

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

**PROPOSED AMENDMENT**

**3 CSR 10-5.545 Nonresident Small Game Hunting Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment changes the fee for the Nonresident Small Game Hunting Permit from seventy-five dollars (\$75) to eighty dollars (\$80).

To chase, pursue, take, possess, and transport birds (except wild turkey), mammals (except deer and furbearers), and frogs, and to chase furbearers for training dogs during the closed season. Fee: [*seventy-five*] **eighty** dollars [*(\$75)*] **(\$80)**.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.270. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

*PRIVATE COST:* This proposed amendment will cost private entities approximately one hundred twenty-eight thousand five hundred seventy-five dollars (\$128,575) total in the five (5)-year aggregate. This information is based on 5,143 Nonresident Small Game Hunting Permit buyers × \$5.00 increase per permit sold = \$25,715 aggregate cost per year. \$25,715 per year × the assumed 5-year life of the regulation = \$128,575 total aggregate cost over the five (5)-year term.

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.545 Nonresident Small Game Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5,143 Nonresident Hunting permit buyers	N/A	\$128,575

**III. WORKSHEET**

5,143 Nonresident Hunting permit buyers X \$5.00 increase per permit sold = \$25,715 aggregate cost per year.  
\$25,715 per year X the assumed 5 year life of the regulation = \$128,575 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit.**

The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment changes the fee for the Nonresident Firearms Any-Deer Hunting Permit from one hundred seventy-five dollars (\$175) to two hundred twenty-five dollars (\$225).*

To pursue, take, possess, and transport one (1) deer of either sex statewide during the firearms deer hunting season. Fee: *[one hundred seventy-five] two hundred twenty-five* dollars *[((\$175)] (\$225)*.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 11, 1997, effective March 1, 1998. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed amendment will cost private entities approximately \$2,304,500 in the aggregate. This information is based on 9,218 Nonresident Firearms Any-Deer Hunting Permit buyers × \$50.00 increase per permit sold = \$460,900 aggregate cost per year. \$460,900 per year × the assumed 5-year life of the regulation = \$2,304,500 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
9,218 Nonresident Deer Hunting permit buyers	N/A	\$2,304,500

**III. WORKSHEET**

9,218 Nonresident Deer Hunting permit buyers X \$50.00 increase per permit sold = \$460,900 aggregate cost per year. \$460,900 per year X the assumed 5 year life of the regulation = \$2,304,500 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-5.552 Nonresident Firearms Antlerless Deer Hunting Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment changes the fee for the Nonresident Firearms Antlerless Deer Hunting Permit from seven dollars (\$7) to twenty-five dollars (\$25).*

To pursue, take, possess, and transport one (1) antlerless deer during the firearms deer hunting season. A Nonresident Firearms Any-Deer Hunting Permit or a Nonresident Managed Deer Hunting Permit is required as a prerequisite to this permit. Fee: [*seven*] **twenty-five** dollars [*(\$7)*] **(\$25)**.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 8, 1998, effective March 1, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed amendment will cost private entities approximately four hundred sixty-three thousand eight hundred sixty dollars (\$463,860) in the aggregate. This information is based on 5,154 Nonresident Firearms Antlerless Deer Hunting Permit buyers × \$18.00 increase per permit sold = \$92,772 aggregate cost per year. \$92,772 per year × the assumed 5-year life of the regulation = \$463,860 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.552 Nonresident Firearms Antlerless Deer Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5,154 Nonresident Deer Hunting permit buyers	N/A	\$463,860

**III. WORKSHEET**

5,154 Nonresident Deer Hunting permit buyers X \$18.00 increase per permit sold = \$92,772 aggregate cost per year.  
\$92,772 per year X the assumed 5 year life of the regulation = \$463,860 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-5.554 Nonresident Archery Antlerless Deer Hunting Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment changes the fee for the Nonresident Archery Antlerless Deer Hunting Permit from seven dollars (\$7) to twenty-five dollars (\$25).*

To pursue, take, possess, and transport one (1) antlerless deer during the archery hunting season. A Nonresident Archer's Hunting Permit is required as a prerequisite to this permit. Fee: [*seven*] **twenty-five** dollars [*(\$7)*] (**\$25**).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective Sept. 30, 2004. Amended: Filed Sept. 14, 2005, effective Feb. 28, 2006. Amended: Filed Oct. 2, 2006, effective Feb. 28, 2007. Amended: Filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed amendment will cost private entities approximately seventy-eight thousand four hundred eighty dollars (\$78,480) in the aggregate. This information is based on 872 Nonresident Deer Hunting permit buyers × \$18.00 increase per permit sold = \$15,696 aggregate cost per year. \$15,696 per year × the assumed 5-year life of the regulation = \$78,480 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.554 Nonresident Archery Antlerless Deer Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
872 Nonresident Deer Hunting permit buyers	N/A	\$78,480

**III. WORKSHEET**

872 Nonresident Deer Hunting permit buyers X \$18.00 increase per permit sold = \$15,696 aggregate cost per year.  
\$15,696 per year X the assumed 5 year life of the regulation = \$78,480 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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



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

**PROPOSED AMENDMENT**

**3 CSR 10-5.559 Nonresident Managed Deer Hunting Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment changes the fee for the Nonresident Managed Deer Hunting Permit from one hundred seventy-five dollars (\$175) to two hundred twenty-five dollars (\$225).

To pursue, take, possess, and transport deer during a prescribed managed deer hunt. Fee: ~~one hundred seventy-five~~ **two hundred twenty-five** dollars [~~(\$175)~~] **(\$225)**.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 8, 1998, effective March 1, 1999. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

*PRIVATE COST:* This proposed amendment will cost private entities approximately seventeen thousand five hundred dollars (\$17,500) total in the five (5)-year aggregate. This information is based on 70 Nonresident Deer Hunting permit buyers  $\times$  \$50.00 increase per permit sold = \$3,500 aggregate cost per year. \$3,500 per year  $\times$  the assumed 5-year life of the regulation = \$17,500 total aggregate cost over the five (5)-year term.

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.559 Nonresident Managed Deer Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
70 Nonresident Deer Hunting permit buyers	N/A	\$17,500

**III. WORKSHEET**

70 Nonresident Deer Hunting permit buyers X \$50.00 increase per permit sold = \$3,500 aggregate cost per year.  
\$3,500 per year X the assumed 5 year life of the regulation = \$17,500 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-5.560 Nonresident Archer's Hunting Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment changes the fee for the Nonresident Archer's Hunting Permit from one hundred fifty dollars (\$150) to two hundred twenty-five dollars (\$225).

To pursue, take, possess, and transport deer and wild turkey during the fall deer and turkey archery season and small game (except furbearers) during prescribed seasons. Fee: *[one hundred fifty] two hundred twenty-five dollars [(\$150)] (\$225).*

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.275. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

*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 \$1,762,500 in the aggregate. This information is based on 7,050 Nonresident Deer Hunting permit buyers  $\times$  \$50.00 increase per permit sold = \$352,500 aggregate cost per year. \$352,500 per year  $\times$  the assumed 5-year life of the regulation = \$1,762,500 total aggregate cost over the five (5)-year term.

