliance with the criteria. U.S. EPA states that the calculation of an appropriate weighted average temperature or pH is complicated. U.S. EPA also states that if samples obtained from a receiving water over a period of time during which pH and/or temperature is not constant, the pH, temperature, and the concentration of total ammonia in each sample should be determined. Then the concentration of the total ammonia nitrogen in the sample should be divided by the criterion to determine a quotient. The criterion is attained if the mean of the quotients is less than one over the duration of the averaging period.

COMMENT #19-6: The proposed rule would be improved by reflecting that the one (1) Q_{10} and thirty (30) Q_{10} flow values are used as design flows in determining zones of initial dilution and mixing zone allowances and as part of the waste load allocation process. Also, specify the optional use of the thirty (30) Q_5 design flow for calculating steady-state waste load allocations.
RESPONSE #19-6: The proposed rule at subparagraphs (4)(B)7.A. and B. states that the acute total ammonia nitrogen criteria shall be determined using the one (1) Q_{10} and the chronic criteria shall be determined using the thirty (30) Q_{10}. These values are based on recommendation by U.S. EPA in their total ammonia nitrogen guidance. The department believes this issue has been already addressed and proposes no changes to the rule language.

COMMENT #19-7: Clarify that references to early life stages apply to fish rather than any aquatic organism. The definition for early life stages is too focused on early life stages of fish, and does little to define the early life stages of other aquatic organisms. Freshwater mussels do not ordinarily "feed" (in the typical sense) during their larval (glochidial) stage. Fish are not the only aquatic organism with an early life stage that is affected by high levels of total ammonia

nitrogen. Alternative language is needed in order for part (4)(B)7.C.(I) to include all aquatic organisms.
RESPONSE #19-7: The 1999 U.S. EPA ammonia criteria are based on the toxicology of fish due to their known sensitivity to ammonia. Available toxicity data used by U.S. EPA for invertebrates and other aquatic life showed either conflicting results or no toxic effect. However, recent research has indicated that other organisms, especially mussels, are sensitive to ammonia. Upon the development of new criteria, the department may later propose revisions to the standards to protect those species shown by future studies to be sensitive to any lesser ammonia levels. Until then, the rules will reflect the latest guidance published by U.S. EPA, which at this time are the 1999 ammonia criteria.

COMMENT #19-8: There is not a period of time when an early life stage of some type of aquatic organism would not be present in any aquatic system in Missouri when water is present. Alternative language is needed to show that early life stages of aquatic organisms are present at all times of the year.
RESPONSE #19-8: Subparagraph 10 CSR 20-7.031(4)(B)7.C. states, "without sufficient and reliable data, it is assumed that early life stages are present and must be protected at all times of the year." Data would need to be presented to prove when early life stages are absent. This comment has already been addressed by language in the rule.

COMMENT #19-9: It cannot be determined if or when chronic toxicity would not affect the long-term success of a population. This comment recommends deleting 10 CSR 20-7.031(4)(B)7.C.(II) from the proposed rule.
RESPONSE #19-9: U.S. EPA conducted or gathered data on chronic toxicity for periods when early life stages are absent and developed criteria that would protect the long-term success of a population. Scientific toxicity tests are available to determine when specific early life stages are absent or at levels where toxicity is unlikely to result in long-term effects on the population which should ensure the long-term success of a population. Should additional data be presented and new criteria developed that show the chronic criteria would affect the long-term success of a population, the department will revise the criteria. However, the department has not seen any evidence to support the removal of the chronic criteria for when early life stages are absent.

COMMENT #19-10: Professional fisheries biologists and other scientists should be consulted to determine the presence and duration of early life stages of aquatic organisms, especially organisms other than fish. This comment suggests alternative language for part 10 CSR 20-7.031(4)(B)7.C.(III).
RESPONSE #19-10: Part 10 CSR 20-7.031(4)(B)7.C.(I) states that "best professional judgement from fisheries biologists and other scientists will be considered as appropriate." Upon the development of new criteria to protect potential sensitive species other than fish, the department may later propose revisions to the language as suggested by the comment to protect those species. Until then, the rule language adequately allows for the requested consultation to take place.

20-Nutrient Criteria
COMMENT #20-1: The department needs to develop nutrient criteria. State should adopt U.S. EPA guidance.
RESPONSE #20-1: The department intends to develop nutrient criteria based on Missouri's unique characteristics. U.S. EPA's guidance will be considered in the development of future water quality standards revisions on nutrient criteria.

21-Hancock Issue
COMMENT #21-1: This rulemaking violates the Hancock Amendment.
RESPONSE #21-1: This rulemaking does not violate the Hancock Amendment, as it only serves to implement the requirements under federal law. The current rule designates all classified waters for whole body contact recreation, unless a Use Attainability Analysis (UAA) has demonstrated that such water cannot attain that use. This designation is required pursuant to the federal Clean Water Act (33 U.S.C. 1251). Article X, Section 21 of the *Missouri Constitution* establishes, "A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency or counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs." This amendment only prohibits the state from reducing its financed portion of any existing activity or service for which state law requires. The whole body contact recreation designation in this rule are not state requirements, but rather federal requirements.

The Supremacy Clause of the *United States Constitution* establishes that no state law, either statutory or constitutional, can prevent the full implementation of a federal law (U.S. Const. Art. 6) (*State of Missouri v. City of Glasgow*). The whole body contact designations and implementing requirements reflected in this rulemaking are mandated by federal law. Accordingly, the Hancock Amendment, a state constitutional requirement, may not prevent the department from fully implementing requirements of federal law. Further, the designations in this rule are no more stringent than those of federal law.

As a trustee of public funds, the department works hard to understand the fiscal impact of new environmental laws and to minimize expenses whenever possible. Therefore, the department is working diligently to aid in the collection of data for the UAAs. Also, the program is structured to allow the maximum amount of flexibility in achieving compliance with these federal requirements.

22-Schedule of Compliance
COMMENT #22-1: Several comments addressed the proposed schedule of compliance at 10 CSR 20-7.015(9)(H):
•Implementation schedule should be extended to allow up to five (5) years for compliance with the proposed rules;
•Permit holders who have applied for permit renewals but receive a permit after the effective date of the rule due to no fault of their own should get eight (8) years to comply;
•Implementation schedule should be lengthened and should consider time necessary to conduct studies and to implement plans following the completion of studies;
•Compliance schedule should be expanded from three (3) years to five (5);
•Temporary waivers from the new rules should be granted for facilities that have submitted an application for a permit prior to the effective date of the rule;
•The rules should provide up to five (5) years for compliance upon issuance of a permit;
•All facilities should not be granted more than three (3) years from the effective date of the rule to comply with the bacteria standard;
•The implementation schedule should also consider the socio-economic impact to communities;
•More flexibility in schedule for complying with new bacteria standards (allow for five (5) years); and
•Rule should be amended to allow for a compliance schedule longer than three (3) years, and suggests five (5) years. Longer period is suggested for combined sewer overflow (CSO) communities.
RESPONSE AND EXPLANATION OF CHANGE #22-1: The revised language in section (10) refers to the Effluent Regulations at 10 CSR 20-7.015(9)(H) for a schedule to comply with new bacteria standards resulting from the new designation for whole body contact recreational use.

