

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

inspected by the State Milk Board or its contracted local authority and [*three*] (**four**) cents [*3¢*] (**4¢**) per hundred weight on milk imported from areas beyond the points of routine inspection.

AUTHORITY: section 196.939, RSMo, 2000. Original rule filed April 12, 1977, effective Sept. 11, 1977. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 15, 2007.

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

PRIVATE COST: The State Milk Board estimates that the following private entities will be affected by this proposed amendment in the given numbers: six (6) producer marketing agencies, five (5) additional Grade A dairy plants, and (4) producer distributors located in the state of Missouri (to be assessed four and a half cents (4.5¢) per hundred weight on milk produced and/or handled) and five (5) producer marketing agencies and fifty-three (53) individual Grade A dairy plants (to be assessed at four cents (4¢) per hundred weight on milk inspected from areas beyond the points of routine inspection). The State Milk Board further estimates the aggregate cost of the compliance with this proposed amendment by the enumerated entities to be \$1,363,210 for the period July 1, 2007 through June 30, 2008.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Milk Board office, Terry S. Long, Executive Secretary, 1616 Missouri Blvd, PO Box 630, Jefferson City, MO 65102. Telephone (573) 751-3830. 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.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 80—State Milk Board Chapter 5—Inspections

PROPOSED AMENDMENT

2 CSR 80-5.010 Inspection Fees. The board is amending section (1) on inspection fees.

PURPOSE: This rule is being amended by changing the time period for which the fees apply and publishing the fees established by the State Milk Board for that period. This amendment updates the reference to the time period for which milk inspection fees apply.

(1) The inspection fee for fiscal year [*2007 (July 1, 2006–June 30, 2007)*] **2008 (July 1, 2007–June 30, 2008)** shall be four and a half cents (4.5¢) per hundred weight on milk produced on farms

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Title 2 - DEPARTMENT OF AGRICULTURE
 Division: Division 80 - State Milk Board
 Chapter: Chapter 5 - Inspections
 Type of Rulemaking: PROPOSED AMENDMENT
 Rule Number and Name: 2 CSR 80-5.010 Inspection Fees

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:
6	Producer Mktg. Agencies	4.5¢ c.w.t.*
5	Grade A Dairy Plants/Missouri	4.5¢ c.w.t.*
5	Producer Mktg. Agencies	4¢ c.w.t.*
53	Grade A Dairy Plants Outside Missouri	4¢ c.w.t.*
4	Grade A Producer Distributors (Small Business)	4.5¢ c.w.t.*

TOTAL COST ESTIMATE: \$1,363,210

III. WORKSHEETPRIVATE ENTITY COSTS:FY 2007

6	Producer Marketing Agencies and	
5	Grade A Dairy Plants of Missouri	4.5¢ c.w.t.*
4	Grade A Producer Distributors (small business)	4.5¢ c.w.t.*
5	Producer Marketing Agencies and	
53	Grade A Dairy Plants Outside Missouri	4¢ c.w.t.*

TOTAL PRODUCER DISTRIBUTORS (SMALL BUSINESS) Less Than \$500.00
 TOTAL COST ESTIMATE: \$1,363,210

* c.w.t. = per hundred weight (cost per pound)

IV. ASSUMPTIONS

The estimates contained in this fiscal note are based upon the following assumptions:

All estimates shown are based upon milk inspection fees collected during FY '06. Varying conditions (drought, severe cold weather, market conditions, etc.) effect total pounds of milk marketed, thereby effecting cost to private entities.

There are four (4) individual dairy producer's currently processing and marketing milk and product from their owned dairies in Missouri from which the statutory inspection fees must be assessed. The current and proposed fee for the upcoming fiscal year will be 4.5¢ per hundred weight (cost per pound) for in state produced raw milk.

In the case of the current four (4) producer distributors, the raw milk fee is not passed along through a marketing agency. Consequently, the individual producer distributor must forward the monthly assessment to the state in the same manner a large processing plant or a producers marketing agency at the first point of sale as defined in 196.945 RSMO.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 23—Electric Utility Operational Standards**

PROPOSED RULE

4 CSR 240-23.020 Electrical Corporation Infrastructure Standards. Commissioner Connie Murray dissented from the decision to propose the following rule. The text of her dissent follows the language of the proposed rule below.

PURPOSE: This rule establishes the minimum requirements for the distribution and transmission facilities of electrical corporations as defined in section 386.020(15), RSMo Supp. 2006 regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record keeping, and reporting, in order to ensure safe and high-quality electrical service. These requirements shall be based on factors such as applicable industry codes, national electric industry practices, manufacturer's recommendations, sound engineering judgment and past experience.

(1) Applicability. This rule applies to all electrical corporations as defined in section 386.020(15), RSMo Supp. 2006.

(2) Definitions. For the purpose of this rule:

(A) Corrective action means maintenance, repair, or replacement of electrical corporation equipment and structures so that they function properly and safely;

(B) Detailed inspection means an inspection where individual pieces of equipment and structures are carefully examined, visually and through use of routine diagnostic testing, as appropriate, and (if practical and if useful information can be so gathered) opened, and the condition of each rated and recorded;

(C) Intrusive inspection means an inspection involving movement of soil, taking samples for analysis, and/or using more sophisticated diagnostic tools beyond visual inspections or instrument reading;

(D) Operating area means a geographical subdivision of each electrical corporation's franchise territory as defined by the electrical corporation. These areas may also be referred to as regions, divisions or districts;

(E) Patrol means a simple visual inspection, of applicable electrical corporation equipment and structures, that is designed to identify obvious structural problems and hazards. Patrols may be carried out in the course of other company business;

(F) Rural means those areas with a population of less than one thousand (1,000) persons per square mile as determined by the most recent United States census; and

(G) Urban means those areas with a population of more than one thousand (1,000) persons per square mile as determined by the most recent United States census.

(3) Standards for Inspection, Record Keeping, and Reporting.

(A) Each electrical corporation subject to this rule shall conduct inspections of its distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the table, included herein, titled "Electrical Corporation System Inspection Cycles (Maximum Intervals in Years)."

(B) Each electrical corporation subject to this rule shall file at the commission by no later than January 1, 2008, compliance plans for the inspections and record keeping required by this rule, with verification by affidavit of an officer who has knowledge of the matters stated therein. These compliance plans will include the proposed forms and formats for annual reports and source records, as well as the electrical corporation's plans for the types of inspections and equipment to be inspected during the coming year. For detailed and

intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment to be inspected) to allow commission staff to confirm that scheduled inspections are proceeding as planned. For patrol inspections, electrical corporations should explain how all required facilities will be covered during the year. The energy department or any successor staff departments may prescribe changes relating to reporting and record keeping formats and forms when and as necessary as approved by the commission if the electrical corporation does not voluntarily agree to the changes requested by staff. None of these changes may conflict with the requirements of this rule unless specifically approved by the commission through a variance.

(C) Each electrical corporation subject to this rule shall file at the commission an annual report detailing its compliance with this rule, with verification by affidavit of an officer who has knowledge of the matters stated therein. The first report required under this section shall be filed with the commission by no later than July 1, 2009. Each electrical corporation shall file subsequent annual reports for every following year by no later than July 1. The report shall identify the number of facilities, by type, which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, an explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the table, included herein, titled "Electrical Corporation System Inspection Cycles (Maximum Intervals in Years)" and shall be aggregated by operating area.

(D) The company shall maintain records of inspection activities which shall be made available to commission staff for inspection pursuant to section 393.140, RSMo 2000 and 4 CSR 240-10.010.

(E) For all inspections, within a reasonable period, company records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, and any problems identified during each inspection, as well as the scheduled date of corrective action. For detailed and intrusive inspections, companies shall also rate the condition of inspected equipment. Upon completion of corrective action, company records will show the nature of the work, the date, and the identity of persons performing the work.

(F) Where facilities are exposed to extraordinary conditions or when an electrical corporation has demonstrated a pattern of non-compliance with Commission Safety Standards, 4 CSR 240-18; Electrical Corporation Infrastructure Standards, 4 CSR 240-23.020; and/or Reliability Rules, 4 CSR 240-23.030, the commission may require a shorter interval between inspections.

(G) Commission staff shall review each electrical corporation's annual report and shall inspect and verify that the electrical corporation is in compliance with this rule.

(H) If the company discovers, or should have discovered, upon inspection as required under this rule, or the company is otherwise given notice that corrective action of an electrical corporation's facility is required due to standards to be exercised by a prudent electrical corporation then the electrical corporation shall take such corrective action within a reasonable period of time. If harm to person or property is possible if corrective action is not taken, then such corrective action shall be made immediately.

(4) Penalties, Fines, Sanctions and/or Ratemaking Disallowances.

(A) Failure to comply with any provision of this rule may subject the violator to penalties, fines, sanctions and/or ratemaking disallowances in accordance with the commission's statutory authority. No penalties, fines, sanctions and/or ratemaking disallowances shall be imposed for violations of this rule for a period of six (6) months from the effective date of this rule.

(B) An electrical corporation that violates this rule may be subject to a penalty of not less than one hundred dollars (\$100) and not more than two thousand dollars (\$2,000) per day per violation, for each day the violation occurs as permitted under Missouri statutes. The commission shall notify the electrical corporation of the violation(s) in writing. Upon receipt of the written notice of violation, the electrical corporation shall have five (5) business days to correct the violation(s). Any failure to correct the violation may subject the electrical corporation to a penalty of not less than one hundred dollars (\$100) per day for each violation, calculated from the day such written notice was received by the electrical corporation.

(C) The commission may consider violations of this rule as a relevant factor in setting rates for the electrical corporation in a case where the commission is examining the propriety of the electrical corporation's rates.

(D) Penalties, fines, sanctions and/or ratemaking disallowances imposed for violations of this rule are in addition to, not a replacement for, other penalties, fines and/or sanctions that apply under other state laws and regulations and under federal laws and regulations.

(E) In determining the appropriate penalties, fines, sanctions and/or ratemaking disallowances for violation of this rule, the commission shall consider the following criteria, and any other factors deemed appropriate and material to the electrical corporation's delay or failure to comply:

1. The good faith efforts, if any, of the electrical corporation in attempting to comply with this rule;
2. The gravity of the violation;
3. The number of past violations by the electrical corporation, including violations of this rule, as well as of other standards, guidelines and procedures adopted by the commission;
4. The appropriateness of the sanction(s) in light of the size of the electrical corporation;
5. Events judged by the commission to be beyond the control of the electrical corporation; and
6. Mitigating factors.

(5) Variances. A variance from a provision of this rule may be granted only for good cause shown.

Electrical Corporation System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2	5	5	---	---
Underground – Direct Buried Distribution Circuits	1	2	3	3		
Underground- Buried Distribution Circuits constructed of Ethylene Propylene Rubber (EPR)	1	2	5	5		
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2	5	5	---	---
Underground – Direct Buried Distribution Circuits	1	2	3	3		
Underground- Buried Distribution Circuits constructed of (EPR)	1	2	5	5		
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2	5	5	---	---
Underground – Direct Buried Distribution Circuits	1	2	3	3		
Underground- Buried Distribution Circuits constructed of (EPR)	1	2	5	5		
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables	1	2	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	---	---
Wood Poles over 15 years which have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	12	12

AUTHORITY: sections 386.040, 386.250, 386.310 and 393.140, RSMo 2000, and 393.130 RSMo Supp. 2006. Original rule filed June 15, 2007.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately sixty-five thousand seven hundred sixty-seven dollars (\$65,767) in the first year of implementation and sixty thousand seven hundred forty-seven dollars (\$60,747) per year, thereafter.

PRIVATE COST: This proposed rule will cost private entities approximately \$59,852,872 in the first year of implementation and \$36,252,872 per year, thereafter.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before August 15, 2007, and should include a reference to Commission Case No. EX-2007-0214. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for August 15, 2007 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Filing Requirement) **Case No. EX-2007-0214**
Rules For Electric Utilities.)

Electrical Corporation Infrastructure Standards Rule 4 CSR 240-23.020

**DISSENTING OPINION OF COMMISSIONER CONNIE
MURRAY**

I must dissent from the majority's decision to send the Electrical Corporation Infrastructure Standards Rule, in its present form, to the Missouri Secretary of State. Both, this proposed rule and the proposed rule "4 CSR 240-23.030 Electrical Corporation Vegetation Management Standards and Reporting Requirements," in my opinion, are an apparent over-reaction to recent storm outages and to reports of reliability issues experienced by a single utility. These rules were hurriedly drafted without the opportunity for a deliberate and detailed technical and legal review by Commission staff that would have otherwise been employed in the ordinary course of rule-making.

Approximately three months ago, the Commission's technical and legal staff presented a draft rulemaking that was well thought out and drafted in a manner that provided an excellent base from which to incorporate performance standards. After discussing this draft in Agenda, Staff was directed to draft performance standards to be included in the draft and bring the draft proposed rulemaking back to the Commission for further review. Prior to Staff's revised draft rule being completed and brought back to the Commission, the set

of rules which was voted upon today and for which I write this dissent was offered, and as a result, the Staff's draft rule was never recalled to Agenda for further discussion by the Commission.

The rule that is being sent to the Missouri Secretary of State is overbroad, fiscally irresponsible and unworkable. If promulgated, the fiscal note shows, the rule would create enormous costs for both the Commission and the Missouri utilities which are subject to the rule. The degree of specificity, burdensome notification and reporting requirements, strict and sometimes conflicting timelines, and heavy fines and penalties for non-compliance combine to remove the utilities' flexibility to accomplish the ultimate goal of providing a higher degree of reliability, all at a cost of tens of millions of dollars annually that would ultimately be borne by ratepayers. Further, the fiscal note shows that the review and inspection requirements inuring to the Commission Staff will require the equivalent of an additional full time employee than the Commission currently employees and cost over \$60,000 annually, further driving up costs to ratepayers.

I cannot support this attempt to compile the strictest rules that could be located from various states into one melting pot to be promulgated into law. It is my belief that government agencies have a duty to put forth rules that are clear, understandable and are no more burdensome, costly or intrusive than necessary to accomplish a legitimate state interest. Such a proposed rule provides the public a meaningful opportunity to contribute to the rulemaking process by suggesting exact and detailed substantive changes, rather than changes to general concepts a rule such as this invites. I believe that a more prudent approach would have been to take the time necessary for Staff and the Commission to review and evaluate the potential effects of the rulemaking on all relevant parties, obtain stake-holder input and establish a well reasoned rulemaking.

The Missouri Public Service Commission has a legitimate interest in requiring its regulated electric utilities to manage and maintain their infrastructure and control vegetation in such a way that ensures the provision of safe, adequate and reliable service. Protecting that interest could be and should be accomplished by a rulemaking more in line with that originally drafted by the technical and legal staff of the Commission.

This dissent should in no way be construed to mean that I oppose the concept of such a rulemaking. I believe that reasonable infrastructure standards are appropriate and administrative rules are needed. However, the proposed rulemaking adopted by the Commission today does not serve the best interest of Missouri and its citizens.

For these reasons, I do not support today's vote to send the proposed rule to the Missouri Department of Economic Development for review.

Respectfully submitted,

Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 14th day of June 2007.

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

Rule Number and Name	4 CSR 240-23.020, Electrical Corporation Infrastructure Standards
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Public Service Commission	\$65,767 first year, \$60,747 each year thereafter

III. WORKSHEET

0.5 FTE Utility Engineering Specialist III \$25,116 annually

0.5 FTE Utility Engineering Specialist II \$22,236 annually

First year equipment \$5,020

Annual Equipment Expense \$1,090

Annual Office Space Rental \$2,700

Annual Travel Expense \$9,605

IV. ASSUMPTIONS

All costs in 2007 dollars

Costs reflect estimates provided for other fiscal notes for various General Assembly bills from this year's session.

A total of two additional FTEs were assumed for this rule and the Vegetation Management Standards rule that is also being considered. Their time is assumed to be evenly split between these two rules. In most cases, these FTEs will be able to conduct reviews of the utilities' infrastructure inspection and vegetation management practices in the same visit. This should reduce their travel time and increase their productivity. However, these reviews will require facility reviews (including walking electric lines and observing utility employees performing the various tasks required by these rules) and on-site document reviews at various district/division offices. This will also require reports by these two FTEs on the status of the utilities' efforts at various times of the year.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	4 CSR 240-23.020 Electrical Corporation Infrastructure Standards
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:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Four (4)	Investor Owned Electric Utility Companies	
	AmerenUE	Implementation: \$900,000 \$15,300,000 annually
	Empire	Implementation - \$6,700,000 – 9,900,000 \$6,600,000 – 12,800,000 annually
	Aquila	Implementation - \$12,800,000 \$4,503,500 annually
	Kansas City Power & Light	Implementation – None listed \$3,649,372 annually

III. WORKSHEET

For position descriptions and fiscal impacts please see ASSUMPTIONS below for each utility.

IV. ASSUMPTIONS

AmerenUE:

1. "Rural" service areas are defined as Green Hills, Little Dixie, Capital, Lakeside, Jefferson, Franklin, Ironton, St. Francois, and Southeast.
2. "Urban" services areas are defined as Wentzville, St. Charles, Ellisville, Dorsett, Berkeley, Geraldine, and Mackenzie.
3. Poles, wires, cables, transformers, and hardware are visually inspected once a year during the "Patrol" inspection.
4. Overhead Conductor and Cables do not receive a "Detail" inspection as there is no current method to perform such an inspection.
5. No "Patrol" or "Detail" inspection methods are available for Underground Cable.
6. All wood poles receive an "Intrusive" inspection every 12 years
7. All wood poles must have "Intrusive" inspection by age 25.
8. All inspections involve lines with voltages less than 100 kV.

9. All inspections are performed with contractor labor.
10. All costs are current with no escalation factors.
11. Material costs are 18% of total costs.
12. Costs to "Patrol" inspect wood poles are estimated at \$10 per pole.
13. Costs to "Intrusive" inspect / retreat wood poles are estimated at \$62 per pole.
14. Costs to "Patrol" inspect padmount transformers are estimated at \$10 per transformer.
15. Costs to "Detail" inspect padmount transformers are estimated at \$60 per transformer.