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.560 Nonresident Archer's Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
7,050 Nonresident Deer Hunting permit buyers	N/A	\$1,762,500

**III. WORKSHEET**

7,050 Nonresident Deer Hunting permit buyers X \$50.00 increase per permit sold = \$352,500 aggregate cost per year. \$352,500 per year X the assumed 5 year life of the regulation = \$1,762,500 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-5.565 Nonresident Turkey Hunting Permits.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment changes the fee for the Nonresident Spring Turkey Hunting Permit from one hundred seventy-five dollars (\$175) to one hundred ninety dollars (\$190) and the Nonresident Fall Turkey Hunting Permit from one hundred five dollars (\$105) to one hundred ten dollars (\$110).

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

(A) Spring Season Permit. Fee: one hundred [*seventy-five*] **nine-**ty dollars [*(\$175)*] **(\$190)**.

(B) Fall Season Permit. Fee: one hundred [*five*] **ten** dollars [*(\$105)*] **(\$110)**.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.267. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Oct. 10, 2008.

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

*PRIVATE COST:* This proposed amendment will cost private entities the following:

Spring season: 8,091 spring turkey permit buyers × \$15.00 increase per permit sold = \$121,365 aggregate cost per year. \$121,365 per year × the assumed 5-year life of the regulation = \$606,825 total aggregate cost over the five (5)-year term.

Fall season: 425 fall turkey permit buyers × \$5.00 increase per permit sold = \$2,125 aggregate cost per year. \$2,125 per year × the assumed 5-year life of the regulation = \$10,625 total aggregate cost over the five (5)-year term.

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.565 Nonresident Turkey Hunting Permits**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
8,516 Turkey permit buyers	N/A	\$617,450

**III. WORKSHEET**

Spring season: 8,091 spring turkey permit buyers X \$15.00 increase per permit sold = \$121,365 aggregate cost per year. \$121,365 per year X the assumed 5 year life of the regulation = \$606,825 total aggregate cost over the 5 year term.

Fall season: 425 fall turkey permit buyers X \$5.00 increase per permit sold = \$2,125 aggregate cost per year. \$2,125 per year X the assumed 5 year life of the regulation = \$10,625 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED RULE**

**3 CSR 10-5.567 Nonresident Conservation Order Permit.** The commission proposes to adopt a rule.

*PURPOSE: This rule establishes a Conservation Order permit for nonresident participants of the light goose Conservation Order.*

To pursue, take, possess, and transport blue, snow, or Ross's geese during the Conservation Order in accordance with federal regulations and as prescribed in 3 CSR 10-7.440(3)(I)1. Fee: Forty dollars (\$40).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed rule will cost private entities approximately eight hundred sixty-seven thousand dollars (\$867,000) total in the five (5)-year aggregate. This information is based on 4,335 nonresident goose hunters × \$40.00 fee per permit sold = \$173,400 aggregate cost per year. \$173,400 per year × the assumed 5-year life of the regulation = \$867,000 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed Rule

Rule Number and Name: **3 CSR 10-5.567 Nonresident Conservation Order Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4,335 nonresident goose hunters	N/A	\$867,000

**III. WORKSHEET**

4,335 nonresident goose hunters X \$40.00 fee per permit sold = \$173,400 aggregate cost per year.  
\$173,400 per year X the assumed 5 year life of the regulation = \$867,000 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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



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

**PROPOSED AMENDMENT**

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

*PURPOSE:* This amendment changes the fee for the Nonresident Furbearer Hunting and Trapping Permit from one hundred twenty dollars (\$120) to one hundred thirty dollars (\$130).

To chase, pursue, take, possess, transport, and sell furbearers. Fee: one hundred [*twenty*] **thirty** dollars [*(\$120)*] **(\$130)**.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-5.292. Original rule filed June 29, 1981, effective Oct. 11, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Oct. 10, 2008.

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

*PRIVATE COST:* This proposed amendment will cost private entities approximately seven thousand nine hundred fifty dollars (\$7,950) total in the five (5)-year aggregate. This information is based on 159 Nonresident Furbearer Hunting and Trapping permit buyers × \$10.00 increase per permit sold = \$1,590 aggregate cost per year. \$1,590 per year × the assumed 5-year life of the regulation = \$7,950 total aggregate cost over the five (5)-year term.

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-5.570 Nonresident Furbearer Hunting and Trapping Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
159 Nonresident Furbearer Hunting and Trapping permit buyers	N/A	\$7,950

**III. WORKSHEET**

159 Nonresident Furbearer Hunting and Trapping permit buyers X \$10.00 increase per permit sold = \$1,590 aggregate cost per year. \$1,590 per year X the assumed 5 year life of the regulation = \$7,950 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED RESCISSION**

**3 CSR 10-5.576 Nonresident Landowner Firearms Any-Deer Hunting Permit.** This rule established a Nonresident Landowner Firearms Any-Deer Hunting Permit for use on the landowner's qualifying property at a reduced fee compared to a Nonresident Firearms Any-Deer Hunting Permit.

*PURPOSE: This rule is being rescinded as the Nonresident Landowner Firearms Any-Deer Hunting Permit is being eliminated.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 19, 2000, effective March 1, 2001. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed Oct. 2, 2006, effective Feb. 28, 2007. Rescinded: Filed Oct. 10, 2008.*

*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 cost private entities approximately nine hundred eighteen thousand seven hundred fifty dollars (\$918,750) total in the five (5)-year aggregate. This information is based on 1,225 Nonresident Deer Hunting permit buyers × \$150.00 increase per permit sold = \$183,750 aggregate cost per year. \$183,750 per year × the assumed 5-year life of the regulation = \$918,750 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed rescission

Rule Number and Name: **3 CSR 10-5.576 Nonresident Landowner Firearms Any-Deer Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1,225 Nonresident Deer Hunting permit buyers	N/A	\$918,750

**III. WORKSHEET**

1,225 Nonresident Deer Hunting permit buyers X \$150.00 increase per permit sold = \$183,750 aggregate cost per year. \$183,750 per year X the assumed 5 year life of the regulation = \$918,750 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED RESCISSION**

**3 CSR 10-5.579 Nonresident Landowner Firearms Turkey Hunting Permits.** This rule established a Nonresident Landowner Firearms Turkey Hunting Permit for use on the landowner's qualifying property at a reduced fee compared to a Nonresident Firearms Turkey Hunting Permit.