10 CSR 20-7.031 Water Quality Standards

(1) Definitions.
(C) Beneficial or designated uses. Those uses specified in paragraphs 1.–15. of this subsection for each water body segment whether or not they are attained. Beneficial or designated uses

(1)(C)1.–11. of classified waters are identified in Tables G and H. Beneficial or designated uses (1)(C)12.–15. of classified waters must be determined on a site-by-site basis and are therefore not listed in Tables G and H.

1. Irrigation—Application of water to cropland or directly to plants that may be used for human or livestock consumption. Occasional supplemental irrigation, rather than continuous irrigation, is assumed.

2. Livestock and wildlife watering—Maintenance of conditions to support health in livestock and wildlife.

3. Cold-water fishery—Waters in which naturally occurring water quality and habitat conditions allow the maintenance of a naturally reproducing or stocked trout fishery and other naturally reproducing populations of recreationally important fish species.

4. Cool-water fishery—Waters in which naturally occurring water quality and habitat conditions allow the maintenance of a sensitive, high-quality sport fishery (including smallmouth bass and rock bass) and other naturally reproducing populations of recreationally important fish species.

5. Protection of aquatic life (General warm-water fishery)—Waters in which naturally occurring water quality and habitat conditions allow the maintenance of a wide variety of warm-water biota, including naturally reproducing populations of recreationally important fish species. This includes all Ozark Class C and P streams, all streams with seven (7)-day Q_{10} low flows of more than one-tenth cubic foot per second (0.1 cfs), all P1 streams and all classified lakes. However, individual Ozark Class C streams may be determined to be limited warm-water fisheries on the basis of limited habitat, losing-stream classification, land-use characteristics or faunal studies which demonstrate a lack of recreationally important fish species.

6. Protection of aquatic life (Limited warm-water fishery)—Waters in which natural water quality and/or habitat conditions prevent the maintenance of naturally reproducing populations of recreationally important fish species. This includes non-Ozark Class C streams and non-Ozark Class P streams with seven (7)-day Q_{10} low flows equal to or less than 0.1 cfs and Ozark Class C streams with the characteristics outlined in paragraph (1)(C)5.

7. Human health protection (Fish consumption)—Criteria to protect this use are based on the assumption of an average amount of fish consumed on a long-term basis. Protection of this use includes compliance with Food and Drug Administration (FDA) limits for fish tissue, maximum water concentrations corresponding to the 10^{-6} cancer risk level and other human health fish consumption criteria.

8. Whole body contact recreation—Activities in which there is direct human contact with the raw surface water to the point of complete body submergence. The raw water may be ingested accidentally and certain sensitive body organs, such as the eyes, ears and the nose, will be exposed to the water. Although the water may be ingested accidentally, it is not intended to be used as a potable supply unless acceptable treatment is applied. Water so designated is intended to be used for swimming, water skiing or skin diving. All waters in Tables G and H of this rule are presumed to support whole body contact recreation unless a Use Attainability Analysis (UAA) has shown that the use is unattainable. The use designation for whole body contact recreation may be removed or modified through a UAA for only those waters where whole body contact is not an existing use. Assignment of this use does not grant an individual the right to trespass when a land is not open to and accessible by the public through law or written permission of the landowner.

A. Category A—This category applies to those water segments that have been established by the property owner as public swimming areas allowing full and free access by the public for swimming purposes and waters with existing whole body contact recreational use(s). Examples of this category include, but are not limited to, public swimming beaches and property where whole body contact recreational activity is open to and accessible by the public through law or written permission of the landowner.

B. Category B—This category applies to waters designated for whole body contact recreation not contained within Category A.

9. Secondary contact recreation—Uses include fishing, wading, commercial and recreational boating, any limited contact incidental to shoreline activities, and activities in which users do not swim or float in the water. These recreational activities may result in contact with the water that is either incidental or accidental and the probability of ingesting appreciable quantities of water is minimal. Assignment of this use does not grant an individual the right to trespass when a land is not open to and accessible by the public through law or written permission of the landowner.

10. Drinking water supply—Maintenance of a raw water supply which will yield potable water after treatment by public water treatment facilities.

11. Industrial process water and industrial cooling water—Water to support various industrial uses; since quality needs will vary by industry, no specific criteria are set in these standards.

12. Storm- and flood-water storage and attenuation—Waters which serve as overflow and storage areas during flood or storm events slowly release water to downstream areas, thus lowering flood peaks and associated damage to life and property.

13. Habitat for resident and migratory wildlife species, including rare and endangered species—Waters that provide essential breeding, nesting, feeding and predator escape habitats for wildlife including waterfowl, birds, mammals, fish, amphibians and reptiles.

14. Recreational, cultural, educational, scientific and natural aesthetic values and uses—Waters that serve as recreational sites for fishing, hunting and observing wildlife; waters of historic or archaeological significance; waters which provide great diversity for nature observation, educational opportunities and scientific study.

15. Hydrologic cycle maintenance—Waters hydrologically connected to rivers and streams serve to maintain flow conditions during periods of drought. Waters that are connected hydrologically to the groundwater system recharge groundwater supplies and assume an important local or regional role in maintaining groundwater levels.

(G) Early life stages of fish—The pre-hatch embryonic period, the post-hatch free embryo or yolk-sac fry, and the larval period during which the organism feeds. Juvenile fish, which are anatomically rather similar to adults, are not considered an early life stage.

(H) Existing uses—Those uses actually attained in the water body on or after November 28, 1975, whether or not they are identified in the water quality standards.

(I) Ecoregion—A major region within the state which contains waters with similar geological, hydrological, chemical and biological characteristics.

(J) Epilimnion—Zone of atmospheric mixing in a thermostratified lake.

(K) Fecal coliform bacteria—A group of bacteria originating in intestines of warm-blooded animals which indicates the possible presence of pathogenic organisms in water.

(L) Hypolimnion—Zone beneath the zone of atmospheric mixing in a thermostratified lake.

(M) Lethal concentration$_{50}$ (LC_{50})—Concentration of a toxicant which would be expected to kill fifty percent (50%) of the individuals of the test species organisms in a test of specified length of time.

(N) Losing stream—A stream which distributes thirty percent (30%) or more of its flow during low flow conditions through natural processes, such as through permeable geologic materials into a bedrock aquifer within two (2) miles' flow distance downstream of an existing or proposed discharge. Flow measurements to determine percentage of water loss must be corrected to approximate the seven (7)-day Q_{10} stream flow. If a stream bed or drainage way has an intermittent flow or a flow insufficient to measure in accordance with this rule, it may be determined to be a losing stream on the basis of channel development, valley configuration, vegetation development, dye tracing studies, bedrock characteristics, geographical data and other geological factors. Losing streams are listed in Table J; additional streams may be determined to be losing by the Missouri Department of Natural Resources.

(O) Low-flow conditions—Where used in this regulation in the context of mixing zones, the low-flow conditions shall refer to the minimum amount of stream flow occurring immediately upstream of a wastewater discharge and available, in whole or in part, for attenuation of wastewater pollutants.