Empire:

1. Empire's system is 50% rural and 50% urban except all padmount equipment is considered urban.
2. "Patrol" is a simple visual inspection for obvious problems (binoculars are not used during this inspection).
3. "Detail" requires an up-close visual inspection of all equipment, connections, insulators, and infrared inspection; therefore, each pole must either be climbed or viewed from a bucket. This interpretation of the rule requires a larger increase in the number of FTE's and accounts for the "Max" totals.
4. "Detail" inspection of padmount equipment requires that each padmount device be opened for visual inspection of connections. An infrared inspection is also performed on the device and connections. This interpretation of the rule requires a larger increase in the number of FTE's and accounts for the "Max" totals.
5. No "Patrol" or "Detail" of inspection of underground cable (not sure how it would be performed).
6. All Labor would be additional company labor except for intrusive pole inspections (cost would be higher if contracted, assuming personnel are available).
7. Wood poles receive an intrusive inspection every 10 years.
8. A range of costs have been provided due to the uncertainty of the results of the more rigorous inspection(s) required by this rule.

Aquila:

No Assumptions made

Kansas City Power & Light:

1. Rural" service area in Missouri is defined as the area bounded by the East District operations region, spanning several counties in mid and western Missouri.
2. "Urban" services areas are defined as the area bounded by the Northland, FM, Dodson operations region that spans Clay, Platte, Jackson, and Cass Counties in Missouri.
3. The following inspection programs listed below are being considered, based on the definitions in the CSR request. Our cost estimates only include the cost for a visual inspection. Detail inspections involving diagnostic methods are not considered. If a detailed inspection is required of distribution assets including poles, transformers, reclosers, etc, the annual cost of these inspections will increase by an additional \$4.137 million per year. Intrusive costs related to the wood pole inspection program are included, which are generally defined as applying ground-line or internal treatments.

Thermal inspection of distribution circuits

Comprehensive visual inspection of distribution circuits

Manhole inspection of structure and network, submersible equipment

Inspection and treatment of distribution wood poles on a 10-year cycle

Overhead and padmount transformer inspection

Overhead and underground switches and protective devices including fuse points

Inspection of URD cable at the termination points

Visual inspection of street light systems

Visual inspection of line control equipment such as regulators, reclosers, and capacitors

4. Much of the resource and cost information generated is from KCP&L's audit reports generated by the Asset Management Dept. All the inspection programs except the Wood Pole Inspection program are performed with KCP&L labor at a rate of \$40 per man-hour with no escalation factors.
5. Pricing information for the wood pole inspection and treatment program comes from the Osmose Co. KCP&L applied treatment options based on our experience with Osmose on our system. A 10-year treatment cycle is assumed. These inspection/treatments are performed with contractor labor.
6. All inspections involve lines with voltages 34kv and less.
7. The City of Kansas City Missouri purchased the street lighting system from KCP&L and is responsible for the inspection and maintenance of the system.
8. Unit costs for inspections are provided.
9. Cost are estimated for the support activities such as computer hardware and software, labor staffing of IT, Mapping, Resource Management, Engineering, and Operations. Ongoing programming and project management activities will be necessary to sustain the inspection programs.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 23—Electric Utility Operational Standards**

PROPOSED RULE

4 CSR 240-23.030 Electrical Corporation Vegetation Management Standards and Reporting Requirements. Commissioner Connie Murray dissented from the decision to propose the following rule. The text of her dissent follows the language of the proposed rule below.

PURPOSE: This rule sets forth requirements that electrical corporations shall follow in managing vegetation in proximity to an energized conductor in order to ensure public safety and the efficient and reliable supply of electric power. The requirements in this rule provide the minimum standards for conductor clearances from vegetation to provide safety for the public and utility workers, reasonable service continuity, and fire prevention. Each electrical corporation must have a vegetation management plan and keep appropriate records to ensure that timely trimming is accomplished to keep the designated minimum clearances. These records must be made available to the commission upon request.

(1) Definitions. The following words and terms, when used in this rule, shall have the following meaning unless the context clearly indicates otherwise.

(A) Arboriculture means the cultivation of trees, shrubs and other woody plants.

(B) Agricultural crop means a cash crop which is sold for money.

(C) Border zone means the space from the edge of the wire zone, as defined herein, to the outer boundary of the right-of-way.

(D) Contractor means a person or entity, other than the commission, with which electrical corporation contracts to perform work, furnish information and/or material. This term includes all subcontractors engaged by a contractor to perform any of the obligations required by a contract.

(E) Distribution line means a primary electric voltage line, wire or cable, including supporting structures and appurtenant facilities, which deliver electricity from transformation points on the transmission system to points of connection at a customer's premises that would not be considered a transmission line as set forth in this definition section.

(F) Energized conductor means an electric circuit or equipment through which electricity is flowing or usually flows within the transmission or distribution system.

(G) Electrical corporation means electrical corporation as defined in section 386.020(15), RSMo Supp. 2006.

(H) Electric utility arborist means a person that has been certified as a Utility Specialist by the International Society of Arboriculture.

(I) Grass means a type of plant with jointed stems, slender flat leaves and spike-like flowers.

(J) Major event means any of the following:

1. A sustained interruption of electric service resulting from conditions beyond the control of the electrical corporation, which may include, but is not limited to, thunderstorms, tornadoes, hurricanes, heat waves or snow and ice storms, which affect at least ten percent (10%) of the customers in an operating area. Due to an electrical corporation's documentable need to allocate field resources to restore service to affected area(s) when one operating area experiences a major event, the major event shall be deemed to extend to those other operating areas of that electrical corporation which are providing assistance to the area(s) affected by the major event. The commission retains authority to examine the characterization of a major event;

2. An unscheduled interruption of electric service resulting from an action:

A. Taken by an electrical corporation under the direction of an independent system operator or regional transmission organization;

B. Taken by the electrical corporation to prevent an uncontrolled or cascading interruption of electric service; or

C. Taken by the electrical corporation to maintain the adequacy and security of the electric system, including emergency load control, emergency switching and energy conservation procedures, which affects one (1) or more customers;

3. A sustained interruption occurring during an event which is outside the control of the electrical corporation and is of sufficient intensity to give rise to a state of emergency or disaster being declared by state government.

(K) Operating area means a geographical subdivision of each electrical corporation's franchise territory as defined by the electrical corporation. These areas may also be referred to as regions, divisions or districts.

(L) Readily climbable means vegetation having both of the following characteristics:

1. Low limbs, accessible from the ground and sufficiently close together so that the vegetation can be climbed by a child or average person without using a ladder or other special equipment; and

2. A main stem or major branch that would support a child or average person either within arms' reach of an uninsulated energized electric line or within such proximity to the electric line that the climber could be injured by direct or indirect contact with the line.

(M) Right-of-way means less than fee interest in property, which gives a public utility a limited right to use land owned by another person or entity for the purpose of transmitting or distributing electricity. This right is typically memorialized in an easement. This term also includes the parcel of land for which a public utility holds a right-of-way or easement.

(N) Transmission line means an electrical line, wire or cable (including the supporting structures), and appurtenant facilities which transmits electricity from a generating plant to electric distribution lines. An electric transmission line usually has a rating exceeding sixty-nine (69) kilovolts.

(O) Tree means a perennial woody plant with a main trunk and branches forming a distinct elevated crown at a height exceeding three feet (3') at maturity.

(P) Vegetation means trees, shrubs and other woody plants.

(Q) Vegetation management means the removal of vegetation or the prevention of vegetative growth to maintain safe conditions around energized conductor(s) and ensure reliable electric service. Vegetation management consists of biological, chemical, cultural, manual and mechanical methods to control vegetation in order to prevent hazards caused by the encroachment of vegetation on energized conductor(s), and to provide utility access to the conductor.

(R) Volts means nominal voltage levels, measured phase-to-phase.

(S) Wire zone means the land located directly under the widest portion of a transmission line. The wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire.

(T) Woody plant means any vascular plant that has a perennial woody stem and supports continued vegetative growth above ground from year to year and includes trees.

(2) General Provisions.

(A) An electrical corporation shall ensure that vegetation management is conducted in accordance with this rule on energized conductors of six hundred (600) volts and higher, whether for distribution or transmission, that the electrical corporation owns, in whole or in part.

(B) Each electrical corporation shall obtain, and shall ensure that its contractors obtain, all required permits and licenses prior to commencement of vegetation management.

(C) An electrical corporation that utilizes chemical or biological agents in vegetation management shall comply with any laws or regulations governing the use of those biological and chemical agents.

(D) Each electrical corporation shall employ a vegetation manager, who is an electric utility arborist, as defined in section (1). The vegetation manager shall be an employee of the electrical corporation, not a contractor. The electrical corporation shall provide the vegetation manager with the authority and the resources to administer all aspects of the electrical corporation's vegetation management program, and the vegetation manager shall ensure that the electrical corporation complies with this rule. The vegetation manager's name and contact information shall be posted on the electrical corporation's website and shall be included on all notifications provided pursuant to the notice requirements of section (6).

(E) Each electrical corporation shall ensure that all contractors hired to perform vegetation management inform its workers of all applicable federal, state, county, and municipal laws, rules or regulations that apply to the work performed under this rule. The electrical corporation shall also ensure that all contractors comply with each applicable requirement of this rule.

(F) An electrical corporation that performs vegetation management at the request of a municipality or government agency, other than vegetation management required under this rule, may require the requesting party to pay any cost above the electrical corporation's cost to perform the vegetation management required by this rule. An electrical corporation shall not perform such additional vegetation management if the additional vegetation management would decrease the reliability or safety of an energized conductor.

(G) Upon a written request from a municipality, the commission may authorize an electrical corporation to temporarily suspend compliance with one (1) or more of the vegetation management requirements of this rule, within the following limits:

1. The suspension of compliance shall apply only to the distribution system, and shall not apply to vegetation management under transmission lines;

2. The suspension of compliance shall apply only to those portions of a distribution system that are located within the municipality, and that do not affect service to any adjacent municipality;

3. The electrical corporation shall not suspend compliance with any requirement if the suspension would result in danger to the public; and

4. If the suspension results in additional costs to the electrical corporation due to lack of tree trimming, the municipality shall reimburse the electrical corporation for these costs.

(H) An electrical corporation may seek recovery in rates of the distribution and transmission portion of vegetation management program costs required under this rule in future rate proceedings. However, the commission may deny recovery in future rate proceedings of costs an electrical corporation incurs due to a delay in implementing a tree trimming program or costs associated with meeting compliance standards after failure to achieve the standards. Upon a showing of good cause by the electrical corporation for the delay or the failure to meet the compliance standards, the commission may allow such recovery.

(I) Upon an electrical corporation's receiving notice of, or having actual knowledge of, any dead, rotten, or diseased vegetation which overhangs, leans toward, or may fall into an energized conductor or guy, the electrical corporation shall promptly remove or remedy the potential safety concern. If removal of the vegetation requires the electrical corporation to access or cross property for which it does not hold an easement or other legal authorization, the electrical corporation shall take all reasonable steps to obtain any necessary permission from the property owner and remove or remedy the potential safety concern as promptly as possible. In response to a major event, the electrical corporation will only be required to remedy the potentially dangerous condition.

(3) Maintenance Cycle.

(A) An electrical corporation shall perform a visual inspection at least once every two (2) years of all energized conductors, to determine whether vegetation management is needed. Where vegetation is close enough to pose a threat to its energized conductors, the electrical corporation shall perform vegetation management. The visual inspection may be performed from the ground except in cases where the conductor is not visible from the ground. The electrical corporation shall take into account the height of the vegetation and the distance of the vegetation from the energized conductor, in determining whether vegetation management is needed. Vegetation management performed along a circuit in compliance with this rule shall meet this two (2)-year visual inspection requirement.

(B) In addition to the maintenance required in subsection (A) above, if an electrical corporation becomes aware either through notification or during the inspections required under subsection (A) above or at any other time, of any vegetation close enough to pose a threat to its energized conductor, which is likely to affect reliability or safety prior to the next required vegetation management, the electrical corporation shall ensure that necessary vegetation management is promptly performed as required under section (4).

(4) Technical Standards for Vegetation Management.

(A) Each electrical corporation shall ensure that vegetation management conducted on its energized conductors is performed in accordance with the standards, guidelines and procedures set forth in this rule, which includes to the extent not otherwise inconsistent with this rule, the following publications:

1. Pruning Trees Near Electric Utility Lines, by Dr. Alex L. Shigo. This publication may be available from Shigo and Tree Associates, PO Box 769, Durham, New Hampshire 03824;

2. Part 1 of the document entitled Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices. This document, also known as ANSI A300, is published by the American National Standards Institute;

3. Best Management Practices, Utility Pruning of Trees, 2004. This title is published by the International Society of Arboriculture;

4. Environmental Stewardship Strategy for Electric Utility Rights-of-Way, (2002). This title is published by the Edison Electric Institute Vegetation Management Task Force;

5. Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements, 1994. This document, also known as ANSI Z133.1, is published by the American National Standards Institute;

6. Native Trees, Shrubs And Vines For Urban And Rural America: A Planting Design Manual for Environmental Designers, by Hightshoe, G.L., 1987, is published by John Wiley and Sons;

7. Manual of Woody Landscape Plants 5th Ed., by Michael A. Dirr. Stipes Publishing, LLC; 5th edition (August 1998);

8. Hortus Third: A Concise Dictionary of Plants Cultivated in the United States and Canada, by L.H. Bailey Hortorium, 1976; and

9. *National Electric Safety Code* as referred to in 4 CSR 240-18.

(B) Where multiple standards, guidelines and procedures listed at subsection (A) above would apply or conflict, the vegetation manager, or his or her designee, shall select the most appropriate standard, guideline or procedure.

(C) Each electrical corporation shall develop its own vegetation management standards, guidelines and procedures, which shall be consistent with this rule. In developing these standards, guidelines and procedures, an electrical corporation shall prioritize its vegetation management based upon:

1. The extent of the potential for vegetation to interfere with the energized conductor; and

2. The voltage of the affected energized conductor; and the relative importance of the affected energized conductor in maintaining safety and reliability.

(D) Each electrical corporation shall file a copy of its vegetation management standards, guidelines and procedures at the commission

by January 1, 2008, with verification by affidavit of an officer who has knowledge of the matters stated therein. If an electrical corporation makes a change in its vegetation management standards, guidelines or procedures, it shall file a copy of the change at the commission no later than thirty (30) days prior to implementing the change, with verification by affidavit of an officer who has knowledge of the matters stated therein.

(E) Each electrical corporation's vegetation management standards, guidelines and procedures shall cover, at a minimum, all of the following activities:

1. Tree pruning and removal;
2. Vegetation management around poles, substations and energized conductors;
3. Manual, mechanical, or chemical vegetation management along rights-of-way;
4. Inspection of areas where vegetation management is performed, both before and after the vegetation management;
5. Research and development of improved vegetation management; and
6. Public education.

(F) Among the factors the electrical corporation shall consider in determining the extent of vegetation management to be performed at a particular site are:

1. The rate at which each species of vegetation is likely to grow back;
2. The voltage of the energized conductor, with higher voltages requiring larger clearances, including but not limited to:
 - A. Location;
 - B. Configuration; and
 - C. Sag of conductors at elevated temperatures and under wind and ice loading, and growth habit, strength, and health of vegetation growing adjacent to the conductor with the combined displacement of the vegetation, supporting structures, and conductors under adverse weather or routine wind conditions;

3. The potential movement of the energized conductor during various weather conditions;

4. The potential movement of trees or other vegetation during various weather conditions; and

5. The electrical corporation's legal rights to access the area where vegetation management is to be performed.

(G) The electrical corporation shall remove all trimmings and cut vegetation resulting from vegetation management that are part of the electrical corporation's regular maintenance cycle, within five (5) business days after the vegetation was cut, except if:

1. The electrical corporation obtains consent from the owner of the property upon which the trimmings or cut vegetation are located to leave the trimmings or cut vegetation; or

2. The vegetation management is performed as a direct result of a major event, in which case the electrical corporation shall remove the trimmings and cut vegetation that was cut or trimmed as part of its vegetation management activities after the conclusion of the major event.

(5) Transmission Line Vegetation Management.

(A) In addition to the other requirements of this rule, transmission lines, as defined at section (1), are subject to the requirements in this section.

(B) In addition to meeting the other requirements in this section, each electrical corporation shall ensure that the following requirements for transmission lines are met:

1. Clearing under and over transmission lines shall be wide enough so that no vegetation or parts of vegetation will grow or fall into the transmission lines prior to the next scheduled vegetation management cycle;

2. An electrical corporation shall not allow any vegetation that grows taller than fifteen feet (15') at maturity to grow anywhere within a transmission line right-of-way;

3. Landowners and political subdivisions may request the right to allow woody plants that naturally mature above three feet (3') tall to grow in the wire zone and/or border zone. The electrical corporation's vegetation manager or his/her designee will be responsible for determining if these woody plants are permissible;

4. The electrical corporation shall not allow any woody plant species that naturally matures above fifteen feet (15') to grow in the border zone;

5. Grass vegetation and non-woody agricultural crops, not exceeding twelve feet (12') in height at maturity, shall be permitted to grow anywhere in the right-of-way;

6. Where an electrical corporation has cleared a right-of-way of vegetation and bare soil is exposed, the electrical corporation shall comply with the soil erosion requirements of the applicable soil conservation district in order to prevent soil erosion;

7. To the extent that any plant species identified by the Missouri Department of Conservation as invasive and non-indigenous to Missouri poses a hazard to electrical transmission conductors, the electrical corporation shall make reasonable efforts to eliminate the species from the entire right-of-way. To do so, the electrical corporation shall use the best integrated vegetation management practices available and practical; and

8. In each electrical corporation's March billing cycle for customers in which vegetation management is scheduled that year, or two (2) months prior to the commencement of vegetation management on a particular property, whichever is earlier, each electrical corporation shall notify owners of land upon which the electrical corporation holds a right-of-way of the requirements in this subsection, through a separate direct mailing.

(C) For the purposes of this section, the mature height of woody and non-woody agricultural crops shall be determined in accordance with the publications incorporated in this rule in subsection (4)(A).

(D) Each year, before June 1, each electrical corporation shall develop a schedule for transmission line vegetation management. The schedule shall:

1. List the transmission lines planned for vegetation management for the next four (4) years;

2. Ensure that transmission line vegetation management is performed prior to vegetation becoming a threat to safety or service reliability; and

3. Be distributed to municipalities served by, or whose residents are served by, or through, transmission lines of the electrical corporation or those with such lines located within the boundaries of the municipality.

(6) Training, Record Keeping and Reporting.

(A) Each electrical corporation shall ensure that all persons who perform vegetation management for the electrical corporation, whether employees or contractors, are trained in the proper care of trees and other woody plants, are knowledgeable regarding safety practices and line clearance techniques, and have demonstrated the ability to perform vegetation management safely.