*PURPOSE: This rule is being rescinded as the Nonresident Landowner Firearms Turkey Hunting Permit is being eliminated.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 19, 2000, effective March 1, 2001. Amended: Filed Sept. 29, 2004, effective Feb. 28, 2005. Rescinded: Filed Oct. 10, 2008.*

*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 cost private entities the following:*

*Spring season: 585 spring turkey permit buyers × \$115.00 increase per permit sold = \$67,275 aggregate cost per year. \$67,275 per year × the assumed 5-year life of the regulation = \$336,375 total aggregate cost over the five (5)-year term.*

*Fall season: 112 fall turkey permit buyers × \$60.00 increase per permit sold = \$6,720 aggregate cost per year. \$6,720 per year × the assumed 5-year life of the regulation = \$33,600 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed rescission

Rule Number and Name: **3 CSR 10-5.579 Nonresident Landowner Firearms Turkey Hunting Permits**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
8,516 Turkey permit buyers	N/A	\$369,975

**III. WORKSHEET**

Spring season: 585 spring turkey permit buyers X \$115.00 increase per permit sold = \$67,275 aggregate cost per year. \$67,275 per year X the assumed 5 year life of the regulation = \$336,375 total aggregate cost over the 5 year term.

Fall season: 112 fall turkey permit buyers X \$60.00 increase per permit sold = \$6,720 aggregate cost per year. \$6,720 per year X the assumed 5 year life of the regulation = \$33,600 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED RESCISSION**

**3 CSR 10-5.580 Nonresident Landowner Archer's Hunting Permit.** This rule established a Nonresident Landowner Archer's Hunting Permit for use on the landowner's qualifying property at a reduced fee compared to a Nonresident Archer's Hunting Permit.

*PURPOSE: This rule is being rescinded as the Nonresident Landowner Archer's Hunting Permit is being eliminated.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 19, 2000, effective March 1, 2001. Rescinded: Filed Oct. 10, 2008.*

*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 cost private entities approximately two hundred ninety-one thousand seven hundred fifty dollars (\$291,750) total in the five (5)-year aggregate. This information is based on 389 Nonresident Deer Hunting permit buyers × \$150.00 increase per permit sold = \$58,350 aggregate cost per year. \$58,350 per year × the assumed 5-year life of the regulation = \$291,750 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 5 Permits

Type of Rulemaking: Proposed rescission

Rule Number and Name: **3 CSR 10-5.580 Nonresident Landowner Archer's Hunting Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
389 Nonresident Archery Hunting permit buyers	N/A	\$291,750

**III. WORKSHEET**

389 Nonresident Deer Hunting permit buyers X \$150.00 increase per permit sold = \$58,350 aggregate cost per year.  
\$58,350 per year X the assumed 5 year life of the regulation = \$291,750 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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



**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.410 Fishing Methods.** The commission proposes to amend section (7).

*PURPOSE:* This amendment adds the atlatl to the list of methods for which fish must be retained by the taker and included in the prescribed daily limit.

(7) Fish legally taken by snagging, snaring, grabbing, **atlatl**, gig, bow, crossbow, or underwater spearfishing shall be retained by the taker and included in the prescribed daily limit.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.415 Restricted Zones.** The commission proposes to amend subsections (3)(D) and (E).

*PURPOSE:* This amendment will add atlatl to the list of prohibited methods of taking fish below Clearwater and Wappapello dams.

(3) Fish may be taken by all prescribed methods except trotlines, throwlines, and limb lines from:

(D) Black River within seven hundred feet (700') below the spillway walls of Clearwater Dam. Bowfishing, *[and]* gigging, **and use of atlatl** are also excluded in this zone.

(E) St. Francis River within seven hundred feet (700') below the spillway walls of Wappapello Dam. Bowfishing, *[and]* gigging, **and use of atlatl** are also excluded in this zone.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.530 Goggle-eye (Ozark Bass, Rock Bass and Shadow Bass) and Warmouth.** The commission proposes to amend section (4).

*PURPOSE:* This amendment corrects an inconsistency in format.

(4) Length Limits: No length limits, except all goggle-eye less than eight inches (8") in total length must be returned to the water unharmed immediately after being caught on the Big Piney River from Highway 17 bridge (*[in]* Texas County) to its confluence with the Gasconade River, Courtois Creek from Highway 8 bridge (*[in]* Crawford County) to its confluence with Huzzah Creek, the Eleven Point River from Thomasville Access to the Arkansas line, Huzzah Creek from Willhite Road (*[in]* Crawford County) to its confluence with the Meramec River, Meramec River from Highway 19 bridge (*[in]* Dent County) to Pacific Palisades Conservation Area and the Osage Fork of the Gasconade River from Skyline Drive bridge [*[near Orla [in]* (Laclede County) to its confluence with the Gasconade River.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.533 Shovelnose Sturgeon.** The commission proposes to amend section (2), add a new section (3), and renumber remaining sections.

*PURPOSE:* This amendment reorganizes the rule for clarity by amending section (2), adding a new section (3), and renumbering subsequent sections.

(2) Methods [and Seasons.

(A) Shovelnose sturgeon may be taken by p):Pole and line, trotline, throwline, limb line, bank line, or jug line [throughout the year].

(3) Seasons: Throughout the year.

[(3)](4) Length Limits: All shovelnose sturgeon more than thirty inches (30") in length, measured from the tip of snout to the fork of tail, must be returned to the water unharmed immediately after being caught.

[(4)](5) Shovelnose sturgeon, or parts thereof (including eggs), may not be used as bait.

[(5)](6) Shovelnose sturgeon must remain whole and intact while on waters of the state or adjacent banks.

[(6)](7) Extracted shovelnose sturgeon eggs may not be possessed while on waters of the state or adjacent banks, and may not be transported. Shovelnose sturgeon eggs may not be bought, sold, or offered for sale.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Dec. 30, 2003, effective July 1, 2004. Amended: Filed Sept. 29, 2004, effective Feb. 28, 2005. Amended: Filed Oct. 2, 2006, effective Feb. 28, 2007. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.540 Walleye and Sauger.** The commission proposes to amend section (1).

*PURPOSE:* This amendment reorganizes section (1) for consistency.

(1) Daily Limit: Four (4) in the aggregate, except:

(A) O)on the Mississippi River, the daily and possession limit is eight (8).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.550 Other Fish.** The commission proposes to amend section (1) and subsections (2)(C) and (F).

*PURPOSE:* This amendment changes the word longbow to bow.

(1) Daily Limit: The daily limit for fish, other than those species listed as endangered in 3 CSR 10-4.111 or defined as game fish, is fifty (50) in the aggregate, if taken by pole and line, trotline, throwline, limb line, bank line, jug line, or underwater spearfishing. The daily limit if taken by gig, atlatl, [long]bow, crossbow, snaring, snagging, or grabbing is twenty (20), in the aggregate. Bighead carp, common carp, goldfish, grass carp, and silver carp may be taken and possessed in any number.

(2) Methods and Seasons.

(C) Fish included in this rule may be taken by [long]bow from streams between sunrise and midnight and from impounded waters during all hours throughout the year; except that from February 1 through March 31 on impounded waters, fish may be taken by this method only between sunrise and midnight.

(F) Fish included in this rule may be taken from waters existing temporarily through overflow outside the banks of a river or ditch by gig, atlatl, underwater spearfishing, [long]bow, crossbow, snagging, or grabbing between sunrise and sunset throughout the year.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.615 Bullfrogs and Green Frogs.** The commission proposes to amend section (2).

*PURPOSE:* This amendment adds the *atlatl* as a method permitted for taking bullfrogs and green frogs and changes *longbow* to *bow* for consistency.