1. Seven (7)-day**,** one (1)-in-ten (10)-year low flow (7-day Q_{10})—The lowest average flow for seven (7) consecutive days that has a probable recurrence interval of once-in-ten (10) years.

2. Sixty (60)-day, one (1)-in-two (2)-year low flow (60-day Q_2)—The lowest average flow for sixty (60) consecutive days that has a probable recurrence interval of once-in-two (2) years.

3. Thirty (30)-day, one (1)-in-ten (10)-year low flow (30-day Q_{10})—The lowest average flow for thirty (30) consecutive days that has a probable recurrence interval of once-in-ten (10) years.

4. One (1)-day, one (1)-in-ten (10)-year low flow (1-day Q_{10})—The lowest average flow for one (1) day that has a probable recurrence interval of once-in-ten (10) years.

(P) Mixing zone—An area of dilution of effluent in the receiving water beyond which chronic toxicity criteria must be met.

(Q) Outstanding national resource waters—Waters which have outstanding national recreational and ecological significance. These waters shall receive special protection against any degradation in quality. Congressionally designated rivers, including those in the Ozark national scenic riverways and the wild and scenic rivers system, are so designated (see Table D).

(R) Outstanding state resource waters—High quality waters with a significant aesthetic, recreational or scientific value which are specifically designated as such by the Clean Water Commission (see Table E).

(S) Ozark streams—Streams lying within the Ozark faunal region as described in the *Aquatic Community Classification System for Missouri*, Missouri Department of Conservation, 1989.

(T) Reference lakes or reservoirs—Lakes or reservoirs determined by Missouri Department of Natural Resources to be the best available representatives of ecoregion waters in a natural condition with respect to habitat, water quality, biological integrity and diversity, watershed land use, and riparian conditions.

(U) Reference stream reaches—Stream reaches determined by the department to be the best available representatives of ecoregion waters in a natural condition, with respect to habitat, water quality, biological integrity and diversity, watershed land use and riparian conditions.

(V) Regulated-flow streams—A stream that derives a majority of its flow from an impounded area with a flow-regulating device.

(W) Use Attainability Analysis (UAA)—A structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in 40 CFR 131.10(g).

(X) Water effect ratio—Appropriate measure of the toxicity of a material obtained in a site water divided by the same measure of the toxicity of the same material obtained simultaneously in a laboratory dilution water.

(Y) Water hardness—The total concentration of calcium and magnesium ions expressed as calcium carbonate. For purposes of this rule, hardness will be determined by the lower twenty-fifth percentile value of a representative number of samples from the water body in question or from a similar water body at the appropriate stream flow conditions.

(Z) Water quality criteria—Chemical, physical and biological properties of water that are necessary to protect beneficial water uses.

(AA) Waters of the state—All rivers, streams, lakes, and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased, or otherwise controlled by a single person or by two (2) or more persons jointly or as tenants in common and includes waters of the United States lying within the state.

(BB) Wetlands—Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. This definition is consistent with both the United States Army Corps of Engineers 33 CFR 328.3(b) and the United States Environmental Protection Agency 40 CFR 232.2(r).

(CC) Whole effluent toxicity tests—A toxicity test conducted under specified laboratory conditions on specific indicator organisms. To estimate chronic and acute toxicity of the effluent in its receiving stream, the effluent may be diluted to simulate the computed percent effluent at the edge of the mixing zone or zone of initial dilution.

(DD) Zone of initial dilution—A small area of initial mixing below an effluent outfall beyond which acute toxicity criteria must be met.

(EE) Zone of passage—A continuous water route necessary to allow passage of organisms with no acutely toxic effects produced on their populations.

(FF) Other definitions as set forth in the Missouri Clean Water Law and 10 CSR 20-2.010 shall apply to terms used in this rule.

(4) Specific Criteria. The specific criteria shall apply to classified waters. Protection of drinking water supply is limited to surface waters designated for raw drinking water supply and aquifers. Protection of whole body contact recreation is limited to classified waters designated for that use.

(C) Bacteria. Protection of whole body contact recreation is limited to classified waters designated for that use. Either of the following bacteria criterion shall apply until December 31, 2008; at which time, only *E. coli* criterion shall apply. The recreational season is from April 1 to October 31.

1. Fecal coliform bacteria—the fecal coliform count shall not exceed the criterion listed in Table A as a geometric mean during the recreational season in waters designated for whole body contact recreation. The fecal coliform count shall not exceed two hundred (200) per one hundred milliliters (100 mL) at any time in losing streams. For waters designated for secondary contact recreation, the fecal coliform count shall not exceed one thousand eight hundred (1,800) per one hundred milliliters (100 mL) as a geometric mean during the recreational season; or

2. *E. Coli* bacteria—the *E. coli* count shall not exceed the criterion listed in Table A as a geometric mean during the recreational season in waters designated for whole body contact recreation. The *E. coli* count shall not exceed one hundred twenty-six (126) per one hundred milliliters (100 mL) at any time in losing streams. For waters designated for secondary contact recreation, the *E. coli* count shall not exceed one thousand one hundred thirty-four (1,134) per one hundred milliliters (100 mL) as a geometric mean during the recreational season.

(R) Site-Specific Criteria Development for the Protection of Aquatic Life. When water quality criteria in this regulation are either underprotective or overprotective of water quality due to natural, non-anthropogenic conditions for a given water body segment, a petitioner may request site-specific criteria. The petitioner must provide the department with sufficient documentation to show that the current criteria are not adequate and that the proposed site-specific criteria will protect all existing and/or potential uses of the water body.

1. Site-specific criteria may be appropriate where, but is not limited to the examples given in subparagraphs A. or B. of this paragraph:

A. The resident aquatic species of the selected water body have a different degree of sensitivity to a specific pollutant as compared to those species in the data set used to calculate the national or state criteria as described in either of the following parts:

(I) Natural adaptive processes have enabled a viable, balanced aquatic community to exist in waters where natural (non-anthropogenic) background conditions exceed the criterion (e.g., resident species have evolved a genetically based greater tolerance to

high concentrations of a chemical); or

(II) The composition of aquatic species in a water body is different from those used in deriving a criterion (e.g., most of the species considered among the most sensitive, such as salmonids or the cladoceran, *Ceriodaphinia dubia*, which were used in developing a criterion, are absent from a water body).

B. The physical and/or chemical characteristics of the water body alter the biological availability and/or toxicity of the pollutant (e.g., pH, alkalinity, salinity, water temperature, hardness).

2. All petitioners seeking to develop site-specific criteria shall coordinate with the department early in the process. This coordination will insure the use of adequate, relevant, and quality data; proper analysis and testing; and defendable procedures. The department will provide guidance for establishing site-specific water quality criteria using scientific procedures including, but not limited to, those procedures described in the U. S. Environmental Protection Agency's *Water Quality Standards Handbook*, Second Edition, August 1994.

3. Site-specific criteria shall protect all life stages of resident species and prevent acute and chronic toxicity in all parts of a water body.

4. Site-specific criteria shall include both chronic and acute concentrations to better reflect the different tolerances of resident species to the inherent variability between concentrations and toxicological characteristics of a chemical.