(B) Each electrical corporation shall keep a record of all personnel used by a contractor or the electrical corporation to perform vegetation management for the electrical corporation, and the dates and types of training that each has received.

(C) The electrical corporation shall monitor and document all vegetation management and related activities it or its contractors performs. Documentation shall include, but shall not be limited to:

1. The municipality in which the work was performed;

2. Identification of each circuit and substation where vegetation management was performed;

3. The type of vegetation management performed including removal, trimming and spraying and methods used;

4. The crew size and supervisor's name;

5. The date of activity;

6. Any safety hazards encountered;

7. Any unexpected occurrence or accident resulting in death, life-threatening or serious injury to a person assigned to perform vegetation management activities or the public; and

8. Vegetation management planned for the following year.

(D) Each electrical corporation shall include a summary of the information required in subsection (C) above about its vegetation management during the past year, and vegetation management planned for the following year in an annual report to be filed with the commission by May 31 each year, with verification by affidavit of an officer who has knowledge of the matters stated therein. This information shall include, at a minimum, the name of each municipality in which the electrical corporation conducted vegetation management during the preceding year, and all circuits and operating areas affected.

(E) Each electrical corporation shall report its own violations of this rule to the commission within thirty (30) days of discovery and include its plan for correcting the violation.

(F) The staff of the commission shall review each electrical corporation's vegetation management annual report for compliance with the provisions of this rule. The staff shall identify any deficiencies in the annual report of each electrical corporation and file its analysis and recommendations for each electrical corporation complying with the provisions of this rule.

(7) Public Notice of Planned Vegetation Management.

(A) Each electrical corporation shall make a diligent attempt to notify all property owners or occupants that may be affected by planned vegetation management. This requirement will be satisfied if the electrical corporation provides notice to affected property owners or occupants at least seven (7) days, but not more than forty-five (45) days, prior to performing any vegetation management activity. Notice shall be provided by direct mailing, door hanger, postcard, bill insert, personal contact or any other commission-approved method.

(B) Each electrical corporation shall maintain a record of the dates, content, and addresses to which all notices provided under subsection (A) were given until the subsequent vegetation management cycle has occurred for each affected property owner or occupant.

(C) Each electrical corporation or its contractor shall provide written notice of any pending vegetation management activities to a primary contact for each political subdivision affected. The primary contact shall be selected by mutual agreement between the electrical corporation and the highest elected official, or if no elected official, then the highest appointed official, of the political subdivision.

(D) An electrical corporation shall notify all political subdivisions that may be affected by vegetation management activities. The notice shall be made in writing to the primary contact designated under subsection (C) above, at least two (2) months in advance of the planned vegetation management. This notice shall include the planned dates and locations of the vegetation management. In addition, the notice of vegetation management shall be in a form appropriate to each electrical corporation's procedures and easement rights.

(8) Outreach Programs.

(A) Each electrical corporation shall conduct an annual public education program to inform its customers, as well as the political subdivisions in the electric public utility's service territory, of the importance of vegetation management, and of the electrical corporation's role and responsibility in managing vegetation near electric lines.

(B) The public education program required under this section shall be implemented by direct mail or another method approved by the commission.

(C) Each electrical corporation shall post its public education materials on its website.

(9) Penalties, Fines, Sanctions and/or Ratemaking Disallowances.

(A) Failure to comply with any provision of this rule may subject the violator to penalties, fines, sanctions and/or ratemaking disallowances in accordance with the commission's statutory authority. No penalties, fines, sanctions and/or ratemaking disallowances shall be imposed for violations of this rule for a period of six (6) months from the effective date of this rule.

(B) An electrical corporation that violates this rule may be subject to a penalty of not less than one hundred dollars (\$100) and not more than two thousand dollars (\$2,000) per day per violation, for each day the violation occurs as permitted under Missouri statutes. The commission shall notify the electrical corporation of the violation(s) in writing. Upon receipt of the written notice of violation, the electrical corporation shall have five (5) business days to correct the violation(s). Any failure to correct the violation may subject the electrical corporation to a penalty of not less than one hundred dollars (\$100) per day for each violation, calculated from the day such written notice was received by the electrical corporation.

(C) The commission may consider violations of this rule as a relevant factor in setting rates for the electrical corporation in a case where the commission is examining the propriety of the electrical corporation's rates.

(D) Penalties, fines, sanctions and/or ratemaking disallowances imposed for violations of this rule are in addition to, not a replacement for, other penalties, fines and/or sanctions that apply under other state laws and regulations and under federal laws and regulations.

(E) In determining the appropriate penalties, fines, sanctions and/or ratemaking disallowances for violation of this rule, the commission shall consider the following criteria, and any other factors deemed appropriate and material to the electrical corporation's delay or failure to comply:

1. The good faith efforts, if any, of the electrical corporation in attempting to comply with this rule;
2. The gravity of the violation;
3. The number of past violations by the electrical corporation, including violations of this rule, as well as of other standards, guidelines and procedures adopted by the commission;
4. The appropriateness of the sanction(s) in light of the size of the electrical corporation;
5. Events judged by the commission to be beyond the control of the electrical corporation; and
6. Mitigating factors.

(10) Specific Requirements.

(A) Each electrical corporation shall comply with the tree trimming standards of this rule by trimming to the extent of:

1. Thirty-three and one-third percent (33 1/3 %) of total number of trees required trimming by the twelve (12)-month anniversary of the adoption of this rule;
2. Sixty-six and two-thirds percent (66 2/3 %) of the total number of trees requiring trimming by the eighteen (18)-month anniversary of the adoption of this rule; and
3. One hundred percent (100%) compliance by the two (2)-year anniversary of the adoption of this rule.

(B) Each electrical corporation must maintain the following minimum clearances of vegetation from conductors:

1. Twenty-five feet (25') for conductors energized above fifty thousand (50,000) volts;
2. Ten feet (10') for conductors energized at six hundred (600) through fifty thousand (50,000) volts, except clearances may be reduced to three feet (3') if the vegetation is not readily climbable;
3. Intrusion of limited small branches and new tree growth into the minimum clearance areas of paragraphs (B)1. and 2. above is acceptable provided the vegetation does not come closer than six inches (6") from the conductor;
4. Subtransmission lines and three (3)-phase distribution feeders/backbone circuits (portion of distribution system directly interconnected with distribution substation and prior to the first protective device) shall be trimmed vertically to remove overhanging limbs to the widths prescribed in paragraphs (B)1., 2., and 3. above; and

5. The radial clearances in subsection (10)(B) are minimum clearances that should be established between the vegetation and the energized conductors and associated live parts where practicable. Vegetation management practices may make it advantageous to obtain greater clearances than those listed. In the event that the specific trimming conflicts with any other materials within this chapter the strictest rules shall apply.

(11) Variances. A variance from a provision of this rule may be granted only for good cause shown.

AUTHORITY: sections 386.040, 386.250, 386.310 and 393.140, RSMo 2000, and 393.130, RSMo Supp. 2006. Original rule filed June 15, 2007.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately sixty-five thousand seven hundred sixty-seven dollars (\$65,767) in the first year of implementation and sixty thousand seven hundred forty-seven dollars (\$60,747) per year, thereafter.

PRIVATE COST: This proposed rule will cost private entities approximately \$364,094,238 in the first year of implementation and \$288,473,333 per year, thereafter.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before August 15, 2007, and should include a reference to Commission Case No. EX-2007-0214. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for August 15, 2007 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1 (800) 392-4211 (voice) or Relay Missouri at 711.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Filing Requirement) **Case No. EX-2007-0214**
Rules For Electric Utilities.)

Electrical Corporation Vegetation Management Standards and
Reporting Requirements Rule 4 CSR 240-23.030

**DISSENTING OPINION OF COMMISSIONER CONNIE
MURRAY**

I must dissent from the majority's decision to send the proposed Electrical Corporation Vegetation Management Standards and Reporting Requirements Rule, in its present form, to the Missouri Secretary of State. Both, this proposed rule and the draft proposed rule "4 CSR 240-23.020 Electrical Corporation Infrastructure Standards," in my opinion, are an apparent over-reaction to recent storm outages and to reports of reliability issues experienced by a

single utility. These rules were hurriedly drafted without the opportunity for a deliberate and detailed technical and legal review by Commission staff that would have otherwise been employed in the ordinary course of rulemaking.

Approximately three months ago, the Commission's technical and legal staff presented a draft rulemaking that was well thought out and drafted in a manner that provided an excellent base from which to incorporate performance standards. After discussing this draft in Agenda, Staff was directed to draft performance standards to be included in the draft and bring the draft proposed rulemaking back to the Commission for further review. Prior to Staff's revised draft rule being completed and brought back to the Commission, the set of rules which was voted upon today and for which I write this dissent was offered, and as a result, the Staff's draft rule was never recalled to Agenda for further discussion by the Commission.

The rule that is being sent to the Missouri Secretary of State is overbroad, fiscally irresponsible and unworkable. If promulgated, the fiscal note shows, the rule would create enormous costs for both the Commission and the Missouri utilities which are subject to the rule. The degree of specificity, burdensome notification and reporting requirements, strict and sometimes conflicting timelines, and heavy fines and penalties for non-compliance combine to remove the utilities' flexibility to accomplish the ultimate goal of providing a higher degree of reliability, all at a cost of hundreds of millions of dollars annually that would ultimately be borne by ratepayers. Further, the fiscal note shows that the review and inspection requirements inuring to the Commission Staff will require the equivalent of an additional full time employee than the Commission currently employees and cost over \$60,000 annually, further driving up costs to ratepayers.

I cannot support this attempt to compile the strictest rules that could be located from various states into one melting pot to be thrown out for comments. It is my belief that government agencies have a duty to put forth draft rules that are clear, understandable and are no more burdensome, costly or intrusive than necessary to accomplish a legitimate state interest. Such a draft proposed rule provides the public a meaningful opportunity to contribute to the rulemaking process by suggesting exact and detailed substantive changes, rather than changes to general concepts a draft rule such as this invites. I believe that a more prudent approach would have been to take the time necessary for Staff and the Commission to review and evaluate the potential effects of the rulemaking on all relevant parties, obtain stake-holder input and establish a well reasoned draft rulemaking.

The Missouri Public Service Commission has a legitimate interest in requiring its regulated electric utilities to manage and maintain their infrastructure and control vegetation in such a way that ensures the provision of safe, adequate and reliable service. Protecting that interest could be and should be accomplished by a rulemaking more in line with that originally drafted by the technical and legal staff of the Commission.

This dissent should in no way be construed to mean that I oppose the concept of such a rulemaking. I believe that some utilities are currently not achieving adequate levels of vegetation management and, as a result, administrative rules are needed. However, the draft proposed rulemaking adopted by the Commission today does not serve the best interest of Missouri and its citizens.

For these reasons, I do not support today's vote to send the substitute draft proposed rule to the Missouri Department of Economic Development for review.

Respectfully submitted,

Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 14th day of June 2007.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name	4 CSR 240-23.030, Electrical corporation vegetation management standards and reporting requirements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Public Service Commission	\$65,767 first year, \$60,747 each year thereafter

III. WORKSHEET

0.5 FTE Utility Engineering Specialist III \$25,116 annually
0.5 FTE Utility Engineering Specialist II \$22,236 annually
First year equipment \$5,020
Annual Equipment Expense \$1,090
Annual Office Space Rental \$2,700
Annual Travel Expense \$9,605

IV. ASSUMPTIONS

All costs in 2007 dollars

Costs reflect estimates provided for other fiscal notes for various General Assembly bills from this year's session.

A total of two additional FTEs were assumed for this rule and the Electrical Corporation Infrastructure Standards rule that is also being considered. Their time is assumed to be evenly split between these two rules. In most cases, these FTEs will be able to conduct reviews of the utilities' vegetation management and infrastructure inspection practices in the same visit. This should reduce their travel time and increase their productivity. However, these reviews will require facility reviews (including walking electric lines and observing utility employees performing the various tasks required by these rules) and on-site document reviews at various district/division offices. This will also require reports by these two FTEs on the status of the utilities' efforts at various times of the year.

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

Rule Number and Name:	4 CSR 240-23.030 Electrical Corporation Vegetation Management Standards and Reporting Requirements
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:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Four (4)	Investor Owned Electric Utility Companies	
	AmerenUE	Implementation: \$0 \$184,000,000 annually
	Empire	Implementation - \$2,300,000 \$45,433,333 annually
	Aquila	Implementation - \$59,550,905 \$14,300,000 annually
	Kansas City Power & Light	Implementation - \$13,770,000 \$44,740,000 annually

III. WORKSHEET

For position descriptions and fiscal impacts please see ASSUMPTIONS below for each utility.

IV. ASSUMPTIONS**Ameren**

- (3)(A): The newly implemented inspection program call for urban lines (defined as 35 or more customer on average per oh/ug line mile to be inspected every two years (once by an inspector and once by the tree crew performing maintenance every 4 years). Rural lines would be inspected every 3 years-once by an inspector and once by a tree crew. Assume Ameren definition of urban/rural. The proposed standard would require the rural lines to be inspected one extra time during the 6 year period or 13,347 miles times \$286=\$381,724. Assume under Ameren present understanding of NESC 218 that incidental vegetation contact is not a safety or reliability threat, this proposed standard would not greatly affect present cost. If interpretation of "close enough to pose a threat" is similar to the proposed standards below-see other costs.
- (3)(B): AmerenUE presently addresses any reliability or safety concerns between trim cycles. Assume the same Ameren criteria presently being used is continued. If staff interpretation is different, could add substantial cost.

3. 4: Present process includes a pre-work inspection of maintenance circuits. Assume present audit process of having the contractor supervisor audit minimum 2 days per month and vegetation supervisor audit 10% of contractor management is sufficient to meet this standard.
4. 5: Unable to determine cost implications due to vagueness of draft language.
5. 6: Assume present participation on urban councils, municipal meetings, individual customer inquires and all present educational material would meet this requirement.
6. 1. In wooded, rural areas would either have to research and contact all property owners or make arrangements, if possible, to bring in mowers.
7. 2: Range of cost reflects both the severity of the storms and frequency. Assume additional limited tree crews would be available. Assume Ameren would be responsible for disposal of all tree brush and wood. Assume Ameren would be given several months post major storm to complete work. Assume that cranes/lift trucks can access the majority of lines.
8. 1: Assumption is that ALL trees that are able to make contact, if they fell would need to be cut down. Assumption is that MPSC or other body would grant Ameren the additional rights and easements. Assume no legal claims as a result. Assume floor of existing ROW is clear of vegetation. Assume an additional 60' (30' on each side) for clearing mature trees. Assume all material can be left on site wind-row. Assume 50% of all transmission rights-of-way will be affected (1217 miles). Assume per acre clearing cost to be \$2393. Assume annual maintenance will be light density, after initial clearing, to be light density and addressed by low volume foliar application on a 3 year cycle for "expanded" ROW.
9. 2: Assumption is that ALL trees which can grow greater than 15' must be removed. Mature trees located in deep valleys and urban areas with more than sufficient conductor to tree clearance would require removal. Assume 3% of the transmission system has brush over 15' in height(1591 Acres). The associated cost for cut stubble \$700 per acre. Assume 3% of system has tall trees in ravines/valleys(1591 Acres). The associated cost to clear would be \$2393(did not figure any erosion remediation which could be substantial). Assume 2500 yard trees in the system with average cost to remove of \$309. Assume in rural areas wood/brush could be left. With a 5% assumption vrs 3% and 3200 yard trees the cost would be 6.8M. Assume the acreage associated will cost in average of \$400 per acre to maintain on a 3 year cycle.
10. 8: Assume emergency work is exempt. Would need to build data base with transmission lines and customer cross reference.

6 Training, recordkeeping and reporting

11. (A): Assume the intent is for Ameren to be redundant for all records that contractor is currently responsible for.
12. (B): Assume the intent is for Ameren to be redundant for all records that contractor is currently responsible for.
13. (C)1: In highly urban areas such as St. Louis City/County with over 1000 circuits and 100 plus municipals, can have one circuit go through multiple municipals, at times for very short distance. Could have no notify one municipal multiple times throughout the year. On items 1-5, depending on detail and reporting requirements could add substantial administrative time.
14. 3: AmerenUE presently tracks information on items 2-6 on crew timesheets however does not track by municipal. If present timesheets would not satisfied proposed standard, could add substantial administrative cost.
15. 8: Assume Ameren present process of supplying Staff with all next years circuit and miles is sufficient.
16. (D): Ameren presently supplies "all circuits and operating areas affected. See notes above-unsure of cost to associated all parts, of all circuits with municipals boundaries. Would be substantial administrative and software costs to report by municipals for information in C. This would involve a complete change in the way work is reported by crews and tracked.

Public notice of planned vegetation management

17. (A): Notification cost would be dependent on cycle length. Assume would need to notify 600,000 every year. If notification by post card figure on average 12 cents. Administrative cost unknown however figure one

person due to all supervisors time needed to coordinated all ongoing projects in order to notify within window given.

18. (D): Assume restoration and other unplanned trimming would be exempt. Similar concerns as above. Unsure of intent of how specific "locations of vegetation management" needs to be, however even a broad description will add substantial administrative cost. Unsure of meaning "easements rights".

(8) Outreach programs

19. (B): Assume this is an annual requirement and each year all electric customers must be notified, along with public entities. Assume this will be a separate mailing.

20. (C): Assume present web site with information meets this requirement.

(10) Specific Requirements

21. (A): Assume this requirement would require Ameren to trim the entire Distribution system(not Transmission) in 2 years. Assume the present clearance that Ameren has in place would be sufficient. Presently budget is at/above **45M** per year to trim urban circuits (7877 miles or 1969 per year) on 4 year cycle and rural circuits(13347 miles or 2224 per year on average. The "average" miles trimmed per year presently is **4193**. This standard would require 1/3 of entire system trimmed in first year or 2626 urban and **4449** rural miles or **7075** miles year one Mile increase from present to proposed would be an increased of 69%, the corresponding budget increase would be 27.2 M or **67.2M** in Year 1. Year 2 assume need to trim the remaining 2/3 of system, resulting in **54.4M** increase or **121.6M** Assume trained manpower locally or nationally would be available(not a valid assumption). Assume productivity of "additional crews" is the same. Did not figure any per diems for off system resources, generally increase cost by 20% per crew. Assume no major restorations efforts on system/off system to delay schedule.