(2) Methods: Hand, handnet, *atlatl*, gig, *[long]*/bow, trotline, throwline, limb line, bank line, jug line, snagging, snaring, grabbing, or pole and line by the holder of a fishing permit. An artificial light may be used.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.620 Turtles.** The commission proposes to amend section (2).

*PURPOSE:* This amendment changes the word *longbow* to *bow*.

(2) Methods: Snagging, snaring, grabbing, *[long]*/bow, crossbow, trotline, throwline, limb line, bank line, jug line, hand, handnet, or pole and line. Shooting turtles with firearms is prohibited except as provided in 3 CSR 10-4.130.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. Amended: Filed May 30, 1995, effective Jan. 1, 1996. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.405 General Provisions.** The commission proposes to amend sections (3) and (5).

*PURPOSE:* This amendment changes the word *longbow* to *bow* and removes *lessee* from landowner considerations.

(3) No person shall take or attempt to take any wildlife from or across a public roadway with a firearm, *[long]*/bow, or crossbow.

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

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1964, effective Dec. 31, 1964. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.410 Hunting Methods.** The commission proposes to amend subsections (1)(H), (I), (O), and (P).

*PURPOSE:* This amendment changes the word *longbow* to *bow*; clarifies availability of forms; and removes *lessees* from landowner consideration.

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

(H) Special Firearms Provision. During the November portion and the antlerless portion of the firearms deer season in counties open to deer hunting, other wildlife and feral hogs (any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission) may be hunted only with a pistol, revolver, or rifle firing a rimfire cartridge .22 caliber or smaller or a shotgun and shot not larger than No. 4, except that waterfowl hunters, trappers, or landowners on their land [or lessees on land upon which they reside] may use other methods as specified in subsection (1)(G) of this rule.

(I) Bows and crossbows. [Long]Bows and crossbows may be used to take wildlife during the prescribed hunting seasons. Arrows and bolts containing any drug, poison, chemical, or explosive are prohibited, but illuminated sights, scopes, and quickpoint sights may be used. Hand-held string releasing mechanisms are permitted with [long]bows.

(O) Any properly licensed person with disabilities, as defined in this Code, may hunt and take wildlife from a stationary vehicle, provided while hunting s/he carries a physician's statement provided by the department and signed by a licensed physician which certifies the person has either a permanent or temporary disability which qualifies him/her to hunt from a stationary vehicle. **Printed copies of the physician's statement form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at www.missouriconservation.org.** This disabled person shall provide a copy of the signed physician's statement to the department within ten (10) days of receiving the exemption.

(P) Any properly licensed person having a physical disability that would prevent them from hunting or taking wildlife by archery methods prescribed in this chapter, may hunt wildlife with a crossbow in lieu of a [long]bow, provided while hunting s/he carries a physician's statement provided by the department and signed by a licensed physician which certifies the person has either a permanent or temporary disability which qualifies him/her to hunt with a crossbow. **Printed copies of the physician's statement form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at www.missouriconservation.org.**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.431 Deer Hunting Seasons: General Provisions.** The commission proposes to amend sections (3) and (7).

*PURPOSE: This amendment removes reference to lessees, nonresident landowners, and the Youth Deer and Turkey Hunting Permit.*

(3) Persons hunting or pursuing deer must possess a prescribed deer hunting permit. Resident landowners [and lessees] can qualify for no-cost permits; nonresident landowners can qualify for reduced-cost permits.

(7) During the firearms deer hunting season and during managed firearms deer hunts on those areas where such hunts are held, all persons hunting any game and also adult[s] mentors accompanying them [youths hunting deer on a Youth Deer and Turkey Hunting Permit], must wear a cap or hat and a shirt, vest, or coat of the color commonly known as hunter orange, which must be plainly visible from all sides. Camouflage orange garments do not meet this requirement. The following are exempt from this requirement:

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.433 Deer: Firearms Hunting Seasons.** The commission proposes to amend subsections (1)(B), (2)(A)-(C), (4)(A), and (5)(D).

*PURPOSE: This amendment removes reference to lessee and the Youth Deer and Turkey Hunting Permits as they are being eliminated.*

(1) The firearms deer hunting season is comprised of five (5) portions.

(B) Youth portions: November 1 and 2, 2008 and January 3 and 4, 2009; for persons at least six (6) but not older than fifteen (15) years of age and qualifying landowner [or lessee] youth age fifteen (15) and younger; use any legal deer hunting method to take one (1) deer statewide during the November 1 and 2, 2008 portion; use any legal deer hunting method to take deer statewide during the January 3 and 4, 2009 portion.

(2) Firearms Deer Hunting Permits.

[(A) Youth Deer and Turkey Hunting Permit: for persons at least six (6) but not older than fifteen (15) years of age; valid

for one (1) deer statewide, except that only antlerless deer may be taken during the urban counties and antlerless portions of the season.]

[(B)](A) Resident or Nonresident Firearms Any-Deer Hunting Permit: valid for one (1) deer statewide, except that only antlerless deer may be taken during the urban counties and antlerless portions of the season.

[(C)](B) Resident or Nonresident Firearms Antlerless Deer Hunting Permit, Youth Firearms Antlerless Deer Hunting Permit: valid for one (1) antlerless deer in any open county. Persons may purchase any number of these permits and fill them where valid. A Nonresident Firearms Any-Deer Hunting Permit must be purchased before purchasing Nonresident Firearms Antlerless Deer Hunting Permits.

(4) Other wildlife may be hunted during the firearms deer hunting season with the following restrictions:

(A) During the November portion statewide and the antlerless portion in open counties, other wildlife may be hunted only with pistol, revolver, or rifle firing a .22 caliber or smaller rimfire cartridge, or a shotgun and shot not larger than No. 4; except that waterfowl hunters, trappers, or landowners on their land [or lessees on land upon which they reside] may use other methods as specified in 3 CSR 10-7.410(1)(G).

(5) Feral hogs, defined as any hog, including Russian and European wild boar, not conspicuously identified by ear tags or other forms of identification and roaming freely on public or private lands without the landowner's permission (refer to section 270.400 of *Missouri Revised Statutes*), may be taken in any number during the firearms deer hunting season as follows:

(D) Resident landowners [and lessees] on qualifying land are not required to have any permit and may use any method to take feral hogs throughout the year.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective May 15, 2004. Amended: Filed June 8, 2005, effective July 15, 2005. Amended: Filed May 23, 2006, effective July 1, 2006. Amended: Filed May 21, 2007, effective July 1, 2007. Amended: Filed April 30, 2008, effective July 1, 2008. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.434 Deer: Landowner Privileges.** The commission proposes to amend sections (1) and (4), and delete section (2) and renumber subsequent sections.

*PURPOSE: This amendment removes reference to lessee and nonresident landowners and changes the provisions for resident landowner acreages.*

(1) Resident landowners [and lessees] as [defined in 3 CSR 10-20.805] as **outlined in the Fall Deer & Turkey Hunting Regulations and Information booklet** can obtain no-cost deer hunting permits from any permit vendor. [When requesting such permits, landowners must specify the number of acres owned and county of ownership.]