5. Site-specific criteria shall be clearly identified as maximum "not to be exceeded" or average values, and if an average, the averaging period and the minimum number of samples. The conditions, if any, when the criteria apply shall be clearly stated (e.g., specific levels of hardness, pH, or water temperature). Specific sampling requirements (e.g., location, frequency), if any, shall also be identified.

6. The data, testing procedures, and application (safety) factors used to develop site-specific criteria shall reflect the nature of the chemical (e.g., persistency, bioaccumulation potential, and avoidance or attraction responses in fish) and the most sensitive resident species of a water body.

7. The size of a site may be limited to a single water segment, single water subsegment, or may cover a whole watershed depending on the particular situation for which the specific criterion is developed. A group of water bodies may be considered one (1) site if their respective aquatic communities are similar in composition and have comparable water quality.

8. The department shall determine if a site-specific criterion is adequate and justifiable. Each site-specific criterion shall be promulgated into rule 10 CSR 20-7.031. The public notice shall include a description of the affected water body or water body segment and the reasons for applying the proposed criterion. If the department determines that there is significant public interest, a public hearing may be held in the geographical vicinity of the affected water body or water body segment. Any site-specific criterion promulgated under these provisions is subject to U.S. EPA approval prior to becoming effective.

(7) Outstanding National Resource Waters. Under section (2), antidegradation section of this rule, new releases to outstanding national resource waters from any source are prohibited and releases from allowed facilities are subject to special effluent limitations as required in 10 CSR 20-7.015(6). Table D contains a list of the outstanding national resource waters in Missouri.

(8) Outstanding State Resource Waters. The commission wishes to recognize certain high-quality waters that may require exceptionally stringent water quality management requirements to assure conformance with the antidegradation policy. The degree of management requirements will be decided on an individual basis. To qualify for inclusion, all of the following criteria must be met. The waters listed in Table E must—

(A) Have a high level of aesthetic or scientific value;

(B) Have an undeveloped watershed; and

(C) Be located on or pass through lands which are state or federally owned, or which are leased or held in perpetual easement for conservation purposes by a state, federal, or private conservation agency or organization.

(10) Compliance with Water Quality Based Limitations. Compliance with new or revised National Pollutant Discharge Elimination System (NPDES) or Missouri operating permit limitations based on criteria in this rule shall be achieved with all deliberate speed and no later than three (3) years from the date of issuance of the permit except where provided for otherwise in 10 CSR 20-7.015(9)(H).

NOTE: Only changed segments of Table A are reprinted in this order.

Table A—Criteria for Designated Uses

WBC = Whole Body Contact Recreation
SCR = Secondary Contact Recreation
AQL = Protection of Aquatic Life
HHF = Human Health Protection-Fish Consumption
DWS = Drinking Water Supply
LWW = Livestock, Wildlife Watering
GRW = Groundwater

Pollutant (/100 mL)	WBC-A	WBC-B	SCR
Fecal Coliform Bacteria*	200		1,800
E.coli Bacteria*	126	548	1,134

*Geometric mean during the recreational season in waters designated for recreation or at any time in losing streams. The recreational season is from April 1 to October 31.

Pollutant (µg/L)	AQL	HHF	DWS	IRR	LWW	GRW
Metals (Non-Hardness Dependent)						
Aluminum (acute)	750					
Antimony		4,300	6			6
Arsenic	20		50	100		50
Barium			2,000			2,000
Beryllium	5		4	100		4
Boron			2,000			2,000
Cadmium	*		5			5
Chromium III	*		100	100		100
Chromium VI						
chronic	10					
acute	15					
Cobalt					1,000	1,000
Copper	*		1,300		500	1,300
Iron	1,000					300
Lead	*		15			15
Manganese						50
Mercury			2			2
chronic	0.5					
acute	2.4					
Nickel	*		100			100
Selenium	5		50			50
Silver	*		50			50
Thallium		6.3	2			2
Zinc	*		5,000			5,000

*See Metals (Hardness Dependent)

NOTE: Only changed segments of Table H are reprinted in this order.

TABLE H—STREAM CLASSIFICATIONS AND USE DESIGNATIONS

WATER BODY	CLASS	MILES	FROM	TO	COUNTY	COUNTY 2	IRR	LWW	AQL	CLF	CDF	WBC	SCR	DWS	IND
Bachelor Cr.	C	1.0	Mouth	08,42N,01W	Franklin			x	x						
Barber Cr.	C	7.5	Mouth	Hwy. 136	Sullivan	Putnam		x	x						
Basin Fk.	C	12.7	Mouth	17,44N,23W	Pettis			x	x						
Bell Cr.	C	6.0	Mouth	09,37N,12W	Pulaski			x	x						
Big Bottom Cr.	C	1.9	Mouth	Lake Ann	Ste. Genevieve			x	x						
Big Bottom Cr.	C	2.1	Lake Ann	13,37N,07E	Ste. Genevieve			x	x			B			
Big Deer Cr.	C	4.0	Mouth	27,42N,31W	Bates			x	x						
Big Muddy Cr.	C	11.0	33,60N,27W	09,61N,27W	Daviess			x	x						
Bigelow's Cr.	C	5.0	Mouth	15,44N,01E	St. Charles			x	x						
Trib. to Bird Br.	C	0.6	Mouth	14,41N,22W	Benton			x	x						
Birkhead Br.	C	2.0	Mouth	16,49N,02E	Lincoln			x	x						
Blue Ditch	C	5.0	14,27N,14E	29,28N,14E	Scott		x	x	x				x		
Blythes Cr.	P	6.5	Mouth	Bus. Hwy. 54	Moniteau	Miller		x	x						
Bones Br.	C	5.5	Mouth	29,41N,31W	Bates			x	x						
Trib. to Browns Br.	C	3.0	Mouth	13,43N,01W	Franklin			x	x						
Brushy Cr.	P	3.0	Mouth	SW32,46N,21W	Pettis			x	x						
Burgher Br.	C	2.0	Mouth	07,37N,07W	Phelps			x	x						
Burkhart Br.	C	3.5	Mouth	12,31N,12W	Texas			x	x						
Burton Br.	C	2.0	Mouth	13,31N,10W	Texas			x	x						
Trib. to Busch Cr.	C	1.5	Mouth	35,44N,1W	Franklin			x	x						
Trib. to Busch Cr.	C	2.0	Mouth	34,44N,1W	Franklin			x	x						
Callahan Cr.	C	11.5	Mouth	23,50N,14W	Boone			x	x						
Camp Br.	C	3.5	Mouth	35,29N,10W	Texas			x	x						
Carney Cr.	C	4.0	Mouth	3,24N,25W	Barry			x	x						
Cason Br.	C	2.5	Mouth	21,45N,10W	Callaway			x	x						
Clark Fk.	C	6.0	15,43N,13W	34,43N,13W	Cole			x	x						
Clear Cr.	C	12.0	Mouth	State Line	Nodaway			x	x						
Clear Cr.	C	2.5	Mouth	36,49N,6W	Montgomery			x	x						
Cole Camp Cr.	C	4.3	07,42N,21W	27,43N,21W	Benton			x	x						
Collier Cr.	C	2.5	Mouth	18,45N,8W	Callaway			x	x						
Coon Cr.	C	9.0	Mouth	08,53N,13W	Monroe	Randolph		x	x						
Trib. to Coon Cr.	C	1.0	Mouth	32,54N,13W	Randolph			x	x						
Coon Cr.	C	13.0	Mouth	10,50N,6W	Montgomery			x	x						
Trib to Coon Cr.	C	0.5	Mouth	11,45N,22W	Pettis			x	x						
Cow Cr.	C	2.5	Mouth	26,47N,8W	Callaway			x	x						
Cox Br.	C	2.2	Mouth	Hwy.V	Phelps			x	x						
Craven Ditch	C	11.0	Mouth	16,24N,6E	Butler		x	x	x						
Trib. to Davis Cr.	C	3.0	Mouth	3,61N,38W	Holt			x	x						
Davis Cr. Ditch	C	6.5	Mouth	6,61N,38W	Holt			x	x						
Dicks Cr.	C	7.0	Mouth	33,54N,33W	Platte			x	x						
Ditch #8	C	20.5	12,21N,11E	1,24N,11E	New Madrid	Stoddard		x	x						
Dog Cr.	C	7.0	12,40N,14W	5,39N,14W	Miller			x	x						
Double Br.	C	6.0	Mouth	19,39N,30W	Bates			x	x						
Dry Hollow	C	0.5	15,28N,28W	22,28N,28W	Lawrence			x	x						
Dry Valley Br.	C	2.0	26,27N,29W	25,27N,29W	Newton	Lawrence		x	x						
Dubois Cr.	C	4.0	Hwy. 100	Hwy. 47	Franklin			x	x						
E. Brush Cr.	C	8.0	Mouth	16,45N,15W	Moniteau			x	x						
E. Fk. Honey Cr.	C	8.0	29,63N,23W	3,64N,23W	Grundy	Mercer		x	x						
E. Fk. Locust Cr.	P	3.6	23,62N,20W	Hwy. 6	Sullivan			x	x						
E. Fk. Locust Cr.	P	13.0	Mouth	23,62N,20W	Sullivan			x	x			B			
E. Fk. Roubidoux Cr.	C	4.5	4,31N,11W	24,31N,11W	Texas			x	x						
E. Yellow Cr.	P	32.0	20,56N,19W	7,60N,18W	Chariton	Linn		x	x				x		
Elkhorn Cr.	C	8.0	Mouth	13,63N,37W	Nodaway			x	x						
Emery Hollow	C	3.9	Mouth	28,31N,10W	Texas			x	x						
Factory Cr.	C	4.0	2,46N,14W	32,47N,14W	Moniteau			x	x						
Fenton Cr.	C	0.6	Mouth	Hwy. V	Franklin			x	x						
Trib. to Flat Cr.	C	2.3	Mouth	15,45N,20W	Pettis			x	x						
Flinger Br.	C	1.7	Mouth	17,28N,08W	Texas			x	x						
Fountain Farm Br.	C	1.8	Mouth	32,38N,03E	Washington			x	x						
							IRR	LWW	AQL	CLF	CDF	WBC	SCR	DWS	IND