22. (B): **Item 1**-Assume MPSC or other body would grant Ameren the rights to go off easement and assumed no legal claims resulting. Assume this voltage applies to 69kV lines estimated at 700 miles. Assume a cost to clear an additional 30' of ROW at \$2000 per acre/windrowing all material. Annual maintenance cost based on 35% of 69kV existing as brush acres at \$300 per acre for low volume foliar application on a 3 year cycle. **Item 2**-Seems to conflict with Item 3. **Item 3**-Assume present clearances. Assume this does not include neutral conductors. Assume this is on conductors rated greater than 600V only. Assume the present cycle cycle length would need to adjusted to 2 years to in effect have a "no contact rule" on urban and 3 years on rural lines along with hotspotting between cycles. At a minimum would be 2.5 times present budget or **112.5M**, could be as high as 4 times or **180M**. Similar crew assumptions as above. Costs figured seperate of section A.

23. 4.- Item 4-assume Ameren's present procedure of clearing all overhang on sub-transmission is sufficient with this proposed standard. Assume majority of pulling all overhang on 3 ph backbone will be in highly urban areas. Assume 5000 highly urban miles, 30% is classified backbone or 1500 miles. Assume additional cost of \$15,000 above present clearances or \$22.5M or 5.6M per year on a 4 year cycle. Assume no claims/litigation from causing tree fatalities or the need to completely remove trees after pulling overhang.

24. Range of Implementation costs-YR1-YR3: Unable to estimate all proposals. Figured the above proposed standards "separately", if more than one was done at once, could greatly increase cost on any additional proposals. The effect of Proposal A alone on the budget year to year is significant with going from 1/3 of system work in YR 1 and 2/3 in YR 2(and need to "repeat" thereafter".

25. Range of On going per year Compliance Cost: Unable to estimate all proposals. Figured the above proposed standards "separately", if more than one was done at once, could greatly increase cost on any additional proposals.

26. Range of AUE FTE: Assumed AUE FTE's could be in placed once any proposed standard goes into effect.

27. Range of Additional Crews Yr1, Yr2, Yr3, ongoing: On all costs did not figure in use of off system tree crews which typically add 20% per diem. Assumed productivity of additional crews equal existing crews. Did not figure in wide fluctuations in workloads and crew.

28. **On all the above proposed clearances and standards assumed that Ameren would be granted the legal authority by MPSC or other entities, if proposed is beyond present rights. Assumed no legal**

challenges or claims would result. All proposed standard would need further clarification on the intent and analysis performed before final figures can be given.

Empire:

1. One-time start-up costs: 2 divisional centers, furniture, hardware/software. Office facilities for additional Vegetation Management personnel
2. Area Vegetation Managers/Supporting staff to adhere to requirements listed in the General Provisions section. Additional vegetation management personnel needed to manage as proposed in this regulation.
3. Biennial Distribution System Surveys and 24 Month Compliance Period Utility Line-Clearing. Costs associated with the functional portion of utility line-clearance from vegetation and biennial system vegetation surveying in accordance with the specifications listed in section 10(A).
4. Ongoing application costs associated with four-year maintenance cycle and mid-cycle trimming as needed. Reflects compliance to "No Contact" rules by mid-cycle trimming of cycle-busting trees. NOTE: 10 feet of separation is not possible due to right-of-way issues.
5. Development of new standards. Re-development of standards under which EDE operates to meet State regulation while adhering to all Regional/Federal transmission requirements vegetation management requirements.
6. Training, Recordkeeping and Reporting. The requirements of this proposed regulation would require additional personnel in the Vegetation Management department who would be responsible for the documentation of training, public education and outreach, production levels, immediate and future hazards, and reporting to MPSC.
7. Hazard tree Identification and elimination. No additional costs were added for hazard tree elimination; however, looking at other danger tree programs, upper level costs could easily exceed \$100,000,000.
8. Storm related debris comment. Storm related debris could vary greatly from around \$500,000 to well over \$20,000,000 per major event depending on the interpretation of what is "storm related debris" and the size, severity and type of storm impacting the system.
9. Transmission administration and staff required to adhere to section 5 in addition to all other requirements herein while complying to Federal and Regional Requirements. Many key assumptions listed in the distribution sections of this proposed regulation also apply to the transmission section. EDE does not have right-of-way on portions of the transmission system to provide for the minimum 25 ft. clearance listed in section 10(B). These figures do not include the cost associated with either the purchase of additional right-of-way or the potential ensuing settlements, litigation costs, or trespass and loss of value lawsuits.

NOTE: Additional costs associated with storm debris removal and danger tree identification and elimination estimated from \$500,000 to more than \$120,000,000.

Aquila

1. Workload forecast based on 40% of the entire MO system requires tree maintenance.
2. Productivity based on a tree crew working 350 feet of vegetation per 8 hour work day.
3. The current average crew cost approximately \$780 per 8 hour work day.
4. New clearance standards will require the 34.5 and 69kv to be maintained on a three year trim cycle.
5. Contract foresters would be employed to help plan the tree work and to help audit the completed work to ensure compliance of the new proposals. The cost of the contract foresters would be approximately \$400,000 per year.
6. The line clearance notification letters and an annual tree education mailing sent to the electrical customers will cost approximately \$1.00 per customer.
7. Our program, The Power of Trees and an annual Arbor Day celebration will cost approximately \$60,000 per year. Aquila will use these programs to become a Tree Line USA utility sponsored by the Arbor Day Foundation.

8. The current database used to track productivity and tree inventory will require an upgrade. Software and IT costs will be approximately \$35,000.
9. Most trees on the distribution system are not readily climbable and clearance can be reduced to something less than 10' per Aquila's current standards.
10. Note: If clearance is required to a minimum of 10' (readily climbable/hazard trees) a significant number of trees will have to be removed at an additional cost of approximately \$14,760,000 over the first two years. This cost would not impact the following years.
11. Currently working an average of 164,000 trees per year. An additional 30% of those trees would require removal at approximately \$300 per tree.
12. The legal ability to prune or remove trees outside the private or platted easements is a major concern. Most of the back-lot distribution easements are 5-7.5 feet on either side of the property line. Front-lot distribution lines are located at the edge of the street right of way. Utilities would need some sort of legislation that specifically grants us the right to obtain the clearances stated in the proposed rule.
13. The public and the local authorities will probably vehemently oppose the additional clearances stated in the proposed rule.
14. The removal of trees on the transmission system that grow taller than 15 feet may create additional unnecessary work. There are many "wire friendly" species growing on the right of way that mature in the 20-25 foot range.

Kansas City Power & Light

1. Costs expressed in 2007 dollars.
2. Additional insurance will be required of contractors and consultants working on the system.
3. Only 100,000 (34%) customers per year would experience storm damaged trees subject to utility pick-up requirements. 5 cubic yards per location.
4. 500,000 cubic yards of brush will need to be picked up annually following storms
5. Two-year cycle assumed for all distribution lines.
6. Removal of trees tall enough to fall on distribution lines that are diseased, dead or hazardous will be ongoing as tree conditions change over time.
7. Transmission clearing to be accomplished within the first two years with no reclearing anticipated thereafter.
8. No cost was estimated for tree removal outside existing transmission right-of-way
9. Additional record keeping and reporting will be required for: customer notification completed, training records of contractor personnel and annual report to the MOPSC

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

PROPOSED RESCISSION

10 CSR 10-2.100 Open Burning Restrictions. This rule prohibited the disposal of refuse by open burning except as provided under specified conditions. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This regulation prohibits the disposal of refuse by open burning except as provided under specified conditions. This regulation is proposed for rescission because it is replaced by 10 CSR 10-6.045. This new rule consolidates the provisions of this rule and other rules dealing with open burning. The consolidated rule should improve compliance and enforceability and reduce confusion. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the various citizen petitions concerning open burning received in 2005 and meeting minutes for 2005/2006 open burning workgroup meetings.

AUTHORITY: section 203.050, RSMo 1986. Original rule filed Dec. 26, 1968, effective Jan. 5, 1969. Amended: Filed March 2, 1972, effective March 12, 1972. Amended: Filed Feb. 13, 1979, effective July 12, 1979. Amended: Filed Aug. 13, 1982, effective Jan. 13, 1983. Amended: Filed Nov. 9, 1983, effective April 12, 1984. Rescinded: Filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 3—Air Pollution Control Rules Specific to the
Outstate Missouri Area**

PROPOSED RESCISSION

10 CSR 10-3.030 Open Burning Restrictions. This rule prohibited the disposal of refuse by open burning except as provided under specified conditions. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This rule prohibits the disposal of refuse by open burning except as provided under specified conditions. This regulation is proposed for rescission because it is replaced by 10 CSR 10-6.045. This new rule consolidates the provisions of this rule and other rules dealing with open burning. The consolidated rule should improve compliance and enforceability and reduce confusion. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the various citizen petitions concerning open burning received in 2005 and meeting minutes for 2005/2006 open burning workgroup meetings.

AUTHORITY: section 643.050, RSMo Supp. 1997. Original rule filed Sept. 8, 1970, effective Sept. 18, 1970. Amended: Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed Nov. 9, 1983, effective April 12, 1984. Amended: Filed Jan. 2, 1998, effective Aug. 30, 1998. Rescinded: Filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 4—Air Quality Standards and Air Pollution
Control Regulations for the Springfield-Greene County
Area**

PROPOSED RESCISSION

10 CSR 10-4.090 Open Burning Restrictions. This rule prohibited the disposal of refuse by open burning except as provided under specified conditions. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution

Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This regulation prohibits the disposal of refuse by open burning except as provided under specified conditions. This regulation is proposed for rescission because it is replaced by 10 CSR 10-6.045. This new rule consolidates the provisions of this rule and other rules dealing with open burning. The consolidated rule should improve compliance and enforceability and reduce confusion. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the various citizen petitions concerning open burning received in 2005 and meeting minutes for 2005/2006 open burning workgroup meetings.

AUTHORITY: section 203.050, RSMo 1986. Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Nov. 9, 1983, effective April 12, 1984. Rescinded: Filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan
Area

PROPOSED RESCISSION

10 CSR 10-5.070 Open Burning Restrictions. This rule prohibited the disposal of refuse by open burning except as provided under specified conditions. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This rule prohibits the disposal of refuse by open burning except as provided under specified conditions. This regulation is

proposed for rescission because it is replaced by 10 CSR 10-6.045. This new rule consolidates the provisions of this rule and other rules dealing with open burning. The consolidated rule should improve compliance and enforceability and reduce confusion. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the various citizen petitions concerning open burning received in 2005 and meeting minutes for 2005/2006 open burning workgroup meetings.

AUTHORITY: section 643.050, RSMo 1994. Original rule filed March 14, 1967, effective March 24, 1967. Amended: Filed Nov. 9, 1983, effective April 12, 1984. Amended: Filed June 30, 1994, effective Jan. 29, 1995. Rescinded: Filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED RULE

10 CSR 10-6.045 Open Burning Requirements. The commission proposes this new rule to consolidate the state's existing four (4) open burning regulations into a single statewide rule. If the commission adopts this rule action, it is the department's intention to submit this new rule to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This rule sets forth the conditions and restrictions for the open burning of refuse and combustible materials throughout Missouri and defines when an open burning permit is required. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the various citizen petitions concerning open burning received in 2005 and meeting minutes for 2005/2006 open burning workgroup meetings.

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

(1) Applicability. This rule applies to all open burning throughout the state of Missouri with additional conditions applicable to the metropolitan areas of Kansas City, Springfield, St. Joseph and St. Louis as found in section (3) of this rule.

(2) Definitions.

(A) Untreated wood—Lumber and other wooden materials that have not been chemically treated for resistance to moisture, fire, fungi, insects and other pests, or has not otherwise been treated or manufactured with chemicals, or that does not contain adhesives or resins. Untreated wood does not include plywood, particleboard, chipboard and wood with other than insignificant quantities of paint, coating or finish.

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

(3) General Provisions. The open burning of tires, petroleum-based products, asbestos containing materials, and trade waste is prohibited, except as allowed below. Nothing in this rule may be construed as to allow open burning which causes or constitutes a public health hazard, nuisance, a hazard to vehicular or air traffic, nor which violates any other rule or statute.

(A) The following types of open burning are allowed by the department when not prohibited by other laws, regulations or ordinances:

1. Recreational and ceremonial fires. These fires shall be comprised of vegetative woody materials or untreated wood products only;

2. Noncommercial preparation of food, such as by barbecuing;

3. Burning of household or domestic refuse. Burning of household or domestic refuse is limited to open burning on a residential premises having not more than four (4) dwelling units, provided that the refuse originates on the same premises, with the following exceptions:

A. Kansas City metropolitan area. The open burning of household refuse must take place in an area zoned for agricultural purposes and outside that portion of the metropolitan area surrounded by the corporate limits of Kansas City and every contiguous municipality;

B. Springfield-Greene County area. The open burning of household refuse must take place outside the corporate limits of Springfield and only within areas zoned A-1, Agricultural District;

C. St. Joseph area. The open burning of household refuse must take place within an area zoned for agricultural purposes and outside that portion of the metropolitan area surrounded by the corporate limits of St. Joseph; and

D. St. Louis metropolitan area. The open burning of household refuse is prohibited;

4. Land clearing of vegetative debris, provided all burning occurs—

A. Outside of any incorporated area or municipality and outside of the St. Louis metropolitan area;

B. At least two hundred (200) yards from the nearest occupied structure; and

C. Land clearing of vegetative debris that does not meet the conditions of subparagraphs (3)(A)4.A. and (3)(A)4.B. of this rule may be open burned provided an open burning permit is obtained as found in subsection (3)(B) of this rule;

5. Yard waste, with the following exceptions:

A. Kansas City metropolitan area. The open burning of

trees, tree leaves, brush or any other type of vegetation shall require an open burning permit;

B. Springfield-Greene County area. The City of Springfield requires an open burning permit for the open burning of trees, brush or any other type of vegetation. The City of Springfield prohibits the open burning of tree leaves;

C. St. Joseph area. Within the corporate limits of St. Joseph, the open burning of trees, tree leaves, brush or any other type of vegetation grown on a residential property is allowed during the following calendar periods and time-of-day restrictions:

(I) A three (3)-week period within the period commencing the first day of March through April 30 and continuing for twenty-one (21) consecutive calendar days;

(II) A three (3)-week period within the period commencing the first day of October through November 30 and continuing for twenty-one (21) consecutive calendar days;

(III) The burning shall take place only between the daytime hours of 10:00 a.m. and 3:30 p.m.; and

(IV) In each instance, the twenty-one (21)-day burning period shall be determined by the Director of Public Health and Welfare of the City of St. Joseph for the region in which the City of St. Joseph is located provided, however, the burning period first shall receive the approval of the department director; and

D. St. Louis metropolitan area. The open burning of trees, tree leaves, brush or any other type of vegetation is limited to the period beginning September 16 and ending April 14 of each calendar year and limited to a total base area not to exceed sixteen (16) square feet. Any open burning shall be conducted only between the hours of 10:00 a.m. and 4:00 p.m. and is limited to areas outside of incorporated municipalities;

6. Untreated wood waste materials. Untreated wood waste materials resulting from wood processing facilities in existence as of March 25, 1976, which produce less than eight thousand (8,000) board feet or equivalent per day may be open burned if at least two hundred (200) yards from the nearest occupied structure. Untreated wood waste materials resulting from wood processing plants which relocate or from new wood processing facilities which produce less than eight thousand (8,000) board feet, or equivalent per day, may be open burned if at least one (1) mile outside the city limits of any incorporated area or municipality and at least two hundred (200) yards from the nearest occupied structure;

7. Fire training exercises. Fires set for the purposes of training fire fighters and industrial employees in fire fighting methods provided that—

A. The training is conducted in accordance with National Fire Protection Association standards, NFPA 1403, *Standard on Live Fire Training Evolutions (2002 Edition)*, for fire fighters and NFPA 600, *Standard on Industrial Fire Brigades (2005 Edition)*, for industrial employees. The provisions of NFPA 1403 and 600 shall apply and are hereby incorporated by reference in this rule, as published by the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. This rule does not incorporate any subsequent amendments or additions. These exercises include, but are not limited to, liquefied gas propane fueled simulators, flashover simulators and stationary live burn towers; and

B. Acquired structures to be used for training exercises are subject to the requirements of 10 CSR 10-6.080, subsection (3)(M), National Emission Standard for Asbestos. These requirements include, but are not limited to, inspection of and notification to the director. All petroleum-based products are to be removed from any acquired structure that is to be burned as part of a training exercise;

8. Agricultural burning. Fires set in connection with agricultural or forestry operations related to the growing or harvesting of crops with the following exception. In the St. Louis metropolitan area, if open burning for pest or weed control or crop production on existing cropland between April 15 and September 15, the person must notify the director in writing at least forty-eight (48) hours prior to commencement of burning. The department reserves the right to

delay the burning on days when the ambient ozone level is forecasted to be high; and

9. Natural resource and land management. Prescribed fires set for natural resource management purposes.

(B) The following types of materials may be open burned provided an open burning permit is obtained from the director. The permit will specify the conditions and provisions of all open burning. The permit may be revoked if the owner or operator fails to comply with the conditions or any provisions of the permit—

1. Burning of untreated wood waste; and

2. Burning of tree trunks, tree limbs, and vegetation at commercial land clearing operations that occur within an incorporated area or municipality or where the proposed open burning will occur within two hundred (200) yards of an occupied structure or when the open burning is located anywhere in the St. Louis metropolitan area.

(C) Commercial tree trimming operations and municipal utility tree trimming operations shall submit a written request to the director for an annually renewable open burning permit. The permit will specify the conditions and provisions of all open burning. The permit may be revoked if the owner or operator fails to comply with the conditions or any provisions of the permit.

(D) Facility owners or operators may be issued an annually renewable open burning permit for open burning provided that an air curtain destructor or incinerator is utilized and only tree trunks, tree limbs, vegetation or untreated wood waste are burned. Open burning shall occur at least two hundred (200) yards from the nearest occupied structure unless the owner or operator of the occupied structure provides a written waiver of this requirement. Any waiver shall accompany the open burning permit application. The permit may be revoked if the owner or operator fails to comply with the provisions or any condition of the permit.

(E) In a nonattainment area, as defined in 10 CSR 10-6.020, paragraph (2)(N)5., the director shall not issue a permit under this section unless the owner or operator can demonstrate to the satisfaction of the director that the emissions from the open burning of the specified material would be less than the emissions from any other waste management or disposal method.