(A) Those with [five (5)] **eighty (80)** or more [continuous] **contiguous** acres can each receive one (1) Resident Landowner Firearms Any-Deer Hunting Permit, one (1) Resident Landowner Archer's Hunting Permit, and, if property is in a county in which Archery Antlerless Deer Hunting Permits can be used, two (2) Resident Landowner Archery Antlerless Deer Hunting Permits.

(B) [In addition to the permits listed in subsection (1)(A), those with seventy-five (75) or more acres located in a single county or at least seventy-five (75) continuous acres bisected by a county boundary can receive a maximum of two (2) Resident Landowner Firearms Antlerless Deer Hunting Permits.] Landowners with at least [seventy-five (75)] **eighty (80)** acres in more than one (1) county must comply with landowner antlerless deer limits for each county.

[(2)] *Nonresident landowners as defined in 3 CSR 10-20.805 may apply to purchase reduced-cost Nonresident Landowner Archery and Firearms Deer Hunting Permits.]*

[(3)](2) All landowner deer hunting permits are valid only on qualifying property.

[(4)](3) All landowners [and lessees] who take deer on landowner permits may also purchase and fill other deer hunting permits but must abide by seasons, limits, and restrictions. A landowner [or lessee] may take only one (1) antlered deer during the firearms deer hunting season. A landowner [or lessee] may take only two (2) antlered deer during the archery deer hunting season except that only one (1) antlered deer may be taken prior to the November portion of the firearms deer hunting season.

[(5)](4) Persons defined as landowners include:

- (A) General partners of partnerships;
- (B) Officers of resident or foreign corporations;
- (C) Officers or managing members of resident limited liability companies; and
- (D) Officers of benevolent associations organized pursuant to Chapter 352 of the *Revised Statutes of Missouri*.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective May 15, 2004. Amended: Filed June 8, 2005, effective July 15, 2005. Amended: Filed May 23, 2006, effective July 1, 2006. Amended: Filed May 21, 2007, effective July 1, 2007. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.437 Deer: Antlerless Deer Hunting Permit Availability.** The commission proposes to amend subsections (2)(A), (B), and (C).

*PURPOSE: This amendment removes reference to lessees and Youth Firearms Antlerless Deer Hunting Permit.*

(2) Firearms Deer Hunting Season.

(A) Resident and Nonresident Firearms Antlerless Deer Hunting Permits are not valid in the counties of: Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemisicot, Reynolds, Scott, Stoddard, and Wayne except that resident landowners [and lessees] with [seventy five (75)] **eighty (80)** or more acres can each receive one (1) Resident Landowner Firearms Antlerless Deer Hunting Permit.

(B) Only one (1) Resident or Nonresident Firearms Antlerless Deer Hunting Permit [or Youth Firearms Antlerless Deer Hunting Permit] per person may be filled in the counties of: Barry, Barton, Christian, Crawford, Dade, Dent, Douglas, Franklin, Gasconade, Jasper, Jefferson, Lawrence, Maries, McDonald, Newton, Osage, Ozark, Perry, Phelps, Polk, Pulaski, Ripley, Shannon, St. Francois, Ste. Genevieve, Stone, Taney, Texas, Washington, Webster, and Wright.

(C) Any number of Resident or Nonresident Firearms Antlerless Deer Hunting Permits [or Youth Firearms Antlerless Deer Hunting Permits] may be filled in the counties of: Adair, Andrew, Atchison, Audrain, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Clark, Clay, Clinton, Cole, Cooper, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Howell, Jackson, Johnson, Knox, Laclede, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Miller, Moniteau, Monroe, Montgomery, Morgan, Nodaway, Oregon, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, St. Louis, Saline, Schuyler, Scotland, Shelby, Sullivan, Vernon, Warren, and Worth.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective May 15, 2004. Amended: Filed June 8, 2005, effective July 15, 2005. Amended: Filed May 21, 2007, effective July 1, 2007. Amended: Filed April 30, 2008, effective July 1, 2008. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits.** The commission proposes to amend subsections (1)(A), (B), (C), and (D) and sections (5) and (8).

*PURPOSE: This amendment removes reference to the Youth Deer and Turkey Hunting Permit as it is being eliminated; takes out the resident restriction for youth hunts; clarifies the definition of "bow"; and eliminates the reference to lessee.*

(1) Turkeys may be pursued, taken, killed, possessed, or transported only as permitted in this rule.

(A) Spring Season. Spring season annually will begin on the third Monday in April. A person possessing the prescribed turkey hunting permit may take turkeys according to the season length and bag limit established annually by the Conservation Commission; *except that a person at least six (6) but not older than fifteen (15) years of age who possesses a Youth Deer and Turkey Hunting Permit may take only one (1) male turkey or turkey with visible beard during the season*. Turkeys may be taken only by shotgun with shot no larger than No. 4, or [long]bow, without the use of dogs, bait, electronic calls, or live decoys, from one-half (1/2) hour before sunrise to 1:00 p.m. Central Daylight Time (CDT). Possession of electronic calls or shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys.

(B) Fall Firearms Season. Fall season annually will be October 1 through October 31. A person possessing the prescribed turkey hunting permit may take two (2) turkeys of either sex during the season; *except that a person at least six (6) but not older than fifteen (15) years of age who possesses a Youth Deer and Turkey Hunting Permit may take only one (1) turkey of either sex during the season*. Turkeys may be taken only by shotgun with shot no larger than No. 4 or [long]bow; without the use of dogs, bait, electronic calls, or live decoys; from one-half (1/2) hour before sunrise to sunset in all counties except: Dunklin, McDonald, Mississippi, New Madrid, Newton, Pemisicot, and Scott. Possession of electronic calls or shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys. A person, while in the act of pursuing or hunting turkey on a fall firearms permit, shall not have both a firearm and [long]bow on his/her person.

(C) Fall Archery Season. A person possessing the prescribed archer's hunting permit may take two (2) turkeys of either sex from September 15 through January 15, excluding the dates of the November portion of the firearms deer season. Turkeys may be taken only by [long]bows[, recurve bows and compound bows]; without the use of dogs, bait, electronic calls, or live decoys; from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. An archer, while in the act of pursuing or hunting turkey on an archer's permit, shall not have a firearm on his/her person. Possession of electronic calls is prohibited while hunting turkeys.

(D) Youth Spring Season. The two (2)-day youth spring season will begin annually on the Saturday nine (9) days prior to the Monday opening of the spring season, except that when the youth season would overlap with Easter weekend the season will open on the Saturday prior to Easter weekend. **Any person [Missouri resident] possessing [a Youth Deer and Turkey Hunting Permit or] the prescribed turkey hunting permit and who is at least six (6) but not older than fifteen (15) years of age on the opening day of the youth spring season may take only one (1) male turkey or turkey with visible beard during the youth spring season.** A turkey harvested during the youth spring season will count towards an individual's spring season bag limit; individuals hunting under the prescribed turkey hunting permit

may not harvest a second bird during the first week of the spring season. Turkeys may be taken only by shotgun with shot no larger than No. 4, or *[long]*/bow, without the use of dogs, bait, electronic calls, or live decoys, from one-half (1/2) hour before sunrise to sunset. Possession of electronic calls or shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys.