IRR—Irrigation
LWW—Livestock & Wildlife Watering
AQL—Protection of Warm Water Aquatic Life and Human Health-Fish Consumption
CLF—Cool-Water Fishery
CDF—Cold-Water Fishery
WBC—Whole Body Contact Recreation
SCR—Secondary Contact Recreation
DWS—Drinking Water Supply
IND—Industrial

TABLE H—STREAM CLASSIFICATIONS AND USE DESIGNATIONS

WATER BODY	CLASS	MILES	FROM	TO	COUNTY	COUNTY 2	IRR	LWW	AQL	CLF	CDF	WBC	SCR	DWS	IND
Gabriel Cr.	C	11.1	24,44N,19W	03,42N,19W	Morgan			x	x						
Gabriel Cr.	C	1.9	07,44N,18W	24,44N,19W	Morgan			x	x			B			
Gillum Cr.	C	2.5	Mouth	23,39N,33W	Bates			x	x						
Grantham Cr.	C	2.0	Mouth	2,64N,33W	Gentry			x	x						
Haldiman Br.	C	3.0	Mouth	10,46N,14W	Moniteau			x	x						
Hickory Cr.	C	7.0	Mouth	9,60N,25W	Grundy			x	x						
Hocum Hollow	C	0.5	Mouth	Sur 1856,40N,6E	Jefferson			x	x						
Hominy Cr.	C	1.0	Mouth	Hwy 63	Boone			x	x						
Honey Cr.	C	4.0	Mouth	29,43N,12W	Cole			x	x						
Horseshoe Cr.	C	5.8	Mouth	10,48N,29W	Jackson	Lafayette		x	x						
Huldy Hollow	C	2.0	Mouth	28,31N,07W	Texas			x	x						
Indian Cr.	C	3.0	30,30N,9W	27,30N,9W	Texas			x	x						
Johnson Br.	C	1.0	Mouth	29,30N,9W	Texas			x	x						
Kelley Br.	C	5.0	Mouth	15,50N,12W	Boone			x	x						
Ketchum Hollow	C	1.5	Mouth	24,22N,27W	Barry			x	x						
Knob Cr.	C	6.5	Mouth	8,41N,32W	Bates			x	x						
Koen Cr.	C	1.0	Mouth	5,36N,5E	St. Francois			x	x						
Trib. to L. Beaver Cr.	C	2.0	Mouth	16,37N,8W	Phelps			x	x						
L. Cedar Cr.	C	2.0	17,48N,11W	05,48N,11W	Boone			x	x						
L. Cedar Cr.	C	4.0	Mouth	17,48N,11W	Boone			x	x			B			
L. Deer Cr.	C	3.0	Mouth	31,42N,30W	Bates			x	x						
L. Dry Fk.	C	4.5	8,37N,7W	5,36N,7W	Phelps			x	x						
L. Shaver Cr.	C	4.9	Mouth	04,45N,20W	Pettis			x	x						
L. Third Fk. Platte R.	C	20.0	Mouth	27,60N,32W	DeKalb			x	x						
Trib. to Labadie Cr.	P	2.0	Mouth	6,43N,2E	Franklin			x	x						
Lateral Ditch #2	C	3.0	Mouth	9,22N,10E	Dunklin			x	x						
Lick Cr. Ditch	C	16.0	33,25N,9E	15,26N,10E	Stoddard			x	x						
Long Br.	C	13.0	Mouth	11,59N,20W	Linn			x	x					x	
Main Ditch #8	C	12.0	3,19N,12E	18,20N,14E	Pemiscot			x	x						
Maline Creek	C	1.0	Mouth	Bellefontaine Rd.	St. Louis City	St. Louis		x	x						
Mayhen Br.	C	1.3	Mouth	18,28N,08W	Texas			x	x						
Trib. to Mill Cr.	C	0.5	Mouth	19,37N,3E	Washington			x	x						
Mineral Spring Hollow	C	0.8	Mouth	30,31N,09W	Texas			x	x						
Mississippi R.	P	5.0	Dam #27	Missouri R.	St. Louis City	St. Charles	x	x	x			B	x	x	x
Mississippi R.	P	195.5	Ohio R.	Dam #27	Mississippi	St. Louis City	x	x	x				x	x	x
Mooney Br.	C	2.0	Mouth	3,33N,10W	Texas			x	x						
Trib. to Moreau R.	C	0.5	Mouth	06,43N,12W	Cole			x	x						
Muddy Cr.	P	36.5	Mouth	22,66N,23W	Grundy	Mercer		x	x						
Muddy Cr.	C	5.5	31,58N,20W	05,58N,20W	Linn			x	x						
Muddy Cr.	C	4.5	Mouth	31,58N,20W	Linn			x	x			B			
Muddy Cr.	C	9.0	Mouth	22,52N,21W	Saline			x	x						
Muddy Fk.	C	8.0	Mouth	35,54N,31W	Clay			x	x						
N. Fk. M Fabius R.	C	16.2	36,65N,13W	21,66N,14W	Scotland	Schuyler		x	x						
N. Fk. M Fabius R.	C	9.2	22,64N,12W	36,65N,13W	Scotland	Schuyler		x	x			B			
N. Fk. Grindstone Cr.	C	1.5	20,48N,12W	16,48N,12W	Boone			x	x						
Natural Bridge Holl.	C	2.0	Mouth	17,22N,26W	Barry			x	x						
North R.	C	12.2	28,60N,11W	Hwy. 151	Shelby	Knox		x	x						
North R.	C	5.0	Hwy. 15	28,60N,11W	Shelby	Knox		x	x			B			
Owl Cr.	C	4.6	Mouth	24,54N,35W	Platte			x	x						
Panther Cr.	C	3.5	Mouth	28,57N,26W	Caldwell			x	x						
Panther Cr.	C	11.0	Mouth	14,39N,29W	Bates			x	x						
Paris Br.	C	3.0	Mouth	31,50N,1W	Lincoln			x	x						
Pike Slough	C	5.0	Mouth	28,24N,6E	Butler			x	x						
							IRR	LWW	AQL	CLF	CDF	WBC	SCR	DWS	IND