(4) Reporting and Record Keeping. New Source Performance Standard (NSPS) 40 CFR Part 60 Subpart CCCC establishes certain requirements for air curtain destructors or incinerators that burn wood trade waste. These requirements are established in 40 CFR 60.2245–60.2260. The provisions of 40 CFR part 60 Subpart CCCC promulgated as of September 22, 2005 shall apply and are hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. To comply with NSPS 40 CFR 60.2245–60.2260, sources must conduct an annual Method 9 test. A copy of the annual Method 9 test results shall be submitted to the director.

(5) Test Methods. The visible emissions from air pollution sources shall be evaluated as specified by 40 CFR part 60, Appendix A–Test Methods, *Method 9–Visual Determination of the Opacity of Emissions from Stationary Sources*. The provisions of 40 CFR part 60, Appendix A, Method 9 promulgated as of December 23, 1971 is incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 643.050, RSMo 2000. Original rule filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-6.241 Asbestos Projects—Registration, Notification and Performance Requirements. The commission proposes to amend subsections (3)(A), (3)(D)–(3)(G), and add new subsection (3)(I). The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This rule requires asbestos contractors to register with the department, to notify the department of each asbestos project, to allow the department to inspect asbestos projects and to pay inspections fees. This amendment is to clarify that department supplied forms are to be used to submit asbestos related information to the department, establish an asbestos inspection fee collection time frame to promote timely collection of inspection charges and change the word "workers" to "individuals" so that it is consistently used throughout the rule to avoid confusion. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are rule comment forms (dated May 11, 2005, March 15, 2006 and July 26, 2006) requesting a term change for consistency, that application information can be provided on department-supplied forms and that the time frame for submitting inspection fees be codified.

(3) General Provisions.

(A) Registration.

1. Any person that conducts an asbestos project shall register with the department. Business entities that qualify for exemption status from the state must reapply for exemption from registration.

2. The person shall apply for registration renewal on an annual basis, and two (2) months before the expiration date shall send the application to the department for processing. **The contractor registration application or business exemption information shall be submitted on the forms provided by the department.**

3. Annually, the person submitting a registration application to the department shall remit a nonrefundable fee of one thousand dollars (\$1,000) to the department.

4. To determine eligibility for registration and registration renewal, the department may consider the compliance history of the applicant as well as that of all management employees and officers. The department may also consider the compliance record of any other entity of which those individuals were officers and management employees.

(D) Any person that authorizes an asbestos project, asbestos inspection or any AHERA-related work shall ensure that Missouri registered contractors and certified *[workers]* individuals are employed, and that all post-notification procedures on the project are in compliance with this rule and 10 CSR 10-6.250 and Chapter 643, RSMo. Business entities that have exemption status from the state are exempt from using registered contractors and from post-notification requirements, when performing in-house asbestos projects.

(E) Asbestos Project Notification. Any person undertaking an asbestos project shall submit a notification to the department for review at least ten (10)-working days prior to the start of the project. Business entities with state-approved exemption status are exempt from notification except for those projects for which notification is required by the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS). The department may waive the ten (10)-working day review period upon request for good cause. To apply for this waiver, the person shall complete *[Part B, number 2]* the appropriate sections of the notification form provided by the department. *[After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]* The person who applies for the ten (10)-working day waiver must obtain approval from the department before the project can begin.

1. The person shall submit the notification form provided by the department.

2. If an amendment to the notification is necessary, the person shall notify the department immediately by telephone or FAX. The department must receive the written amendment within five (5) working days following verbal agreement.

3. Asbestos project notifications shall state actual dates and times of the project, the on-site supervisor and a description of work practices. If the person must revise the dates and times of the project, the person shall notify the department and the regional office or the appropriate local delegated enforcement agency at least twenty-four (24) hours in advance of the change by telephone or FAX and then immediately follow-up with a written amendment stating the change. The department must receive the written amendment within five (5) working days of the phone or FAX message.

4. A nonrefundable notification fee of one hundred dollars (\$100) will be charged for each project constituting one hundred sixty (160) square feet, two hundred sixty (260) linear feet, or thirty-five (35) cubic feet or greater. If an asbestos project is in an area regulated by an authorized local air pollution control agency, and the person is required to pay notification fees to that agency, the person is exempt from paying the state fees. Persons conducting planned renovation projects determined by the department to fall under EPA's 40 CFR part 61 subpart M must pay this fee and the inspection fees required in subsection (3)(F) of this rule.

5. Emergency project. Any person undertaking an emergency asbestos project shall notify the department by telephone and must receive departmental approval of emergency status. The person must notify the department within twenty-four (24) hours of the onset of the emergency. Business entities with state-approved exemption status are exempt from emergency notification for state-approved projects that are part of a NESHAPS planned renovation annual notification. If the emergency occurs after normal working hours or weekends, the person shall contact the Environmental Services Program. The notice shall provide—

A. A description of the nature and scope of the emergency;

B. A description of the measures immediately used to mitigate the emergency; and

C. A schedule for removal. Following the emergency notice, the person shall provide to the director a notification on the form provided by the department and the person shall submit it to the director within seven (7) days of the onset of the emergency. The amendment requirements for notification found in subsection (3)(E) of this rule are applicable to emergency projects.

(F) Inspections. There shall be a charge of one hundred dollars (\$100) per inspection for the first three (3) inspections of any asbestos project. The department or the local delegated enforcement agency shall bill the person for that inspection(s) and the person shall submit the fee(s) *[according to the requirements of the department or of the local delegated enforcement agency.]* **within sixty (60) days of the date of the invoice, or sooner, if required by a local delegated enforcement agency within its area of jurisdiction.**

(G) All information required under this rule must be submitted on the appropriate forms and contain accurate, legible information. Failure to provide the required information, failure to submit legible information, submission of false information or failure to provide complete information as required, shall be a violation of this rule and may result in the director's denial or revocation of the *[notification]* forms submitted.

(I) After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

AUTHORITY: section 643.225, RSMo 2000. Original rule filed Jan. 12, 2004, effective Sept. 30, 2004. Amended: Filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-6.250 Asbestos Projects—Certification, Accreditation and Business Exemption Requirements. The commission proposes to amend subsections (3)(A), (3)(D) and (3)(E); and add new subsections (3)(F) and (3)(G). The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri

Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/regagenda.htm.

PURPOSE: This rule requires individuals who work in asbestos projects to be certified by the Missouri Department of Natural Resources Air Pollution Control Program. This amendment is to assure that required asbestos project information is provided on appropriate department-supplied forms. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are rule comment forms (dated May 11, 2005, March 15, 2006 and July 26, 2006) requesting a term change for consistency, that application information can be provided on department-supplied forms and that the time frame for submitting inspection fees be codified.

(3) General Provisions.

(A) Certification.

1. An individual must receive certification from the department before that individual participates in an asbestos project, inspection, AHERA management plan, abatement project design, or asbestos air sampling in the state of Missouri. This certification must be renewed annually with the exception of air sampling professionals. To become certified an individual must meet the qualifications in the specialty area as defined in the EPA's AHERA Model Accreditation Plan, 40 CFR part 763, Appendix C, subpart E. The individual must successfully complete a fully-approved EPA or Missouri-accredited AHERA training course and pass the training course exam and pass the Missouri asbestos examination with a minimum score of seventy percent (70%) and submit a completed department-supplied application form to the department along with the appropriate certification fees. *[After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]* The department shall issue a certificate to each individual that meets the requirements for the job category.

2. In order to receive Missouri certification, individuals must be trained by Missouri accredited providers.

3. Qualifications. An individual shall present proof of these to the department with the application for certification. The following are the minimum qualifications for each job category:

A. An asbestos air sampling professional conducts, oversees or is responsible for air monitoring of asbestos projects. Air sampling professionals must satisfy one (1) of the following qualifications for certification:

(I) Bachelor of science degree in industrial hygiene plus one (1) year of field experience. The individual must provide a copy of his/her diploma, a certified copy of his/her transcript, and documentation of one (1) year of experience;

(II) Master of science degree in industrial hygiene. The individual must provide a copy of his/her diploma and a certified copy of his/her transcript;

(III) Certification as an industrial hygienist as designated by the American Board of Industrial Hygiene. The individual must provide a copy of his/her certificate and a certified copy of his/her transcript, if applicable;

(IV) Three (3) years of practical industrial hygiene field experience including significant asbestos air monitoring and completion of a forty (40)-hour asbestos course including air monitoring instruction. At least fifty percent (50%) of the three (3)-year period must have been on projects where a degreed or certified industrial hygienist or a Missouri certified asbestos air sampling professional was involved. The individual must provide to the department written reference by the industrial hygienist or the asbestos air sampling professional stating the individual's performance of monitoring was acceptable and that the individual is capable of fulfilling the responsibilities associated with certification as an asbestos air sampling

professional. The individual must also provide documentation of his/her experience and a copy of his/her asbestos course certificate; or

(V) Other qualifications including but not limited to an American Board of Industrial Hygiene accepted degree or a health/safety related degree combined with related experience. The individual must provide a copy of his/her diploma and/or certification, a certified copy of his/her transcript, and letters necessary to verify experience.

B. An asbestos air sampling technician is an individual who has been trained by an air sampling professional to do air monitoring and who conducts air monitoring of asbestos projects. Air sampling technicians need not be certified but are required to pass a training course and have proof of passage of the course at the site along with photo identification. This course shall include:

(I) Air monitoring equipment and supplies;

(II) Experience with pump calibration and location;

(III) Record keeping of air monitoring data for asbestos projects;

(IV) Applicable asbestos regulations;

(V) Visual inspection for final clearance sampling; and

(VI) A minimum of sixteen (16) hours of air monitoring field equipment training by a certified air sampling professional;

C. An asbestos inspector is an individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a building or other air contaminant source. An asbestos inspector must hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent;

D. An AHERA asbestos management planner is an individual who, under AHERA, reviews the results of inspections, re-inspections or assessments and writes recommendations for appropriate response actions. An AHERA asbestos management planner must hold diplomas from a fully-approved EPA or Missouri-accredited AHERA inspector course and a fully approved EPA or Missouri-accredited management planner course. The individual must also hold a high school diploma or its equivalent;

E. An abatement project designer is an individual who designs or plans asbestos abatement. An abatement project designer must hold a diploma from a fully-approved EPA or Missouri-accredited project designer course, must have an engineering or industrial hygiene degree, and must have working knowledge of heating, ventilation and air conditioning systems or an abatement project designer must hold a high school diploma or its equivalent, must have a diploma from a fully-approved EPA or Missouri-accredited project designer course, and must have at least four (4) years experience in building design, heating, ventilation and air conditioning systems. The department may require individuals with professional degrees for complex asbestos projects;

F. An asbestos supervisor is an individual who directs, controls or supervises others in asbestos projects. An asbestos supervisor shall hold a diploma from a fully-approved EPA or Missouri-accredited AHERA contractor/supervisor course and have one (1) year full-time prior experience in asbestos abatement work or in general construction work; and

G. An asbestos worker is an individual who engages in asbestos projects. An asbestos worker shall hold a diploma from a fully-approved EPA or Missouri-accredited AHERA worker training course.

(D) Accreditation of Training Programs. To be a training provider for the purposes of this rule, a person shall apply for accreditation to the department and comply with EPA's AHERA Model Accreditation Plan 40 CFR part 763, Appendix C, subpart E. Business entities that are determined by the department to fall under subsection (3)(E) of this rule are exempt from this section.

1. Training providers shall apply for approval of a training course(s) as provided in section 643.228, RSMo, on the department-supplied Asbestos Training Course Accreditation form. *[After the*

effective date of this rule revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]

A. In addition to the written application, the training provider shall present each initial course for the department to audit. The department may deny accreditation of a course if the applicant fails to provide information required within sixty (60) days of receipt of written notice that the application is deficient. All training providers must apply for reaccreditation biennially.

B. Training providers must submit documentation that their courses meet the criteria set forth in this rule. Out-of-state providers must submit documentation of biennial audit by an accrediting agency with a written verification that Missouri rules are addressed in the audited course.

C. Providers must pay an accreditation fee of one thousand dollars (\$1,000) per course category prior to issuance or renewal of an accreditation. No person shall pay more than three thousand dollars (\$3,000) for all course categories for which accreditation is requested at the same time.

2. At least two (2) weeks prior to the course starting date, training providers shall notify the department of their intent to offer initial training and refresher courses. The notification shall include the course title, starting date, the location at which the course will take place and a list of the course instructors.

3. All training courses shall have a ratio of students to instructors in hands-on demonstrations that shall not exceed ten-to-one (10:1).

4. Instructor qualifications.

A. An individual must be Missouri-certified in a speciality area before they will be allowed to teach in that specialty area, except that instructors certified as supervisors may also instruct a worker course.

B. An individual with experience and education in industrial hygiene shall teach the sections of the training courses concerning the performance and evaluation of air monitoring programs and the design and implementation of respiratory protection programs. The department does not require that the instructor hold a degree in industrial hygiene, but the individual must provide documentation and written explanation of experience and training.

C. An individual who is a Missouri-certified supervisor, and who has sufficient training and work experience to effectively present the assigned subject matter, shall teach the hands-on training sections of all courses.

D. An individual who teaches the portions of the project designer's course involving heating, ventilation and air conditioning (HVAC) systems, must be a licensed architect, a licensed engineer or must provide documentation of training and at least five (5) years' experience in the field.

5. The course provider must administer and monitor all course examinations. The course provider assumes responsibility for the security of exam contents and shall ensure that the participant passes the exam on his/her own merit. Minimum security measures for the written exams include ample space between participants, absence of written materials other than the examination and supervision of the exam by course provider.

6. When the provider offers training on short notice, the training provider shall notify the department as soon as possible but no later than two (2) days prior to commencement of that training.

7. When the provider cancels the course, the training provider should notify the department at the same time s/he notifies course participants, and shall follow-up with written notification.

8. When rules, policies or procedures change, the training provider must update the initial and refresher courses. The training provider must notify the department as soon as s/he makes the changes.

9. The department may withdraw accreditation from providers who fail to accurately portray their Missouri accreditation in advertisements, who fail to ensure security of examinations, who fail to ensure that each student passes the exam on his/her own merit, or

who issue improper certificates.

10. Training course providers must notify the department of any changes in training course content or instructors. Training course providers must submit resumés of all new instructors to the department as soon as substitutions or additions are made.

11. The department may revoke or suspend accreditation of any course subject to this rule if alterations in the course cause it to fail the department's accreditation criteria.

12. Training providers shall have thirty (30) days to correct identified deficiencies in training course(s) before the department revokes accreditation.

(E) Business Exemptions. The department may exempt a person from registration, certification and certain notification requirements provided the person conducts asbestos projects solely at the person's own place(s) of business as part of normal operations in the facility and the person is also subject to the requirements and applicable standards of the EPA and United States Occupational Safety and Health Administration (OSHA) 29 CFR 1926.1101. The person shall submit an application for exemption to the department on the department-supplied form. *[After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]* This exemption shall not apply to asbestos contractors, to those subject to the requirements of AHERA and to those persons who provide a service to the public in their place(s) of business as the economic foundation of the facility. These shall include, but not be limited to, child daycare centers, restaurants, nursing homes, retail outlets, medical care facilities, hotels and theaters. The department shall review the exemption application within one hundred eighty (180) days. State-exempted business entities shall comply with all federal air sampling requirements for planned renovation operations.

1. Training course requirements.

A. The person shall fill out the department-supplied form describing training provided to employees and an explanation of how the training meets the applicable OSHA and EPA standards. *[After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]*

B. The person shall notify the department two (2) weeks before the person conducts training programs. This notification shall include the course title, start-up date, location and course instructor(s).

C. If the person cancels the course, the person shall notify the department at the same time the person notifies course participants. The person shall follow up with written notification to the department.

D. When regulations, policies or procedures change, the person must update the initial and refresher courses. The person must notify the department as soon as the person makes the changes.

E. When the person conducts hands-on training, the ratio of students to instructors shall not exceed ten-to-one (10:1).

F. The person must allow representative(s) of the department to attend the training course for purposes of determining compliance with this rule.

G. Exempted persons shall submit to the director changes in curricula, instructors and other significant revisions to the training program as they occur. The person must submit resumés of all new instructors to the department as soon as substitutions or additions are made.

H. The department may revoke or suspend an exemption if on-site inspection indicates that the training fails the exemption requirements. These include, but are not limited to, a decrease in course length, a change in course content or use of different instructors than those indicated in the application. The department, in writing, shall notify the person responsible for the training of deficiencies. The person shall have thirty (30) days to correct the deficiencies before the department issues final written notice of exemption withdrawal.

2. If the department finds an exemption application deficient, the person has sixty (60) days to correct the deficiencies. If, within sixty (60) days, the person fails to provide the department with the required information, the department may deny approval of the exemption.

3. The person shall submit a fee of two hundred fifty dollars (\$250) with the application for exemption. This is a nonrefundable one (1)-time fee.

(F) All information required under this rule must be submitted on the appropriate forms and contain accurate, legible information. Failure to provide the required information, failure to submit legible information, submission of false information or failure to provide complete information as required, shall be a violation of this rule and may result in the director's denial or revocation of the forms provided.

(G) After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

AUTHORITY: section [643.050] 643.225, RSMo 2000. Original rule filed Dec. 14, 1992, effective Sept. 9, 1993. Emergency amendment filed July 26, 1994, effective Aug. 5, 1994, expired Dec. 2, 1994. Emergency amendment filed Nov. 15, 1994, effective Dec 2, 1994, expired March 31, 1995. Amended: Filed Aug. 1, 1994, effective March 30, 1995. Amended: Filed Jan. 12, 2004, effective Sept. 30, 2004. Amended: Filed June 7, 2007.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2007. The public hearing will be held at the Quality Inn and Suites, Calypso and Aloha Meeting Rooms, 120 Lindsey Drive Highway 36, Hannibal, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 6, 2007. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED RESCISSION

11 CSR 50-2.400 Emission Test Procedures. This rule specified the procedures and limits for the basic inspection and maintenance program.

PURPOSE: This rule is being rescinded because 307.366, RSMo is repealed effective September 1, 2007.

AUTHORITY: section 307.366, RSMo Supp. 2003. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 12, 2007.