(5) A resident landowner *[or lessee as defined in 3 CSR 10-20.805]*, possessing a landowner turkey hunting permit, may take and possess turkeys in accordance with this rule on his/her land *[or, in the case of the lessee, on the land on which s/he resides]* and shall report the turkeys through the Telecheck Harvest Reporting System as required in this rule.

(8) In accordance with section 270.400, RSMo, feral hogs (any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission) may be taken in any number during the spring firearms turkey season and youth spring season only by the holder of a valid, unused turkey hunting permit; and only by methods and times prescribed for taking turkeys. During the fall firearms turkey season, feral hogs may be taken only by the holder of a valid, unused turkey hunting permit or a small game hunting permit; and only by methods prescribed in Chapter 7 for taking wildlife, and without the use of bait. Other restrictions may apply on public lands. Resident landowners *[or lessees]* as defined in this Code may take feral hogs on their own property at any time, by any method, and without permit.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-8.515 Furbearers: Trapping Seasons.** The commission proposes to amend sections (4) and (7).

*PURPOSE: This amendment removes a comma and clarifies availability of forms for record keeping.*

(4) Except as provided in 3 CSR 10-10.711, pelts of furbearers may be possessed, transported, consigned for processing, and sold only by the taker from November 15 through February 15, pelts of beaver may be possessed, transported, consigned for processing, and sold by the taker from November 15 through April 10, and tagged bobcats and otters or their pelts may be possessed and sold throughout the year. Bobcats or their pelts shall be delivered by the taker to an agent

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

(7) Red fox, gray fox, and coyotes may be taken alive during established seasons by prescribed methods and held in captivity. They may not be exported and may only be sold or given to holders of a valid Hound Running Area Operator and Dealer Permit. Live coyotes, red fox, and gray fox may not be possessed after February 15. These animals may be held for no longer than seventy-two (72) hours after capture, except when confined in facilities and cared for as specified in 3 CSR 10-9.220, and after approval by an agent of the department. Complete and current records of all transactions must be maintained showing the county of origin, the species, date captured, date of transfer, and name and permit number of the hound running area operator/dealer receiving each individual animal. These records shall be kept on forms provided by the department and submitted to an agent of the department by April 15. **Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** Records shall be made available for inspection by an authorized agent of the department at any reasonable time.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 23, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.110 General Prohibition; Applications.** The commission proposes to amend subsection (1)(A), paragraph (3)(E)5., subsection (3)(F), and section (4).

*PURPOSE: This amendment adds the dusty hog-nosed snake, Kirtland's snake, and western fox snake to the list of species that*

Missourians may not take or possess alive without a permit; removes hellbenders from the list of native species that may be possessed; corrects formatting; corrects scientific names; and, clarifies the availability of forms.

(1) Possession of Native Species.

(A) A maximum of five (5) specimens of any native wildlife not listed in 3 CSR 10-4.110(4) or 3 CSR 10-9.240, except endangered species, bats, [hellbenders,] dusty hog-nosed snake, Kirtland's snake, western fox snake, and alligator snapping turtles, may be taken and possessed alive by a resident of Missouri without permit, but these animals shall not be bought or sold. Bones, skins, shells, and other parts of such wildlife may be possessed for personal use without permit, but these wildlife parts in any form shall not be bought or sold. Wildlife held under this subsection may not be transported (or shipped) from the state.

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

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

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

2. Species frozen or processed for sale as food products.

3. Species incapable of surviving in fresh water.

4. Fish held only in aquaria, tanks, or other containers having water discharged only into septic systems or municipal waste treatment facilities that are designed and operated according to guidelines of the Missouri Department of Natural Resources or that entirely recirculate all of the water so that none of it shall drain into a water body.

5. Species other than fish held only in aquaria, tanks, or other containers that have the following specifications: all containers including the drain pipe or stand pipe must be completely covered with an intact screen of a maximum mesh size of **one-sixteenth [1/16] inch (1/16") square**, and having water discharged only into septic systems or municipal waste treatment facilities that are designed and operated according to guidelines of the Missouri Department of Natural Resources or that entirely recirculate all of the water so that none of it shall drain into a water body.

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

(F) Approved Aquatic Species List.

1. Fishes.

A. Shovelnose sturgeon (*Scaphirhynchus platyrhynchus*)

B. Paddlefish (*Polyodon spathula*)

C. Spotted gar (*Lepisosteus oculatus*)

D. Longnose gar (*Lepisosteus osseus*)

E. Shortnose gar (*Lepisosteus platostomus*)

F. Bowfin (*Amia calva*)

G. American eel (*Anguilla rostrata*)

H. Gizzard shad [*Dorosomacepedianum*] (*Dorosoma cepedianum*)

I. Threadfin shad (*Dorosoma petenense*)

J. Rainbow trout (*Oncorhynchus mykiss*)

K. Golden trout (*Oncorhynchus aquabonita*)

L. Cutthroat trout (*Oncorhynchus clarkii*)

M. Brown trout (*Salmo trutta*)

N. Brook trout (*Salvelinus fontinalis*)

O. Coho salmon (*Oncorhynchus kisutch*)

P. Northern pike (*Esox lucius*)

Q. Muskellunge (*Esox masquinongy*)

R. Goldfish (*Carassius auratus*)

S. Grass carp (*Ctenopharyngodon idella*)

T. Common carp (*Cyprinus carpio*)

U. Bighead carp (*Hypophthalmichthys nobilis*)

V. Golden shiner (*Notemigonus crysoleucas*)

W. Bluntnose minnow (*Pimephales notatus*)

X. Fathead minnow (*Pimephales promelas*)

Y. River carpsucker [*Cariodes carpio*] (*Cariodes carpio*)

Z. Quillback (*Cariodes cyprinus*)

AA. White sucker (*Catostomus commersoni*)

BB. Blue sucker (*Cycleptus elongatus*)

CC. Bigmouth buffalo (*Ictiobus cyprinellus*)

DD. Black bullhead (*Ameiurus melas*)

EE. Yellow bullhead (*Ameiurus natalis*)

FF. Brown bullhead (*Ameiurus nebulosus*)

GG. Blue catfish (*Ictalurus furcatus*)

HH. Channel catfish (*Ictalurus punctatus*)

II. Flathead catfish (*Pylodictis olivaris*)

JJ. Mosquitofish (*Gambusia affinis*)

KK. White bass (*Morone chrysops*)

LL. Striped bass (*Morone saxatilis*)

MM. Green sunfish (*Lepomis cyanellus*)

NN. Pumpkinseed (*Lepomis gibbosus*)

OO. Warmouth (*Lepomis gulosus*)

PP. Orangespotted sunfish (*Lepomis humilis*)

QQ. Bluegill (*Lepomis macrochirus*)

RR. Longear sunfish (*Lepomis megalotis*)

SS. Redear sunfish (*Lepomis microlophus*)