IRR—Irrigation
LWW—Livestock & Wildlife Watering
AQL—Protection of Warm Water Aquatic Life and Human Health-Fish Consumption
CLF—Cool-Water Fishery
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WBC—Whole Body Contact Recreation
SCR—Secondary Contact Recreation
DWS—Drinking Water Supply
IND—Industrial

TABLE H—STREAM CLASSIFICATIONS AND USE DESIGNATIONS

WATER BODY	CLASS	MILES	FROM	TO	COUNTY	COUNTY 2	IRR	LWW	AQL	CLF	CDF	WBC	SCR	DWS	IND
Pleasant Valley Cr.	C	1.0	14,39N,5W	24,39N,5W	Crawford			x	x						
Quick Cr.	C	4.5	28,46N,5W	25,46N,6W	Montgomery			x	x						
Raccoon Cr.	C	4.0	Mouth	5,61N,25W	Grundy			x	x						
Rattlesnake Cr.	C	3.0	Mouth	3,56N,25W	Livingston			x	x						
Trib. to Red Oak Cr.	C	1.5	35,42N,05W	27,42N,05W	Gasconade			x	x						
Richland Cr.	C	4.0	Mouth	29,48N,9W	Callaway			x	x						
Rising Cr.	P	1.0	Mouth	M.P.R.R. tracks	Cole			x	x						
Rising Cr.	C	4.0	M.P.R.R tracks	36,44N,11W	Cole			x	x						
River des Peres	P	1.5	Mouth	Gravois Cr.	St. Louis City			x	x						
River des Peres	C	1.0	Gravois Cr.	Morgan Ford Road	St. Louis City			x	x						
Rock Br.	C	1.6	Mouth	10,32N,10W	Texas			x	x						
Trib. to Rockhouse Cr.	C	2.5	Mouth	34,23N,26W	Barry			x	x						
Rubeneau Br.	C	2.0	Mouth	Sur 2115,37N,3E	Washington			x	x						
Trib. to S. Moreau Cr.	C	1.5	Mouth	29,42N,15W	Miller			x	x						
Sand Hollow	C	0.3	Mouth	24,31N,10W	Texas			x	x						
Sanford Cr.	C	1.0	Mouth	4,43N,10W	Cole			x	x						
Sewer Br.	C	1.0	Mouth	16,46N,21W	Pettis			x	x						
Trib. to Shibboleth Cr.	C	1.0	Mouth	15,38N,3E	Washington			x	x						
Slabtown Br.	C	3.3	Mouth	23,33N,10W	Texas			x	x						
Slaughter Br.	C	3.0	Mouth	4,43N,2W	Franklin			x	x						
Soap Cr.	C	4.1	19,42N,04W	11,42N,05W	Gasconade			x	x						
Spencer Cr.	C	1.5	Mouth	Sur 735,47N,4E	St. Charles			x	x						
Spring Br.	P	7.4	02,34N,06W	Hwy. 32	Dent			x	x						
Spring Br.	P	4.8	Mouth	02,34N,06W	Dent			x	x			B			
Stream Mill Hollow	C	2.0	27,32N,10W	28,32N,10W	Texas			x	x						
Sugar Br.	P	2.0	Mouth	12,48N,14W	Boone			x	x						
Sugar Br.	C	2.0	12,48N,14W	I-70	Boone			x	x						
Sugar Camp Hollow	C	2.5	Mouth	17,23N,26W	Barry			x	x						
Third Fk. Platte R.	C	25.0	08,57N,33W	25,61N,33W	Buchanan	Gentry		x	x						
Third Fk. Platte R.	C	7.5	Mouth	08,57N,33W	Buchanan	Gentry		x	x			B			
Three Hill Cr.	C	4.0	Mouth	7,37N,4E	St. Francois			x	x						
Todd Cr.	C	9.5	Mouth	15,52N,34W	Platte			x	x						
Turkey Cr.	C	2.5	Mouth	34,27N,8E	Stoddard			x	x						
W. Fk. Honey Cr.	C	12.5	29,63N,23W	34,65N,23W	Grundy	Mercer		x	x						
W. Fk. Locust Cr.	C	17.0	Hwy. 6	33,64N,21W	Sullivan			x	x						
Trib. to W. Fk. Lost Cr.	C	2.3	Mouth	Willow Brook Lk	DeKalb			x	x						
Wamsley Cr.	C	1.5	Mouth	27,58N,30W	DeKalb			x	x						
Wildcat Cr.	C	7.0	6,62N,32W	8,63N,33W	Gentry	Nodaway		x	x						
Wilkerson Cr.	C	6.9	Mouth	07,52N,32W	Clay			x	x						
Trib. to Willow Fk.	C	0.5	Mouth	27,45N,17W	Moniteau			x	x						

	IRR	LWW	AQL	CLF	CDF	WBC	SCR	DWS	IND

IRR—Irrigation
LWW—Livestock & Wildlife Watering
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DWS—Drinking Water Supply
IND—Industrial

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

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 302.011, 302.130, 302.171, 302.181, 302.720 and 302.735, RSMo Supp. 2004, and 302.080, RSMo 2000, the director amends a rule as follows:

12 CSR 10-24.448 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1645–1647). No comments were received on this proposed amendment. The department has determined it necessary to specify the exact document identified by the web link in section (2) and address exceptional circumstances in section (3). Those sections are reprinted here. Additionally, the previously incorporated document was amended following instructions from the United States Citizenship and Immigration Services to revise document by deleting references to "visas." The revision was necessary to delete visas from the list of required items as proof, because visas expire. Individuals who were lawfully entitled to receive a Missouri driver license, nondriver license or instruction permit were being rejected because their visa had expired. Many of those people had also proved lawful presence by presenting form I-94, which is issued by the United States Citizenship and Immigration Services. The I-94 form supersedes the visa, in that it prescribes a period of time during which the foreign individual is lawfully present in the United States and eligible to receive a Missouri driver license, nondriver license or instruction permit. The amendment as proposed, with the incorporated attachment would prevent many foreign students and workers from obtaining driver license, nondriver license and instruction permits. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments to the amendment were received. The department has determined it is necessary to amend section (2) to give the public the exact web site for "DOCUMENTS REQUIRED TO APPLY FOR OR RENEW A MISSOURI DRIVER LICENSE, NONDRIVER LICENSE, OR INSTRUCTION PERMIT"; to amend that document incorporated by reference to allow foreign people to obtain a driver license, nondriver license, or instruction permit; and to determine the manner in which the Department of Revenue will address instances where the proof identified in section (2) is not available.

12 CSR 10-24.448 Documents Required for Issuance of a Driver or Nondriver License or Instruction Permit

(2) Documents acceptable as proof of lawful presence, identity, Social Security number and residency are described in the following document "DOCUMENTS REQUIRED TO APPLY FOR OR RENEW A MISSOURI DRIVER LICENSE, NONDRIVER LICENSE, OR INSTRUCTION PERMIT," which has been incorporated by reference, published by the Missouri Department of Revenue, PO Box 200, Jefferson City, MO 65105-0200, September 7, 2005. The "DOCUMENTS REQUIRED TO APPLY FOR OR RENEW A MISSOURI DRIVER LICENSE, NONDRIVER LICENSE, OR INSTRUCTION PERMIT" does not include any amendments or additions to the September 7, 2005 document which is available on the Department of Revenue's website http://www.dor.mo.gov/mvdl/drivers/idrequirements.htm or by mailing a written request to the Missouri Department of Revenue, PO Box 200, Jefferson City, MO 65105-0200, or by telephone (573) 751-2730.

(3) In exceptional circumstances where proof of lawful presence, identity, Social Security number, and/or residency are not available, personnel authorized by the Director of Revenue may accept alternative documents as proof required for issuance of a driver license, nondriver license, or instruction permit.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under section 208.201, RSMo 2000, and House Committee Substitute for Senate Bill 189, the director adopts a rule as follows:

13 CSR 70-3.170 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2005 (30 MoReg 1444–1447). 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: No public hearing was held. No written comments were received during the comment period.

COMMENT AND EXPLANATION OF CHANGE: Further administrative review of the proposed rule by Division of Medical Services staff resulted in changes to be consistent with state statute that requires payments of medical assistance in federally aided program shall be made only during such times as grants-in-aid are provided or made available to the state on the basis of the state plan approved by the federal government for medical assistance. The division has added clarifying language to section (1).

13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance

(1) Medicaid Managed Care Organization Reimbursement Allowance (MCORA) shall be assessed as described in this section.

(B) Beginning July 1, 2005, each Medicaid MCO in this state shall, in addition to all other fees and taxes now required or paid, pay a Medicaid Managed Care Organization Reimbursement Allowance (MCORA) for the privilege of engaging in the business or providing health benefit services in this state. Collection of the MCORA shall begin upon CMS approval of the changes in Medicaid capitation rates that are effective July 1, 2005.

1. The Medicaid MCORA owed for existing Medicaid MCOs shall be calculated by multiplying the Medicaid MCORA tax rate by the Total Revenues, as defined above. The most recent available NAIC Health Annual Statement shall be used. The Medicaid MCORA shall be divided by and collected over the number of months for which each Medicaid MCORA is effective. The Medicaid MCORA rates, effective dates, and applicable NAIC Health Annual Statements are set forth in section (2).

A. Exceptions.

(I) If an existing Medicaid MCO's applicable NAIC Health Annual Statement, as set forth in section (2), does not represent a full calendar year worth of revenue due to the Medicaid MCO entering the Medicaid market during the calendar year, the Total Revenues used to determine the Medicaid MCORA shall be the partial year Total Revenues reported on the NAIC Health Annual Statements schedule titled Analysis of Operations by Lines of Business annualized.

(II) If an existing Medicaid MCO did not have Total Revenues reported on the applicable NAIC Health Annual Statement due to the Medicaid MCO not entering the Medicaid market until after the calendar year, the Total Revenue used to determine the Medicaid MCORA shall be the MC+ regional weighted average per member per month net capitation rate in effect during the same calendar year multiplied by the Medicaid MCO's estimated annualized member months based on the most recent complete month.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 81—Certification

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 198.079, RSMo 2000 and 660.050, RSMo Supp. 2004, the department amends a rule as follows:

19 CSR 30-81.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1651–1656). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One set of comments was submitted to the Department of Health and Senior Services addressing the proposed amendment. These comments were submitted by Harvey M. Tettlebaum, Husch & Eppenberger, LLC Attorneys and Counselors at Law on behalf of Missouri Health Care Association.

COMMENT: Subsection (1)(G)—It is possible that this new definition reads:
(1)(G) Long-term care facility—a skilled nursing facility (SNF), and [sic] intermediate care facility (ICF) or a hospital which provides skilled nursing care or intermediate nursing care in distinct part or swing bed under Chapter 197, RSMo could be interpreted to cover only Chapter 197 licensed facilities. I suppose that common sense tells one that these are SNF and ICF licensees under Chapter 198. A comment to confirm that interpretation might be advisable.
RESPONSE AND EXPLANATION OF CHANGE: A comma has been added after "(ICF)" to clarify that the reference to Chapter 197, RSMo relates only to hospitals providing skilled nursing care or intermediate nursing care in a distinct part or swing bed. The Department of Health and Senior Services has also inserted the word "a" to precede the phrase "distinct part" after department staff noted the sentence was not grammatically correct as it appeared in the proposed amendment.

COMMENT: I note in the emergency amendment published at 30 MoReg 1608–1609, that there are changes to subsection (5)(F) which are not reflected in the proposed amendment. Please clarify.
RESPONSE: There are not any changes to emergency rule subsection (5)(F) that are not included in the proposed amendment. The emergency rule subsection (5)(F) does differ from its counterpart in the proposed amendment (now renumbered as subsection (5) (D)). This is because the rule has been rewritten to remove the archaic reference to intermediate nursing services.

COMMENT: It should be noted that under amended subsection (2)(B), the Department of Health states: "No Title XIX payment for intermediate or skilled care services in a long-term care facility shall be made prior to completion of the department's review and assessment process." First of all, I do not find authority for the Department of Health to promulgate that rule. Only the Department of Social Services, Division of Medical Services, could make that requirement. Second of all, read literally, the state would be prohibited from making payments for any Medicaid recipient until the "completion of the department's review and assessment process." Even if the department has authority to promulgate that regulation, I do not think that is what the Department of Health intends. On the contrary, I think what it intends is this would relate only to payment for the person being assessed, not the facility being assessed. If I am correct, this should be changed accordingly.
RESPONSE AND EXPLANATION OF CHANGE: This point has merit. The department has revised this section to delete the sentence. The subject continues to be addressed by the Department of Social Services rule 13 CSR 70-10.040 Medicaid Eligibility and Preadmission Screening for Mentally Ill and Mentally Retarded Individuals.