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

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children's Division Chapter 32—Child Care

PROPOSED RULE

13 CSR 35-32.010 Basis of Payment

PURPOSE: This rule establishes that payment may be made to licensed and contracted facilities, state registered or certified facilities or individuals, relatives, organizational vendors or child care expenses; and designates the criteria used in making those payments for the division's child care programs including Income Maintenance/Income Eligible, Protective Services, Food Stamp Employment and Training Child Care programs, child care services required by the *Code of Federal Regulations* Section 45, Parts 98 and 99, known as the Child Care and Development Fund. This rule also establishes a system of priorities in program eligibility determination based on funding sources and defines state registration for child care providers as required under the guidelines of the Child Care and Development Fund. It defines minimum health and safety as required under the Child Care and Development Fund.

(1) The Children's Division may make payment for child care which shall be based on appropriation for individuals who meet the following eligibility criteria:

(A) Recipients of Temporary Assistance (TA) who are employed or are in school or training for employment;

(B) Individuals who are employed, in school or training, or who have a disability or incapacity which renders them unable to care for a child, except with the provision of child care; and this disability or incapacity and need for child care due to this disability or incapacity has been confirmed by the attending physician. In determining the eligibility of these individuals, the Family Support Division shall use income guidelines;

(C) Individuals eligible under the guidelines of the Food Stamp Employment and Training Child Care Program (7 CFR, part 273). Part 273 is incorporated by reference in this rule, as published by the Food and Nutrition Service, Department of Agriculture, 3101 Park Center Dr #926POC, Alexandria, VA 22302 on January 1, 2007. This rule does not incorporate any subsequent amendments or additions to part 273;

(D) Individuals eligible under the guidelines of the Child Care and Development Fund (CCDF) (45 CFR, parts 98 and 99). Parts 98 and 99 are incorporated by reference in this rule, as published by the Food and Nutrition Service, Department of Agriculture, 3101 Park Center Dr #926POC, Alexandria, VA 22302 on January 1, 2007. This rule does not incorporate any subsequent amendments or additions to parts 98 and 99; and

(E) Individuals receiving Protective Services through the Children's Division.

(2) Limitations for Participation in Child Care Which Relate to Subsections (1)(A), (B), and (D). Participation in up to two (2) training programs, or a maximum of two (2) years of training, is allowed when the end result is a professional or technical job skill leading toward employment in a specific field upon graduation. There is a one (1)-year time limit for the completion of General Equivalency Diploma (GED) certification. There is a four (4)-year time limit for those who attend regular high school classes. There is a four (4)-year time limit for those who attend college with the intent of receiving a college degree.

(3) Child care recipients eligible under subsections (1)(A)–(D), may pay a fee based on gross income and family unit size based on a child care sliding fee scale established by the division, which shall be based on appropriations. The sliding scale fee may be waived for children with special needs as established by the division. The maximum payment by the division shall be the applicable rate minus the applicable fee.

(4) Maximum payments by the division for infant care (birth to second birthday), pre-school care (two (2) years to fifth birthday) and school-age care (five (5) years and over), shall not exceed the applicable rate as established by the division by geographic areas or the actual charges by the provider, whichever is less.

(5) Claimants eligible for child care under subsection (1)(A), (C), or (D), are to receive benefits under those programs prior to general revenue being expended for child care under subsection (1)(B).

(6) State registration for a child provider as required under the Child Care and Development Fund (CCDF) Program will consist of providing information required for prompt payment, will allow for parental choice, and will be a simple and timely process that will allow for registration after parental selection of a provider.

(7) To meet the health and safety requirements of the Child Care and Development Fund (CCDF) the provider must sign a health and safety form certifying that s/he agrees to the following:

(A) That all local fire codes are met;

(B) That if no local fire codes are in place, the provider has a working smoke alarm, a working fire extinguisher, minimum classification 2A10BC for centers and 1A10BS for homes, and a posted emergency evacuation plan;

(C) Providers caring for ten (10) or more children will provide a copy of their annual immunization report to the Department of Health and Senior Services;

(D) Providers caring for fewer than ten (10) children will be informed regarding prevention and control of communicable diseases, and will refer parents to their family physician or local health department to obtain immunizations for children in need of an immunization. A parent will be required to cosign the health and safety form to verify that the requirement in subsection (7)(B) has been met.

AUTHORITY: section 207.020, RSMo 2000. Original rule filed June 15, 2007.

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 65109. To be considered, comments must be received within thirty (30) days after pub-

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

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 32—Child Care**

PROPOSED RESCISSION

13 CSR 40-32.010 Basis of Payment. This rule established payment methods, system priorities and defined minimum safety standards for child care programs.

PURPOSE: This rule is being rescinded and a new rule for basis of payment is being promulgated in Division 35 Children's Division as the Children's Division is responsible for child care.

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 15, 2007.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Children's Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities**

PROPOSED AMENDMENT

15 CSR 30-52.030 NASAA Statements of Policy. The commissioner is amending subsection (3)(A).

PURPOSE: In reviewing suitability for Direct Participation Programs the Securities Division has established investor suitability guidelines found in 15 CSR 30-52.030. This amendment updates the income guidelines of 15 CSR 30-52.030(3)(A)1. and 2. to reflect inflation over the years.

(3) Suitability for Direct Participation Programs.

(A) In establishing standards of fairness and equity, the Securities Division has established the following investor suitability guidelines for direct participation programs registered under the Act:

1. A gross income of [forty-five thousand dollars (\$45,000)] seventy thousand dollars (\$70,000) and a net worth of [forty-five thousand dollars (\$45,000)] seventy thousand dollars (\$70,000) (exclusive of home, home furnishings and automobiles); or

2. A net worth of [one hundred fifty thousand dollars (\$150,000)] two hundred fifty thousand dollars (\$250,000) (exclusive of home, home furnishings and automobiles); and

3. No more than ten percent (10%) of any one (1) Missouri investor's liquid net worth shall be invested in the securities being registered with the Securities Division.

AUTHORITY: sections 409.3-303, 409.3-304, 409.3-305, 409.3-306, 409.3-307, 409.5-501, 409.6-605 and 409.6-608, RSMo Supp. [2003] 2006. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2007.

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

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

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 20—Division of Community and Public Health Chapter 20—Communicable Diseases

PROPOSED AMENDMENT

19 CSR 20-20.010 Definitions Relating to Communicable, Environmental and Occupational Diseases. The department is amending section (34), adding a new section (37), and renumbering the sections thereafter.

PURPOSE: This amendment clarifies the definition of quarantine and adds the definition of statewide pandemic.

(34) Quarantine is a *[period of detention for]* **restriction of movement** of persons or animals that *[may]* have been exposed to a *[reportable]* **communicable disease, but have not yet developed disease.** The period of *[time]* **quarantine** will not be longer than the *[longest period of communicability]* **entire incubation period** of the disease. The purpose of quarantine is to prevent effective contact with the general population.

(A) Complete quarantine is a limitation of freedom of movement of persons or animals exposed to a reportable disease, for a period of time not longer than the *[longest period of communicability]* **entire incubation period** of the disease, in order to prevent effective contact with the general population.

(37) **Statewide pandemic is an outbreak of a particularly dangerous disease affecting a high proportion of the population, appearing in three (3) or more counties, as declared by the director of the Department of Health and Senior Services.**

[(37)] (38) Terrorist event is the unlawful use of force or violence committed by a group or individual against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. Terrorist attacks are classified as chemical, biological, or radiological.

(A) Chemical means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.

(B) Biological means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product.

(C) Radiological means any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

[(38)] (39) Toxic substance is any substance, including any raw materials, intermediate products, catalysts, final products or by-products of any manufacturing operation conducted in a commercial establishment that has the capacity through its physical, chemical or biological properties to pose a substantial risk of death or impairment, either immediately or later, to the normal functions of humans, aquatic organisms or any other animal.

[(39)] (40) Unusual diseases—Examples include, but are not limited to, the following:

- (A) Diseases uncommon to a geographic area, age group, or anatomic site;
- (B) Cases of violent illness resulting in respiratory failure;
- (C) Absence of a competent natural vector for a disease; or
- (D) Occurrence of hemorrhagic illness.

[(40)] (41) Unusual manifestation of illness—Examples include, but are not limited to, the following:

- (A) Multiple persons presenting with a similar clinical syndrome at a steady or increasing rate;
- (B) Large numbers of rapidly fatal cases, with or without recognizable signs and symptoms;
- (C) Two (2) or more persons, without a previous medical history, presenting with convulsions;
- (D) Persons presenting with grayish colored tissue damage; or
- (E) Adults under the age of fifty (50) years, without previous medical history, presenting with adult respiratory distress syndrome (ARDS).

[(41)] (42) Varicella (Chickenpox) severity of illness shall include the following categories:

- (A) Mild—less than fifty (50) lesions (able to count lesions within thirty (30) seconds);
- (B) Moderate—fifty to five hundred (50–500) lesions (anything in between mild and severe); and
- (C) Severe—more than five hundred (500) lesions (difficult to see the skin) or lesions with complications.

AUTHORITY: sections 192.006 and 260.203, RSMo 2000 and 192.020, RSMo Supp. [2005] 2006. This rule was previously filed as 13 CSR 50-101.010. Original rule filed July 15, 1948, effective Sept. 13, 1948. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 15, 2007, effective July 6, 2007, expires Jan. 1, 2008. Amended: Filed June 15, 2007.

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 Glenda Miller, Director of the Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after the publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 20—Division of Community and Public Health
Chapter 20—Communicable Diseases**

PROPOSED AMENDMENT

19 CSR 20-20.050 Quarantine or Isolation Practices and Closing of Schools and Places of Public and Private Assembly. The department is amending sections (1), (2) and (3).

PURPOSE: This amendment clarifies who is authorized to close schools and places of public and private assembly in the event of a statewide pandemic.

(1) The local health authority, the director of the Department of Health and Senior Services or the director's designated representative shall require isolation of a patient or animal with a communicable disease, quarantine of contacts, concurrent and terminal disinfection, or modified forms of these procedures necessary for the protection of the public health. The isolation of a patient, animal or contact shall be carried out according to the methods of control in 19 CSR 20-20.040(1).

(2) No person or animal infected with or suspected of having a communicable disease listed in 19 CSR 20-20.020(1)–(3) or any contact of a disease subject to quarantine or isolation shall move or be moved from one (1) health jurisdiction to another, unless necessary for medical care, without notice to and consent from the local health authority, the director of the Department of Health and Senior Services or the director's designated representative. If a person is moved for the reason of medical care, the health authority who ordered the isolation or quarantine shall be notified within seventy-two (72) hours.

(3) The local health authority, the director of the Department of Health and Senior Services or the director's designated representative is empowered to close any public or private school or other place of public or private assembly when, in the opinion of the local health authority, the director of the Department of Health and Senior Services or the director's designated representative, the closing is necessary to protect the public health. **However, in a statewide pandemic, only the director of the Department of Health and Senior Services or the director's designated representative shall have the authority to close a public or private school or other place of public or private assembly. The director or designated representative shall consult with the local health authorities prior to any such closing.** Any school or other place of public or private assembly that is ordered closed shall not reopen until permitted by whomever ordered the closure.

AUTHORITY: section 192.020, RSMo [1994] Supp. 2006. This rule was previously filed as 13 CSR 50-101.061. Original rule filed Dec. 11, 1981, effective May 13, 1982. Emergency amendment filed June 15, 2007, effective July 6, 2007, expires Jan. 1, 2008. Amended: Filed June 15, 2007.

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 Glenda Miller, Director of the Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after the publication

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 25—[Division of Administration] State Public Health Laboratory
Chapter 36—Testing for Metabolic Diseases**

PROPOSED AMENDMENT

19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders. The department is amending the purpose and sections (1)–(6).

PURPOSE: The amendment changes the name of the department from "Department of Health" to "Department of Health and Senior Services" where needed. The amendment also updates the names of the metabolic and genetic disorders tested for by the State Public Health Laboratory. In addition, this amendment changes the fee for testing specimens for metabolic and genetic disorders submitted to the State Public Health Laboratory. This amendment is necessary to fully implement expanded newborn screening as required with the passage of HB 279 in 2001, which has added additional costs to the State Public Health Laboratory. This amendment allows for those additional costs to be covered by gradual fee increases as these costs are incurred.

PURPOSE: State law requires that all infants be tested for [phenylketonuria and other] metabolic [diseases] and genetic disorders as prescribed by the Department of Health and Senior Services. This rule establishes the metabolic and genetic disorders that each infant shall be tested for and[,] the collection and submission procedures to be used by health care providers in sending specimens to the State Public Health Laboratory. This rule also establishes the fee for newborn screening.

(1) As used in this rule—

(A) Newborn screening means the testing of infants for [the following] metabolic and genetic disorders: phenylketonuria (PKU), primary hypothyroidism, galactosemia, and abnormal hemoglobins] pursuant to sections 191.331 and 191.332, RSMo; and

(2) Submitters shall collect specimens on the newborn screening collection forms [provided in specimen collection kits] purchased from the Department of Health and Senior Services. The submitter of the specimen shall provide all information requested [in] on the specimen [collected kit] collection form.

(3) Specimens shall be [prepared] collected in accordance with [standard medical practices] instructions on the specimen collection form. The timing of specimen collection shall be determined by the conditions specified in subsections (3)(A) through (C) below. All specimens shall be [submitted within forty-eight (48) hours] sent within twenty-four (24) hours of collection to the State Public Health Laboratory in Jefferson City.

(A) A specimen shall be taken from all infants before being discharged from the hospital or birthing facility regardless of [feeding status] age. A specimen collected [within the first seventy-two (72)] between twenty-four (24) and forty-eight (48) hours of life [and after twenty-four (24) hours of protein feeding] is considered [adequate] optimum for newborn screening. A second, or repeat, specimen shall be required [if the initial specimen was collected before twenty-four (24) hours of protein feeding]. The repeat specimen shall be collected within the first seven (7) days of life and after twenty-four (24) hours of protein feeding] within fourteen (14) days of life if the initial specimen was collected before twenty-four (24) hours of life.

(B) **Initial** [S]specimens from ill or premature infants shall be collected [after their conditions have stabilized even if protein feeding has not been initiated, preferably within the first seven (7) days of life. If no protein feeding took place before the infant's condition stabilized, a second specimen shall be collected after twenty-four (24) hours of protein feeding.] before a blood transfusion or between twenty-four (24) to forty-eight (48) hours of life. All ill or premature infants shall have a repeat screen collected between seven (7) to fourteen (14) days of life.

(C) If an infant has been transferred from one hospital to another, the records shall clearly indicate if a specimen for newborn screening was collected and submitted. If no specimen was collected, the hospital the infant is transferred to shall collect a specimen and submit it within [five (5) days] **forty-eight (48) hours** of the transfer.

(4) Parents who object to testing on religious grounds shall state those objections in writing. The written objection shall be filed with the attending physician, certified nurse midwife, public health facility, ambulatory surgical center or hospital. Upon receipt, the attending physician, certified nurse midwife, public health facility, ambulatory surgical center or hospital shall send a copy of the written objection to the Department of Health and Senior Services, **Bureau of Genetics and Healthy Childhood, PO Box 570, Jefferson City, MO 65102-0570**.

(5) The health care provider caring for an infant with [a presumptive post-test] **an abnormal high-risk test** report from newborn screening shall report a definitive diagnosis within thirty (30) days of the date of diagnosis for that infant to the [Department of Health, Bureau of Disabilities Prevention, PO Box 570, Jefferson City, MO 65102-0570] **appropriate newborn screening follow-up center as contracted by the Department of Health and Senior Services. The department shall prescribe and furnish all necessary reporting forms for this purpose.**

(6) Effective July 1, [2005] **2007**, a fee of up to [fifty] **sixty-five** dollars [(\$50)] **(\$65)** shall be charged for each specimen collection [kit] **form** used to obtain [the initial] **a newborn screening** blood specimen. If the State Public Health Laboratory [recommends repeat specimens, additional specimen collection kits] **determines a submitted blood specimen to be unsatisfactory for testing, then a replacement specimen collection form** will be made available without the fee being imposed. [Repeat specimens requests, other than those recommended by the State Public Health Laboratory, will be subject to the fee and the fee shall be charged for each specimen collection kit required to obtain each repeat specimen.] The Department of Health and Senior Services may collect the fee from any entity or individual described in 191.331.1, RSMo.

AUTHORITY: sections [701.322, RSMo Supp. 2004 and] 191.331 and 192.006, RSMo 2000 and 191.332, RSMo Supp. 2006. This rule was previously filed as 13 CSR 50-143.010 and 19 CSR 20-36.010. Original rule filed Sept. 29, 1965, effective Oct. 13, 1965. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 12, 2007.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions one hundred four thousand, nine hundred forty-nine dollars (\$104,949) annually years one through three and one hundred fifty-one thousand, five hundred ninety-three dollars (\$151,593) annually thereafter in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities seven hundred seventy-nine thousand, one hundred ninety-three dollars (\$779,193) annually years one through three and \$1,125,501 annually thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Dr. Eric Blank, State Public Health Laboratory, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102, Phone (573) 751-3334. 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. Department Title: 19 Department of Health and Senior Services
Division Title: 25 State Public Health Laboratory
Chapter Title: 36 Testing for Metabolic Diseases**

Rule Number and Name:	19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	\$64,512 years one-three \$93,184 annually thereafter
Department of Health and Senior Services	\$40,437 years one-three \$58,409 annually thereafter

III. WORKSHEET

11,661 newborn screening test kits x \$9.00 increase per kit sold for confirmed Medicaid-eligible babies x Medicaid federal percentage of 61.47% = \$64,512 cost per year for years one through three. Anticipated additional increase of \$4.00 per kit beginning in fiscal year 2011: 11,661 kits x \$4.00 x 61.47% = \$28,672.

Department of Health and Senior services costs consist of the remaining 38.53% of the costs that are not reimbursed by Medicaid.

IV. ASSUMPTIONS

Number of kits sold is based on historic data.

Figures are based on state fiscal year of July 1 through June 30.

Based on estimated costs and cost accounting data for fiscal year 2006. All fees are reviewed annually and adjustments made as needed to meet actual laboratory costs of newborn screening.

The total cost may vary with the number of births and the rate of inflation and is expected to increase annually.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Department of Health and Senior Services**
Division Title: State Public Health Laboratory
Chapter Title: Testing for Metabolic Diseases

Rule Number and Title:	19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of 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:
124	*Hospitals, Ambulatory Surgical Center	\$779, 193 years one-three; \$1,125,501 annually thereafter
3,067	*Physicians, midwives	

III. WORKSHEET

86,577 newborn screening test kits x \$9.00 increase per kit sold for non Medicaid-eligible babies = \$779,193 cost per year. Anticipated additional increase of \$4.00 per kit beginning in fiscal year 2011: 86,577 kits x \$4.00 = \$346,308 per year.