TT. Smallmouth bass (*Micropterus dolomieu*)

UU. Spotted bass (*Micropterus punctulatus*)

VV. Largemouth bass (*Micropterus salmoides*)

WW. White crappie (*Pomoxis annularis*)

XX. Black crappie (*Pomoxis nigromaculatus*)

YY. Yellow perch (*Perca flavescens*)

ZZ. Sauger (*Sander canadensis*)

AAA. Walleye (*Sander vitreus*)

BBB. Freshwater drum (*Aplodinotus grunniens*)

2. Crustaceans.

A. Freshwater prawn (*Macrabrachi um rosenbergii*)

B. Pacific white shrimp (*Litopenaeus vannamei*)

C. Northern crayfish (*Orconectes virilis*)

D. White river crayfish [(*Procamarusacutus*)] (*Procambarus acutus*)

E. Red swamp crayfish [(*Procam barusclarkii*)] (*Procambarus clarkii*)

F. Papershell crayfish (*Orconectes immunis*)

3. Amphibians.

A. Tiger salamander larvae (*Ambystoma tigrinum*)

(4) Live fish, their eggs and gametes of the family *Salmonidae* (trouts, char, salmon) may be imported to the state only by the holder of a salmonid importation permit and any other appropriate state permit. An importation permit shall be required for each shipment and will be issued at no charge. Application/s/ forms for the salmonid importation permit [are available from the department.] can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org). The application for salmonid importation permit must be received not less than fifteen (15) nor more than eighty (80) days prior to the proposed date of shipment. Prior to permit issuance the immediate source of the importation must be currently certified as negative for viral hemorrhagic septicemia, infectious pancreatic necrosis, infectious hematopoietic necrosis, *Myxobolus cerebralis*, or other diseases which may threaten fish stocks within the state, must have been certified negative for the previous three (3) consecutive years, and must not pose a threat of introducing unwanted species. Certification will only be accepted from federal, state, or industry personnel approved by the department and only in accordance with provisions on the permit



application form. Fish, eggs, and gametes imported under this permit are subject to inspection by authorized agents of the department and this inspection may include removal of reasonable samples of fish or eggs for biological examination.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-4.110(5), (6), and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders.** The commission proposes to amend section (3).

*PURPOSE:* This amendment corrects a reference to section (12) which outlines wildlife breeder requirements.

(3) A permit may be granted after satisfactory evidence by the applicant that stock will be secured from a legal source other than the wild stock of this state and as provided in section [(11)](12) of this rule; that the applicant will confine the wildlife in humane and sanitary facilities that meet standards specified in 3 CSR 10-9.220; and that the applicant will prevent other wildlife of the state from becoming a part of the enterprise.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-10.755. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.359 Class I and Class II Wildlife Breeder: Records Required.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment clarifies availability of forms.

Each Class I and Class II wildlife breeder shall maintain a current record, by date, of all transactions showing the place of origin and the numbers and species of wildlife which were possessed, propagated, bought, sold, consigned, brokered, transported, shipped, given away, used, or which have died, on forms provided by the department. **Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** These records and applicable state and federal animal health records and permits for each animal shall be maintained on the premises of the wildlife breeder and shall be subject to inspection by an authorized agent of the department at any reasonable time.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-10.753. This version of rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.415 Wildlife Rehabilitation Permit.** The commission proposes to amend section (4) and remove the form that follows the rule in the *Code of State Regulations*.

*PURPOSE:* This amendment removes the *Wildlife Rehabilitation Report Form* from the *Code of State Regulations* and changes the word *commission* to *department*.

(4) Each permit holder shall maintain a current record, on forms furnished by the department, of each animal received, rehabilitated, destroyed, or released. **Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** These records shall be available for inspection by

an authorized agent of the [commission] department at any reasonable time.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-9.615. Original rule filed Aug. 1, 1980, effective Jan. 1, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.425 Wildlife Collector's Permit.** The commission proposes to amend subsection (1)(B).

*PURPOSE: This amendment corrects a permit title.*

(1) A permit to collect, possess, mount, or preserve wildlife for scientific related purposes:

(B) Wildlife Collector's Permit for Special Collections of Wildlife. Wildlife collector's permits may be issued to professionally qualified individuals who charge a fee for biological studies for specific projects where the potential results are of sufficient public value and interest to justify special collection of wildlife. Fee: fifty dollars (\$50).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-9.605. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.565 Licensed Hunting Preserve: Privileges.** The commission proposes to amend paragraph (1)(A)5.

*PURPOSE: This amendment establishes consistency for the age of hunter mentors.*

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve only legally obtained and captive-reared: pheasants, exotic partridges, quail, mallard ducks, and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(A) Game Bird Hunting Preserve.

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

2. Only legally obtained and captive-reared: pheasants, exotic partridges, quail, and mallard ducks may be used on game bird hunting preserves.

3. Permits for game bird hunting preserves will not be issued:

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

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

C. For preserves using captive-reared mallard ducks, within five (5) miles of the following areas:

- (I) Bob Brown Conservation Area
- (II) Clarence Cannon National Wildlife Refuge
- (III) Columbia Bottom Conservation Area
- (IV) Coon Island Conservation Area
- (V) Duck Creek Conservation Area
- (VI) Eagle Bluffs Conservation Area
- (VII) Fountain Grove Conservation Area
- (VIII) Four Rivers Conservation Area
- (IX) Grand Pass Conservation Area
- (X) B. K. Leach Memorial Conservation Area
- (XI) Marais Temps Clair Conservation Area
- (XII) Mingo National Wildlife Refuge
- (XIII) Montrose Conservation Area
- (XIV) Nodaway Valley Conservation Area
- (XV) Otter Slough Conservation Area
- (XVI) Schell-Osage Conservation Area
- (XVII) Settle's Ford Conservation Area
- (XVIII) Squaw Creek National Wildlife Refuge
- (XIX) Swan Lake National Wildlife Refuge
- (XX) Ted Shanks Conservation Area
- (XXI) Ten Mile Pond Conservation Area

4. Mallard ducks must be held in covered facilities that meet standards specified in 3 CSR 10-9.220, and may be possessed, released, and used on game bird hunting preserves only under the following conditions:

A. Mallard ducks may be taken, possessed, transported, and stored only as provided in this Code and federal regulations.

B. Mallard ducks must be physically marked prior to six (6) weeks of age by removal of the hind toe from the right foot, or by tattooing of a readily discernible number or letter or combination thereof on the web of one (1) foot.

C. Mallard ducks may be temporarily released for the sole purpose of flight training beginning one (1) hour after sunrise each day. Covered facilities must be designed to re-capture such ducks,

and a reasonable effort must be made to re-capture them by one (1) hour after sunset each day.

D. Mallard ducks may be released and taken only from September 1 through February 15 by hunting methods from one (1) hour after sunrise to one (1) hour before sunset, and only non-toxic shot may be used. Covered facilities must be designed and managed to re-capture any unharvested mallard ducks, and a reasonable effort must be made to re-capture ducks by one (1) hour after sunset each day.