COMMENT: One minor point, I believe the current name of the Division is "Regulation and Licensure" which you might want to change after "Division 30" at the beginning of the Proposed Amendment.
RESPONSE AND EXPLANATION OF CHANGE: The division name shown after "Division 30" has been changed to "Division of Regulation and Licensure" in response to this comment.

Division 30—Division of Regulation and Licensure

19 CSR 30-81.030 Evaluation and Assessment Measures for Title XIX Recipients and Applicants in Long-Term Care Facilities

(1) For purposes of this rule only, the following definitions shall apply:
(G) Long-term care facility—a skilled nursing facility (SNF), an intermediate care facility (ICF), or a hospital which provides skilled nursing care or intermediate nursing care in a distinct part or swing bed under Chapter 197, RSMo;

(2) Initial Determination of Level-of-Care Needs Requirements.
(B) The department shall complete the assessment within ten (10) working days of receipt of all documentation required by section (5) of this rule unless further evaluation by State Mental Health Authority is required by 42 CFR 483.100 to 483.138.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 73—Missouri Board of Nursing Home Administrators
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Nursing Home Administrators under section 344.070, RSMo 2000, the Board withdraws a proposed amendment as follows:

19 CSR 73-2.050 Renewal of Licenses **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2005 (30 MoReg 1357–1358). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: No comments were received. The board is withdrawing this amendment because additional revisions must be made to satisfy the new language adopted by Senate Bill 177, that became effective August 28, 2005 and affects section 344.040, RSMo pertaining to renewal of licenses.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EXPEDITED APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for November 22, 2005. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

10/11/05

#3827 NS: KCHR Senior Care, LLC
Independence (Jackson County)
$17,385,000, Replace 194-bed skilled nursing facility

#3835 HS: Research Medical Center
Kansas City (Jackson County)
$2,378,368, Replace magnetic resonance imaging unit

#3836 HS: St. Luke's Hospital
Chesterfield (St. Louis County)
$1,063,741, Replace magnetic resonance imaging unit

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by November 11, 2005. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, (573) 751-6403.

Schedule of Compensation as Required by Section 105.005, RSMo

Office	RSMo Citation	Statutory Salary FY 2005	Statutory Salary FY 2006
Elected Officials			
Governor	26.010	$120,087	$120,087
Lt. Governor	26.010	77,184	77,184
Attorney General	27.010	104,332	104,332
Secretary of State	28.010	96,455	96,455
State Treasurer	30.010	96,455	96,455
State Auditor	29.010	96,455	96,455
General Assembly			
Senator	21.140	31,351	31,351
Representative	21.140	31,351	31,351
Speaker of House	21.140	33,851	33,851
President Pro Tem of Senate	21.140	33,851	33,851
Speaker Pro Tem of the House	21.140	32,851	32,851
Majority Floor Leader of House	21.140	32,851	32,851
Majority Floor Leader of Senate	21.140	32,851	32,851
Minority Floor Leader of House	21.140	32,851	32,851
Minority Floor Leader of Senate	21.140	32,851	32,851
State Tax Commissioners	138.230	95,229	95,229
Administrative Hearing Commissioners	621.015	92,837	92,837
Labor and Industrial Relations Commissioners	286.005	95,229	95,229
Division of Workers' Compensation			
Legal Advisor	287.615	76,800	76,800 *
Chief Counsel	287.615	78,800	78,800 *
Administrative Law Judge	287.615	86,400	86,400 *
Administrative Law Judge in Charge	287.615	91,400	91,400 *
Director, Division of Workers' Compensation	287.615	94,600	94,600 *
Public Service Commissioners	386.150	95,229	95,229

	RSMo Citation	Executive Level FY 2005	Executive Level FY 2006
Statutory Department Directors	105.950		
Administration, Agriculture, Corrections, Economic Development, Labor and Industrial Relations, Natural Resources, Public Safety, Revenue, and Social Services		I	I
Probation and Parole	217.665		
Chairman		III	III
Board Members		IV	IV

*Division of Workers' Compensation salaries are tied to those of Associate Circuit Judges.

Schedule of Compensation as Required by Section 476.405, RSMo

	RSMo Citation	Highest Salary FY 2005	Highest Salary FY 2006
Supreme Court			
Chief Justice	477.130	$125,500	$125,500
Judges	477.130	123,000	123,000
Court of Appeals			
Judges	477.130	115,000	115,000
Circuit Court			
Circuit Court Judges	478.013	108,000	108,000
Associate Circuit Judges	478.018	96,000	96,000
Juvenile Officers	211.381		
Juvenile Officer		41,876	41,876
Chief Deputy Juvenile Officer		36,402	36,402
Deputy Juvenile Officer Class I		32,435	32,435
Deputy Juvenile Officer Class 2		29,533	29,533
Deputy Juvenile Officer Class 3		26,932	26,932
Court Reporters	485.060	49,860	49,860
Probate Commissioner	478.266 & 478.267	108,000	108,000 *
Deputy Probate Commissioner	478.266	96,000	96,000 *
Family Court Commissioner	211.023 & 487.020	96,000	96,000 *
Circuit Clerk			
1st Class Counties	483.083	61,530	61,530
St. Louis City	483.083	101,467	101,467
Jackson, Jasper & Cape Girardeau	483.083	66,537	66,537
2nd & 4th Class Counties	483.083	55,449	55,449
3rd Class Counties	483.083	48,500	48,500
Marion-Hannibal & Palmyra	483.083	54,578	54,578
Randolph & Lewis	483.083	53,011	53,011

*Salaries are tied to those of Circuit and Associate Circuit Judges.

Missouri Executive Pay Plan
Fiscal Year 2006

Executive Level	Minimum	Maximum
I	$77,148	$112,356
II	$70,704	$102,804
III	$64,836	$94,128
IV	$59,532	$86,136

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST IDEAL FITNESS, L.L.C.

On March 7, 2005, **IDEAL FITNESS, L.L.C.**, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State, effective the date of filing.

Said limited liability company requests that all persons, and organizations who have claims against it present them immediately by letter to the company at

Ideal Fitness, L.L.C.
Attn: D. Michael Dwyer
DWYER, DYKES & THURSTON, L.C.
6750 W. 93rd Street, Suite 230
Overland Park, Kansas 66212
(913) 383-3131

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the notice of winding up of **IDEAL FITNESS, L.L.C.**, any claims against it will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the notices authorized by the statute, whichever is published last.

NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST BJ APPAREL USA, LLC

On September 28, 2005 BJ Apparel USA, LLC, a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: J. Timothy Gorman, Esq., 222 S. Central Avenue, Suite 901, St. Louis, Missouri 63105. Each claim must include the following information: the name, address and phone number of the claimant; the amount claimed; the date on which the claim arose; the basis for the claim; and documentation for the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.