IV. ASSUMPTIONS

Number of kits sold is based on historic data.

Figures are based on state fiscal year of July 1 through June 30.

Based on estimated costs and cost accounting data for fiscal year 2006. All fees are reviewed annually and adjustments made as needed to meet actual laboratory costs of newborn screening.

The total cost may vary with the number of births and the rate of inflation and is expected to increase annually.

The cost will most likely be passed on to health insurance companies and health maintenance organizations by the birthing centers.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 2—Code of Professional Conduct**

PROPOSED RULE

20 CSR 2030-2.040 Standard of Care

PURPOSE: This rule provides the recipient and producer of professional architectural, engineering and/or landscape architectural services assurances that all services are evaluated in accordance with the 2006 edition of the *International Building Code*, Section 106.

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

(1) The board shall use, in the absence of any local building code, Section 106 only of the 2006 edition of the *International Building Code*, not including or applying any other sections referenced within Section 106, as the standard of care in determining the appropriate conduct for any professional licensed or regulated by this chapter and being evaluated under section 327.441.2(5), RSMo. The *International Code Council*, 2006 Edition is incorporated herein by reference and may be obtained by contacting 500 New Jersey Ave NW, 6th Floor, Washington, DC 20001, by phone at 1 (888) ICC-SAFE (422-7233), by fax at (202) 783-2348 or by their direct website at <http://www.iccsafe.org>. This rule does not incorporate any subsequent amendments or additions to the manual.

AUTHORITY: section 327.041, RSMo Supp. 2006. Original rule filed June 14, 2007.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 2—Code of Professional Conduct**

PROPOSED RULE

20 CSR 2030-2.050 Title Block

PURPOSE: This rule clarifies the identity of the client and entity preparing and sealing all architectural, engineering and/or landscape architectural documents.

(1) An architectural, engineering or landscape architectural entity shall incorporate a title block on all drawings and other documents required to be signed and sealed by Chapter 327, RSMo and these regulations.

(2) The title block must, at a minimum, contain the following information:

(A) The name of the licensee either as a sole proprietor, partnership, corporation, limited liability company or other appropriate entity;

(B) The licensee's address and phone number;

(C) Name or identification of project;

(D) Address/location of project (city/county and state);

(E) Date prepared;

(F) Space for the licensee's signature, date and seal; and

(G) The printed name, discipline and license number of the person sealing the document.

AUTHORITY: section 327.041, RSMo Supp. 2006. Original rule filed June 14, 2007.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 4—Applications**

PROPOSED AMENDMENT

20 CSR 2030-4.050 Criteria to File Application Under 327.391, RSMo. The board is requesting to amend subsections (1)(F) and (H) and (2)(F).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule. This amendment also makes gender corrections throughout the rule.

(1) All applications for licensure as a professional engineer under section 327.391, RSMo shall be subject to such criteria as established by the board at the time the application is received.

(F) If the applicant holds a degree in engineering or science, and if the board approves the applicant for further consideration after reviewing material submitted pursuant to subsections (1)(A)–(D) of this rule, the applicant will be invited to submit a comprehensive, detailed, notarized report on a significant engineering project in which *[s/he] he/she* has personally participated as an engineer or for which the engineering functions have been under his/her direct supervision. The project on which *[s/he] he/she* is reporting must not have been completed more than ten (10) years prior to the date of the report. The report will be a document prepared for the specific purpose of licensure. A printed article of personal or conjoint authorship or a copy of a document prepared for some other purpose will not be acceptable. With the report, the applicant will be required to include a list of items covering some of his/her achievements, such as published articles, books, citations, honors, patents, society activities, etc. and exhibits of personal work which *[s/he] he/she* considers to be of outstanding engineering nature, not to exceed four (4) or five (5) in number. If, after reviewing the report, the board still feels the applicant deserves further consideration, the applicant will be required to pass an oral examination.

(H) The written examination shall be an eight (8)-hour examination over the Principles and Practice of Engineering. The examination shall be an approved exam as provided for in *[4 CSR 30-5.070]* **20 CSR 2030-5.070**. Additional written examinations may also be required if deemed necessary by the board.

(2) All applications for licensure as a professional land surveyor under section 327.391, RSMo shall be subject to such criteria as established by the board at the time the application is received.

(F) If the applicant holds a degree in engineering or science, and if the board approves the applicant for further consideration after reviewing material submitted pursuant to subsections (2)(A)–(D) of this rule, the applicant will be invited to submit a comprehensive, detailed, notarized report on an outstanding land surveying project in which *[s/he] he/she* has personally participated as a professional land surveyor or for which the land surveying functions have been under his/her direct supervision. The report will be a document prepared for the specific purpose of licensure. A printed article of personal or conjoint authorship or a copy of a document prepared for some other purpose will not be acceptable. With the report, the applicant will be required to include a list of items covering some of his/her achievements, such as published articles, books, citations, honors, patents, society activities, etc. and exhibits of personal work which *[s/he] he/she* considers to be of outstanding land surveying nature, not to exceed four (4) or five (5) in number. If, after reviewing the report, the board still feels the applicant deserves further consideration, the applicant will be required to pass an oral examination.

AUTHORITY: section 327.041, RSMo Supp. [2005] 2006. This rule originally filed as 4 CSR 30-4.050. Original rule filed Nov. 10, 1971, effective Dec. 10, 1971. Amended: Filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Jan. 12, 1984, effective April 12, 1984. Amended: Filed Jan. 27, 1987, effective April 26, 1987. Amended: Filed Dec. 1, 2005, effective June 30, 2006. Moved to 20 CSR 2030-4.050, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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.

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

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 4—Applications**

PROPOSED AMENDMENT

20 CSR 2030-4.070 Evaluation—Comity Applications—Engineers. The board is requesting to amend section (5).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the Code of State Regulations to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(5) When an applicant for licensure by comity is required to take the NCEES Fundamentals of Engineering Examination and/or the NCEES Principles and Practice of Engineering Examination, the applicant shall be required to pay an examination fee for either or both examinations. If the applicant fails to pass the required examination(s), he/she will be permitted unlimited reexaminations so long as notice of desire to retake is filed with the board on or before the filing deadline and so long as the applicant pays the required reexamination fee as is set forth in *[4 CSR 30-6.020]* **20 CSR 2030-6.020**.

AUTHORITY: sections 327.041 and 327.381, RSMo Supp. [2005] 2006. This rule originally filed as 4 CSR 30-4.070. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed April 7, 1999, effective Oct. 30, 1999. Amended: Filed Aug. 18, 2005, effective March 30, 2006. Moved to 20 CSR 2030-4.070, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 5—Examinations**

PROPOSED AMENDMENT

20 CSR 2030-5.110 Standards for Admission to Examination—Professional Land Surveyors. The board is requesting to amend section (2).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(2) For professional field and office experience in land surveying to be deemed satisfactory, the applicant shall have obtained at least one-third (1/3) of the required experience as field experience and at least one-third (1/3) of the required experience as office experience. Furthermore, all professional field and office experience in land surveying shall be completed under the immediate personal supervision of a licensed professional land surveyor as defined in [4 CSR 30-13.020] **20 CSR 2030-13.020**. In evaluating satisfactory professional field and office experience in land surveying, credit shall be given as follows:

AUTHORITY: sections 327.041 and 327.314, RSMo Supp. [2001] 2006, and 327.312, RSMo 2000. This rule originally filed as 4 CSR 30-5.110. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 8—Land Surveying**

PROPOSED AMENDMENT

20 CSR 2030-8.020 Professional Land Surveyor—Professional Development Units. The board is requesting to amend subsections (1)(A) and (2)(A).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer.

This amendment corrects the reference to 4 CSR within the text of the rule.

(1) Each licensed professional land surveyor, as a condition for renewal of his/her license, shall complete a minimum of twenty (20) professional development units (PDUs) each two (2)-year period immediately preceding renewal, except as provided in section (2) of this rule.

(A) Of the required professional development units, licensed professional land surveyors shall complete a minimum of four (4) professional development units in Minimum Standards [4 CSR 30] **(20 CSR 2030**, Chapters 16, 17 and 19) during the four (4)-year period immediately preceding renewal.

(2) The following are exceptions to the requirement that licensees successfully complete twenty (20) PDUs prior to renewal:

(A) The licensee can show good cause why he/she was unable to complete the PDU requirements. In the event good cause is shown, the licensee will be required to make up all outstanding required PDUs within a reasonable amount of time as established by the board; [or]

AUTHORITY: section 327.041, RSMo Supp. [2004] 2006. This rule originally filed as 4 CSR 30-8.020. Original rule filed Dec. 8, 1981, effective March 11, 1982. For the intervening history, please consult the *Code of State Regulations*. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 10—Corporations**

PROPOSED AMENDMENT

20 CSR 2030-10.010 Application for Certificate of Authority. The board is requesting to amend section (2), subsections (3)(C) and (D) and section (5).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(2) The managing agent shall be an owner, officer, partner, or a full-time employee. If the managing agent is also the person providing

immediate personal supervision, as defined by board rule(s) [4 CSR 30-13.010] 20 CSR 2030-13.010 and/or [4 CSR 30-13.020] 20 CSR 2030-13.020, then that person must work in the same office where the work is being performed.

(3) The managing agent's responsibilities include:

(C) Assurance that the firm institutes and adheres to policies that are in accordance with Chapter 327, RSMo and [4 CSR 30] 20 CSR 2030; and

(D) Assurance, in the case of multiple offices, that the requirements for immediate personal supervision, as defined by board rule(s) [4 CSR 30-13.010] 20 CSR 2030-13.010 and/or [4 CSR 30-13.020] 20 CSR 2030-13.020, are being met.

(5) A corporation which is currently authorized by this board to provide professional services may continue to renew its certificate of authority under the rules that were in effect prior to October 30, 2005 so long as the persons listed in the corporation's application do not change. If there is any change in any of the persons listed in the corporation's application, the provisions in this [section, 4 CSR 30-10.010] rule 20 CSR 2030-10.010, shall apply. The change shall be reported on a new form and submitted to the executive director of the board within thirty (30) days after the effective day of the change.

AUTHORITY: section 327.041, RSMo Supp. [2004] 2006. This rule originally filed as 4 CSR 30-10.010. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Oct. 30, 2002, effective April 30, 2003. Rescinded and readopted: Filed May 13, 2005, effective Nov. 30, 2005. Moved to 20 CSR 2030-10.010, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 11—Renewals**

PROPOSED AMENDMENT

20 CSR 2030-11.020 Professional Land Surveyor—Renewal and Reactivation of Licensure. The board is requesting to amend section (3).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer.

This amendment corrects the reference to 4 CSR within the text of the rule.

(3) Licensees who request to be classified as inactive pursuant to section 327.351.5, RSMo, may maintain their inactive status by paying the renewal fee as provided in [4 CSR 30-6.015] 20 CSR 2030-6.015. Inactive licensees need not complete the PDU requirement. However, an inactive licensee shall not have his/her license reactivated until he/she pays the required reactivation fee, and in addition, either:

AUTHORITY: section 327.041, RSMo [2000] Supp. 2006. This rule originally filed as 4 CSR 30-11.020. Original rule filed June 15, 2001, effective Jan. 30, 2002. Moved to 20 CSR 2030-11.020, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 11—Renewals**

PROPOSED AMENDMENT

20 CSR 2030-11.030 Professional Engineer Renewal and Reactivation of Licensure. The board is requesting to amend sections (1) and (3) and subsection (2)(A).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule. Additionally, this amendment makes gender corrections in sections (1) and (3).

(1) Licenses not renewed on or before the renewal date become non-current and subject to the provisions of section 327.261, RSMo. No person is entitled to practice as a professional engineer unless [s/he] he/she holds a current and active license.

(2) In order to renew a license, the licensee must:

(A) Submit a completed renewal application form furnished by the board; [and]

(3) Licensees who request to be classified as inactive pursuant to section 327.271.1, RSMo, may maintain their inactive status and

receive a certificate indicating their inactive status by paying the renewal fee as provided in [4 CSR 30-6.015] 20 CSR 2030-6.015. Holders of an inactive license need not complete the PDH requirement. However, a holder of an inactive license shall not have his/her license reactivated until [s/he] he/she pays the required reactivation fee, and in addition, completes thirty (30) Professional Development Hours within the two (2) years immediately prior to the date of reactivation.

AUTHORITY: sections 327.041, RSMo Supp. [2001] 2006 and 327.261 and 327.271.1, RSMo 2000. This rule originally filed as 4 CSR 30-11.030. Original rule filed Dec. 9, 2002, effective June 30, 2003. Moved to 20 CSR 2030-11.030, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 16—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

20 CSR 2030-16.050 Use of Missouri Coordinate System, 1983. The board is requesting to amend subsection (1)(A).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the Code of State Regulations to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(1) When the surveyor is specially requested by the client or required by statute, ordinance or regulation to obtain coordinates based on the Missouri Coordinate System of 1983 and to define the position of points on a land boundary—

(A) The coordinates shall be based upon a first or second order station as defined in [4 CSR 30-18] 20 CSR 2030-18;

AUTHORITY: section 327.041, RSMo Supp. [1993] 2006. This rule originally filed as 4 CSR 30-16.050. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 20 CSR 2030-16.050, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

PUBLIC COST: This proposed amendment will not cost state agen-

cies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 16—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

20 CSR 2030-16.100 Detail Requirements for Condominium Surveys. The board is amending subsections (2)(D) and (E).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the Code of State Regulations to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(2) Publication of Results. Each plat shall show the following:

(D) The extent of any encroachments by or upon any portion of the condominium in accordance with [4 CSR 30-16.110(1)] 20 CSR 2030-16.110(1);

(E) To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the condominium in accordance with [4 CSR 30-16.110(2)] 20 CSR 2030-16.110(2);

AUTHORITY: section 327.041, RSMo Supp. [2002] 2006. This rule originally filed as 4 CSR 30-16.100. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003, effective Oct. 30, 2003. Moved to 20 CSR 2030-16.100, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects**
Chapter 17—United States Public Land Survey Corners

PROPOSED AMENDMENT

20 CSR 2030-17.050 Monumentation. The board is amending sections (1) and (3).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(1) All corner witness and reference monuments shall be permanent monuments of a type providing a degree of permanency consistent with that of the adjacent terrain and physical features. Monuments will meet the requirements for a permanent monument in accordance with [4 CSR 30-16.060] **20 CSR 2030-16.060**.

(3) All monuments shall be marked and designated in accordance with [4 CSR 30-17.060] **20 CSR 2030-17.060**. The precise position shall be marked by a point, cross, or appropriate symbol on the monument.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2006. This rule originally filed as 4 CSR 30-17.050. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 20 CSR 2030-17.050, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects**
Chapter 17—United States Public Land Survey Corners

PROPOSED AMENDMENT

20 CSR 2030-17.070 Missouri Coordinate System, 1983. The

board is amending section (2).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(2) State coordinates to be shown on restoration forms shall be in accordance with [4 CSR 30-16.050] **20 CSR 2030-16.050**.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2006. This rule originally filed as 4 CSR 30-17.070. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 20 CSR 2030-17.070, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects**
**Chapter 18—First and Second Order Horizontal
and Vertical Control**

PROPOSED AMENDMENT

20 CSR 2030-18.070 Waiver of 1 Km Limitation. The board is proposing to amend section (1).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Effective September 30, 2006 the chapters of the rules were re-numbered in the *Code of State Regulations* to implement this transfer. This amendment corrects the reference to 4 CSR within the text of the rule.

(1) Coordinate values of land boundary corners presented for recording must be based upon measurements from a first or second order control station of the Missouri Geographic Reference System or the National Geographic Reference System. The one kilometer (1 km) limitation in distance from the control station may be waived if the accuracy of the coordinate values are within the accuracy values required in [4 CSR 30-16.040] **20 CSR 2030-16.040**.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2006. This rule

originally filed as 4 CSR 30-18.070. Original rule filed May 3, 1994, effective Dec. 30, 1994. Moved to 20 CSR 2030-18.070, effective Aug. 28, 2006. Amended: Filed June 14, 2007.

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 Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.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.

cies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Optometry, Sharlene Rimiller, Executive Director, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-8216 or by email at optometry@pr.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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2210—State Board of Optometry
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2210-2.030 License Renewal. The board is proposing to amend sections (1) and (3) and subsection (10)(D).

PURPOSE: This amendment clarifies the license renewal requirements and procedures. This amendment also makes gender corrections throughout the rule.

(1) Every registered optometrist shall notify the board of every change of address(es) at which *[s/he]* **he/she** is practicing within thirty (30) days.

(3) Whenever a registered optometrist has additional offices, *[s/he]* **he/she**, in lieu of delivering a certificate of identification to each patient in his/her care, may display a duplicate certificate of registration and a duplicate renewal certificate in each additional office.

(10) The following guidelines govern the attendance of educational optometric programs for license renewal:

(D) With the exception of any of the previously mentioned educational organizations, any other regularly organized group of optometrists that wishes to sponsor an educational program to meet the standard for license renewal in Missouri shall submit two (2) copies of the program schedule and outline to the board's executive director not fewer than *[sixty (60)]* **thirty (30)** days prior to the date of the program and shall pay the continuing education sponsor fee. The outline must indicate the program's subject matter, the number of hours required for its presentation and the identity and qualifications of the speakers and instructors. The board shall review the schedule and outline. If the program meets the standards set out in subsections (10)(A)–(B), the board may grant approval. The board will not consider requests for approval of any program submitted following the meeting;

AUTHORITY: sections 336.080 and 336.160.1, RSMo 2000. This rule originally filed as 4 CSR 210-2.030. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 14, 2007.

PUBLIC COST: This proposed amendment will not cost state agen-

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

ORDER OF RULEMAKING

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

3 CSR 10-4.130 Owner May Protect Property; Public Safety is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2007 (32 MoReg 696). 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 6—Outdoor Advertising**

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.150 and 226.530, RSMo 2000, the commission amends a rule as follows:

7 CSR 10-6.070 Permits for Outdoor Advertising is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2007 (32 MoReg 536-537). 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 25—Motor Carrier Operations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 142.617 and 301.275, RSMo 2000, and 226.008, RSMo Supp. 2006, the commission amends a rule as follows:

7 CSR 10-25.030 Apportion Registration is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2007 (32 MoReg 541-542). 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 7—Water Quality**

ORDER OF RULEMAKING

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

10 CSR 20-7.050 Methodology for Development of Impaired Waters List is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2006 (31 MoReg 2049-2050). 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: A public hearing on this proposed amendment was held March 7, 2007 and the public comment period ended March 15, 2007. At the hearing the Water Protection Program presented the proposed amendment. No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153 and 208.201, RSMo 2000, and 208.152 and 208.471, RSMo Supp. 2006, the division amends a rule as follows:

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2007 (32 MoReg 593-594). 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-20.001 Anesthesiologist Assistants in Hospitals **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2007 (32 MoReg 336). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) comment on this proposed rule.

COMMENT: The definition of anesthesiologist assistant should include "supervised by an anesthesiologist that is immediately available." And the subsection (1)(E) should be changed such that an anesthesiologist assistant is a person who: "Provides health care services delegated to and supervised by a licensed anesthesiologist that is immediately available in the facility."

RESPONSE: The language in subsection (1)(E) of the proposed rule is taken verbatim from section 334.400(2)(d), RSMo Supp. 2006. No changes have been made to the rule as a result of this comment.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 30—Ambulatory Surgical Centers**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 197.225, RSMo 2000, and 197.154, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-30.010 Definitions and Procedures for Licensing Ambulatory Surgical Centers **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15,

2007 (32 MoReg 336-337). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) comment on this proposed amendment.

COMMENT: The definition of anesthesiologist assistant should include "supervised by an anesthesiologist that is immediately available." Paragraph (1)(D)5. should be changed such that an anesthesiologist assistant is a person who: Provides health care services delegated to and supervised by a licensed anesthesiologist that is immediately available in the facility.

RESPONSE: The language in paragraph (1)(D)5. of the proposed amendment is taken verbatim from section 334.400(2)(d), RSMo Supp. 2006. No changes have been made to the rule as a result of this comment.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 30—Ambulatory Surgical Centers**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 197.225, RSMo 2000, and 197.154, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-30.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2007 (32 MoReg 337-338). 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: The Department of Health and Senior Services received one (1) comment on this proposed amendment.

COMMENT: 20 CSR 2150-9.040(4) requires the anesthesiologist supervising the anesthesiologist assistant to be immediately available. No anesthesiologist assistant can practice without an anesthesiologist's supervision. Therefore, it is suggested that this should be delineated in paragraph (1)(E)6.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees to make this change for the sake of clarity. Paragraph (1)(E)6. will be amended by adding the phrase "supervised by an anesthesiologist" to clarify the supervision requirement for anesthesiologist assistants.

19 CSR 30-30.020 Administration Standards for Ambulatory Surgical Centers

(1) Organization, Administration, Medical Staff, Nursing Staff and Supporting Services.

(E) Anesthesia Service.

1. The anesthesia service shall be under the direction of an anesthesiologist or a physician with training or experience in the administration of anesthetics. The clinical privileges of qualified anesthesia personnel shall be reviewed by the director of anesthesia service and the medical staff and approved by the governing body.

2. An anesthesiologist or physician with training or experience in the administration of anesthetics shall be on the premises and readily accessible during the administration of anesthetics—whether local, general or intravenous sedation—and the postanesthetic recovery period until all patients are alert or medically discharged. Qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care and shall continually evaluate the patient's oxygenation, ventilation, circulation and temperature. Oxygen analyzers, pulse oximeter and electrocardiography equipment shall be available.

3. Policies and procedures on the administration of anesthetics and drugs which produce conscious and deep sedation shall be developed by the medical staff in consultation with at least one (1) anesthesiologist and approved by the governing body.

4. Prior to undergoing general anesthesia, patients shall have a history and physical examination by a physician on the patient's record including the results of any necessary laboratory examinations. Each administration of a regional, general or intravenous sedation anesthetic shall be ordered by an anesthesiologist or a physician with training and experience in the administration of anesthetics. The patient records shall contain a preanesthetic evaluation and a postanesthetic note by qualified anesthesia personnel.

5. Periodic inspections shall be made of all areas where flammable anesthetics are administered or stored to insure safeguards are being observed by personnel and equipment meets safety standards. A written record of inspections shall be kept. If the administration of the facility provides written assurance to the Department of Health and Senior Services that no flammable anesthetics will be administered and the area is posted to that effect, safety inspections will not be required.

6. All anesthetics shall be administered by anesthesiologists, physicians with training or experience in the administration of anesthetics, certified registered nurse anesthetists or anesthesiologist assistants supervised by an anesthesiologist, except for local anesthetic agents which may be administered by the attending physician, dentist or podiatrist. Notwithstanding the provisions of sections 334.400 to 334.430, RSMo, or the rules of the Missouri State Board of Registration for the Healing Arts, the governing body of every ambulatory surgical center shall have full authority to limit the functions and activities that an anesthesiologist assistant performs in such ambulatory surgical center. Nothing in this paragraph shall be construed to require any ambulatory surgical center to hire an anesthesiologist who is not already employed as a physician prior to August 28, 2003.

7. Written procedures and criteria for discharge from the recovery service shall be approved by the medical staff.

8. There shall be a mechanism for the review and evaluation on a regular basis of the quality and scope of anesthesia services.

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

**Division 30—Division of Regulation and Licensure
Chapter 40—Comprehensive Emergency Medical Services
Systems Regulations**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 190.185, RSMo Supp. 2006, and 190.241, RSMo 2000, the department amends a rule as follows:

19 CSR 30-40.410 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2007 (32 MoReg 338–339). Those sections with changes are reprinted

ed here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) comment on this proposed amendment.

COMMENT: The definition of anesthesiologist assistant should include “supervised by an anesthesiologist that is immediately available.” And paragraph (1)(B)4. should be changed such that an anesthesiologist assistant is a person who: Provides health care services delegated to and supervised by a licensed anesthesiologist that is immediately available in the facility.

RESPONSE AND EXPLANATION OF CHANGE: This rule contains definitions relating to trauma centers. One of the terms defined in this rule is “immediately available.” However, the definition of this term in this rule, is not the same as the definition of “immediately available” in the statute governing the supervision of anesthesiologist assistants found in Chapter 334, RSMo. To make clear that the supervising anesthesiologist must be immediately available as defined in section 334.400(7), RSMo Supp. 2006, the definition of “anesthesiologist assistant” in subsection (1)(B) will be changed to reference that statute.

19 CSR 30-40.410 Definitions and Abbreviations Relating to Trauma Centers

(1) The following definitions and abbreviations shall be used in the interpretation of the rules in 19 CSR 30-40.400 to 19 CSR 30-40.450:

(B) Anesthesiologist assistant (AA) means a person who meets each of the following conditions:

1. Has graduated from an anesthesiologist assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency;

2. Has passed the certifying examination administered by the National Commission on Certification of Anesthesiologist Assistants;

3. Has active certification by the National Commission on Certification of Anesthesiologist Assistants;

4. Is currently licensed as an anesthesiologist assistant in the state of Missouri; and

5. Provides health care services delegated by a licensed anesthesiologist. For the purposes of subsection (1)(B), the licensed anesthesiologist shall be “immediately available” as this term is defined in section 334.400, RSMo.

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

**Division 30—Division of Regulation and Licensure
Chapter 40—Comprehensive Emergency Medical Services
Systems Regulations**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 190.185, RSMo Supp. 2006 and 190.241, RSMo 2000, the department amends a rule as follows:

19 CSR 30-40.430 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2007 (32 MoReg 339–340). 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: The Department of Health and Senior Services received one (1) comment on this proposed amendment.

COMMENT: The rule exceeds the anesthesiologist assistant statute, sections 334.400 to 334.430, RSMo (HB 390, Laws of Missouri 2003) because the rule circumvents the requirement of a personal relationship between the supervising anesthesiologist and the anesthesiologist assistant. The proposed amendment of the trauma center regulation(s) is in conflict with the Anesthesiologist Assistant Practice Act.

RESPONSE AND EXPLANATION OF CHANGE: This rule contains definitions relating to trauma centers. It has always been the department's objective to permit anesthesiologist assistants to practice their profession within their scope of practice. It has not been the department's objective to enlarge the statutory scope of practice—which, of course, the department cannot do. The department is removing any reference to anesthesiologist assistants in the discussion of level I trauma centers and any reference to anesthesiologist assistants in the discussion of level II trauma centers in paragraph (2)(D)13. The proposed amendment of the rule is being changed to make it clear that the anesthesiologist assistant may practice only with anesthesiologist supervision in accordance with sections 334.400 to 334.430, RSMo Supp. 2006, the Anesthesiologist Assistant Practice Act.

19 CSR 30-40.430 Standards for Trauma Center Designation

(2) Hospital Organization Standards for Trauma Center Designation.

(D) The following specialists who are credentialed by the hospital for trauma care shall be available to the patient as indicated:

1. General surgery—I-IH, II-IA, III-PA.

A. The general surgery staffing requirement may be fulfilled by senior residents credentialed in general surgery, including trauma care, and capable of assessing emergent situations in general surgery.

B. The trauma surgeon shall be immediately available and be in attendance with the patient when a senior surgical resident is fulfilling availability requirements;

2. Neurologic surgery—I-IH, II-IA.

A. The neurologic surgery staffing requirement may be fulfilled by a surgeon who has been approved by the chief of neurosurgery for care of patients with neural trauma.

B. The surgeon shall be capable of initiating measures toward stabilizing the patient and performing diagnostic procedures.

3. Cardiac surgery—I-PA;

4. Obstetric-gynecologic surgery—I-PA, II-PA;

5. Ophthalmic surgery—I-PA, II-PA;

6. Orthopedic surgery—I-PA, II-PA;

7. Otorhinolaryngologic surgery—I-PA, II-PA;

8. Pediatric surgery—I-PA;

9. Plastic and maxillofacial surgery—I-PA, II-PA;

10. Thoracic surgery—I-PA, II-PA;

11. Urologic surgery—I-PA, II-PA;

12. Emergency medicine—I-IH, II-IH, III-IH;

13. Anesthesiology—I-IH, II-IA, III-PA.

A. In a level I or II trauma center, anesthesiology staffing requirements may be fulfilled by anesthesiology residents capable of assessing emergent situations in trauma patients and of providing any indicated treatment. When anesthesiology residents are used to fulfill availability requirements, the staff anesthesiologist on call will be advised and promptly available.

B. In a level II trauma center, anesthesiology staffing requirements may be fulfilled when the staff anesthesiologist is promptly available and an in-house certified registered nurse anesthetist (CRNA) capable of assessing emergent situations in trauma patients and of initiating and providing any indicated treatment is available.

C. In a level III trauma center, anesthesiology requirements may be fulfilled by either a CRNA with physician supervision or an anesthesiologist assistant with anesthesiologist supervision in accordance with sections 334.400 to 334.430, RSMo;

14. Cardiology—I-PA, II-PA;

15. Chest medicine—I-PA;

16. Gastroenterology—I-PA;

17. Hematology—I-PA, II-PA;

18. Infectious diseases—I-PA;

19. Internal medicine—I-PA, II-PA, III-PA;

20. Nephrology—I-PA, II-PA;

21. Pathology—I-PA, II-PA;

22. Pediatrics—I-PA, II-PA;

23. Psychiatry—I-PA, II-PA; and

24. Radiology—I-PA, II-PA.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION Division 500—Property and Casualty Chapter 5—Professional Malpractice

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Insurance, Financial Institutions and Professional Registration by section 374.045, RSMo 2000, the director withdraws a rule as follows:

20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings is withdrawn.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2007 (32 MoReg 416-422). This proposed rule is withdrawn.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on April 2, 2007 and the comment period ended at 5:00 p.m. on April 2. At the public hearing, department staff explained the proposed rule and made comments in support of the proposed rule. The department received comments at the public hearing from four (4) persons representing medical malpractice insurance companies in opposition to the proposed rule. The department also received comments in opposition from the Missouri Insurance Coalition. The comments received on this proposed rule emphasized that it could be extremely burdensome and expensive for insurers to comply with the proposed rule. In addition, a hearing was held on June 14, 2007, with the Joint Committee on Administrative Rules, wherein the Joint Committee expressed concerns with and opposition to the proposed rule. The department, after the conclusion of the comment period on April 2 and the hearing with the Joint Committee on Administrative Rules on June 14, has decided to withdraw the rulemaking to re-examine the fiscal implications and proper implementation of this rule.

RESPONSE: In response, the department is withdrawing this rulemaking.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION Division 500—Property and Casualty Chapter 5—Professional Malpractice

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Insurance, Financial Institutions and Professional Registration by

section 374.045, RSMo 2000, the director withdraws a rule as follows:

20 CSR 500-5.025 Determination of Inadequate Rates is withdrawn.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2007 (32 MoReg 423). The proposed rule is withdrawn.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on April 2, 2007 and the comment period ended at 5:00 p.m. on April 2. At the public hearing, department staff explained the proposed rule and made comments in support of the proposed rule. The department received comments at the public hearing from four (4) persons representing medical malpractice insurance companies in opposition to the proposed rule. The department also received comments in opposition from the Missouri Insurance Coalition. The comments received on this proposed rule emphasized that it could be extremely burdensome and expensive for insurers to comply with the proposed rule. In addition, a hearing was held on June 14, 2007, with the Joint Committee on Administrative Rules, wherein the Joint Committee expressed concerns with and opposition to the proposed rule. The department, after the conclusion of the comment period on April 2 and the hearing with the Joint Committee on Administrative Rules on June 14, has decided to withdraw the rulemaking to re-examine the fiscal implications and proper implementation of this rule.

RESPONSE: In response, the department is withdrawing this rulemaking.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Insurance, Financial Institutions and Professional Registration by section 374.045, RSMo 2000, the director withdraws a rule as follows:

20 CSR 500-5.026 Determination of Excessive Rates is withdrawn.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2007 (32 MoReg 423-424). This proposed rule is withdrawn.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on April 2, 2007 and the comment period ended at 5:00 p.m. on April 2. At the public hearing, department staff explained the proposed rule and made comments in support of the proposed rule. The department received comments at the public hearing from four (4) persons representing medical malpractice insurance companies in opposition to the proposed rule. The department also received comments in opposition from the Missouri Insurance Coalition. The comments received on this proposed rule emphasized that it could be extremely burdensome and expensive for insurers to comply with the proposed rule. In addition, a hearing was held on June 14, 2007, with the Joint Committee on Administrative Rules, wherein the Joint Committee expressed concerns with and opposition to the proposed rule. The department, after the conclusion of the comment period on April 2 and the hearing with the Joint Committee on Administrative Rules on June 14,

has decided to withdraw the rulemaking to re-examine the fiscal implications and proper implementation of this rule.

RESPONSE: In response, the department is withdrawing this rulemaking.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Insurance, Financial Institutions and Professional Registration by section 374.045, RSMo 2000, the director withdraws a rule as follows:

20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates is withdrawn.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2007 (32 MoReg 424). This proposed rule is withdrawn.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on April 2, 2007 and the comment period ended at 5:00 p.m. on April 2. At the public hearing, department staff explained the proposed rule and made comments in support of the proposed rule. The department received comments at the public hearing from four (4) persons representing medical malpractice insurance companies in opposition to the proposed rule. The department also received comments in opposition from the Missouri Insurance Coalition. The comments received on this proposed rule emphasized that it could be extremely burdensome and expensive for insurers to comply with the proposed rule. In addition, a hearing was held on June 14, 2007, with the Joint Committee on Administrative Rules, wherein the Joint Committee expressed concerns with and opposition to the proposed rule. The department, after the conclusion of the comment period on April 2 and the hearing with the Joint Committee on Administrative Rules on June 14, has decided to withdraw the rulemaking to re-examine the fiscal implications and proper implementation of this rule.

RESPONSE: In response, the department is withdrawing this rulemaking.

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**

APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for August 6, 2007. These applications are available for public inspection at the address shown below:

Date Filed

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

05/25/07

#4075 HS: St. John's Health System
Springfield (Greene County)
\$1,929,246, Acquire third magnetic resonance imager (MRI)

#4076 HS: Cass Medical Center
Harrisonville (Cass County)
\$54,213,604, Establish 35-bed critical access hospital

#4077 HS: Bothwell Regional Health Center
Sedalia (Pettis County)
\$1,670,159, Replace cardiac catheterization equipment

#4073 HS: The Children's Mercy Hospital
Kansas City (Jackson County)
\$3,130,000, Acquire second MRI

#4074 HS: The Children's Mercy Hospital
Kansas City (Jackson County)
\$1,708,251, Acquire second cardiac catheterization laboratory

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 June 28, 2007. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
Post Office Box 570
Jefferson City, MO 65102

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

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 by email to dissolutions@sos.mo.gov.

NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
MEXICO MEDICAL SPECIALISTS, L.C.

On May 31, 2007, Mexico Medical Specialists, L.C., a Missouri limited liability company, filed its Notice of Winding Up for limited liability company with the Missouri Secretary of State, effective on the filing date.

In accordance with the Notice of Winding Up, Mexico Medical Specialists, L.C. requests that all persons and organizations who have claims against it present them immediately by letter to the Mexico Medical Specialists, L.C. management in care of N. Eugene Thomas, D.O. at: 600 Medical Park Drive, Mexico, Missouri 65265. All claims must include the name and address of the claimant; the amount of the claim; the basis for the claim; the date on which the claim arose; and documentation for the claim.

All claims against Mexico Medical Specialists, L.C. will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

NOTICE OF WINDING UP FOR
BAIT & BAGEL MARINA, L.L.C.

On June 7, 2007, Bait & Bagel Marina, L.L.C., filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Persons and organizations with claims against Bait & Bagel Marina, L.L.C., should present said claims immediately by letter to Bait & Bagel Marina, L.L.C., c/o Michael L. McDorman, 2140 Bagnell Dam Blvd., Ste. 403, Lake Ozark, MO 65049.

All claims must include 1) the name, address, and phone number of the claimant; 2) the amount claimed; 3) the basis for the claim; 4) the date(s) on which the claim arose; and 5) documentation of the claim.

NOTICE: Because of the winding up of Bait & Bagel Marina, 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 of the notices authorized by statute, whichever is published last.

E & S Turbo Turf, LLC was dissolved as of June 11, 2007. Any and all claims against E & S Turbo Turf, LLC may be sent to Stephanie Knudson, P O Box 101, Crocker, Missouri 65452. Each such claim should include the following: the name, address and telephone number of the claimant; amount of the claim; the basis of the claim; the date(s) on which the event(s) on which the claim was based occurred; and whether the corporation has been previously notified of the claim, and if so, when. Any and all claims against E & S Turbo Turf, LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the date of this publication.