E. Ducks which are not captive-reared may not be hunted on preserves using captive-reared mallard ducks, and all waterfowl except captive-reared mallard ducks must be flushed from the immediate hunting area prior to hunting activity.

5. Any person taking or hunting game birds on a licensed hunting preserve shall have in his/her possession a valid small game hunting permit or licensed hunting preserve hunting permit, except that persons fifteen (15) years of age or younger, when accompanied by a properly licensed adult hunter, and residents sixty-five (65) years of age and older, may hunt without permit. Licensed hunting preserve hunting permits may be issued to persons without requiring display of a hunter education certificate card for use on game bird hunting preserves; provided s/he is hunting in the immediate presence of a properly licensed adult hunter **age eighteen (18) or older** who has in his/her possession a valid hunter education certificate card **or was born before January 1, 1967**.

6. Game birds, other than captive-reared mallard ducks, may be taken in any number on a hunting preserve and may be possessed and transported from the preserve only when accompanied by a receipt listing the date, number, and species taken, and name of the hunting preserve; or when accompanied by an approved transportation sticker for each game bird taken. Transportation stickers must be purchased from the department by the hunting preserve permit holder.

7. Captive-reared mallard ducks may be taken in any number on a hunting preserve and may be possessed and transported from the preserve only when accompanied by a receipt listing the date, number, and species taken, and the hunting preserve permit holder's name and address. In addition, the marked foot must remain attached to mallard ducks.

8. The hunting preserve permit holder may exercise privileges provided in 3 CSR 10-9.353 for game birds held under this permit in propagation or holding facilities within or directly adjacent to the game bird hunting preserve. Propagation or holding facilities may be separated from the hunting preserve by a public road, but must be directly adjacent. Any such propagation or holding facilities shall meet standards specified in 3 CSR 10-9.220. Other propagation or holding facilities not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.566 Licensed Hunting Preserve: Records Required.**  
The commission proposes to amend section (1).

*PURPOSE: This amendment clarifies availability of forms.*

(1) Big game hunting preserve permittees shall keep a permanent record, by date, of the number of each species held, acquired, propagated, sold, released, the number of each species taken on the preserve, and the full name, address, and permit number (if applicable) of each buyer, seller, shooter, and/or taker, on forms provided by the department. **Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Emergency rule filed March 11, 2002, effective March 21, 2002, expired Sept. 16, 2002. Original rule filed March 11, 2002, effective July 30, 2002. Amended: Filed Aug. 30, 2002, effective March 1, 2003. Amended: Filed Sept. 29, 2004, effective Feb. 28, 2005. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.575 Hound Running Area: Privileges, Requirements.**  
The commission proposes to amend section (7).

*PURPOSE: This amendment clarifies availability of forms.*

(7) The hound running area operator/dealer shall keep an accurate permanent record on forms provided by the department of the supplier's full name and address and number of each species held, captured, purchased, sold, propagated, released on the area, or otherwise disposed of. **Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** Ear tag numbers must also be recorded for each animal released into the area. These records are subject to inspection by an agent of the department at any reasonable time.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 29, 1994, effective July 1, 1995. For intervening history,*

*please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-9.628 Dog Training Area: Privileges.** The commission proposes to amend section (3) and delete the form which follows the rule in the *Code of State Regulations*.

*PURPOSE: This amendment removes the dog training area sign from the Wildlife Code. The sign will continue to be available to permit holders upon request from the department.*

(3) Dog training areas shall be a single tract of land not more than forty (40) acres in size and posted with signs, *which sign is included herein,* as specified or provided by the department. **These signs can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180.** Multiple dog training area permits may be issued for a single tract of land.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-9.627. Original rule filed Aug. 30, 2002, effective March 1, 2003. Amended: Filed Oct. 9, 2003, effective March 30, 2004. Amended: Filed Oct. 2, 2006, effective March 30, 2007. Amended: Filed March 19, 2007, effective April 1, 2007. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.711 Resident Fur Handlers Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment changes the fee for the Resident Fur Handlers Permit from ten dollars (\$10) to eleven dollars (\$11).*

To possess, process, transport, and ship legally taken pelts and carcasses of furbearers from February 16 through June 1. Possession of the appropriate resident hunting or trapping permit to take furbearers, or evidence of exemption, is required as a prerequisite to this permit. Pelts and carcasses of furbearers taken by others may not be possessed under this permit. Pelts sold by the permittee within Missouri to a fur dealer must be fleshed, stretched, and dried. Fee: *[ten] eleven dollars [(\$ 10)] (\$11).*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 13, 2005, effective March 30, 2006. Amended: Filed Sept. 27, 2007, effective Feb. 29, 2008. Amended: Filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed amendment will cost private entities approximately one thousand two hundred seventy dollars (\$1,270) total in the five (5)-year aggregate. This information is based on 254 fur handler permit buyers × \$1.00 increase per permit sold = \$254 aggregate cost per year. \$254 per year × the assumed 5-year life of the regulation = \$1,270 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 10 Commercial Permits: Seasons, Methods, Limits

Type of Rulemaking: Proposed amendment

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

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
254 Fur Handler permit buyers	N/A	\$1,270

**III. WORKSHEET**

254 fur handler permit buyers X \$1.00 increase per permit sold = \$254 aggregate cost per year. \$254 per year X the assumed 5 year life of the regulation = \$1,270 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is based on historic sales data.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.715 Resident and Nonresident Fur Dealers: Reports, Requirements.** The commission proposes to amend section (2) and delete the forms which follow the rule in the *Code of State Regulations*.

*PURPOSE:* This amendment removes the record keeping forms from this rule for simplification and to avoid out-dated forms from appearing as part of the Code.

(2) Each fur dealer shall submit annually a notarized report on forms furnished by the department, *which are included herein*. **Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** All fur dealers' reports shall include all transactions in furbearer pelts for the twelve (12) months preceding April 10 of the current year and an inventory of fur held in storage. Such reports shall be submitted by April 20.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 30, 1979, effective Jan. 1, 1980. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.716 Resident Fur Handlers: Reports, Requirements.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment clarifies availability of forms.

All resident fur handlers shall keep accurate, up-to-date records of the number and species of all furbearers kept in possession beyond the normal possession periods established in 3 CSR 10-7.450 and 3 CSR 10-8.515, and the dates and destinations of all shipments of fur on a form provided by the department. **Printed copies of this form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** These records and wildlife and/or

pelts shall be available for inspection by an authorized agent of the department at any reasonable time. All such records shall be submitted annually by June 10. Issuance of a permit after the first year shall be conditioned on compliance with this rule and receipt by the department of satisfactory reports for the preceding permit period.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 13, 2005, effective March 30, 2006. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.722 Resident [Shovelnose Sturgeon] Roe Fish Commercial Harvest Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment changes the name of the permit and adds paddlefish and bowfin as species that may only be taken by holders of this permit.

Required in addition to the Commercial Fishing Permit to take and possess shovelnose sturgeon from the Missouri **River** and **bowfin, paddlefish, and shovelnose sturgeon from the Mississippi [r]River[s]** in accordance with 3 CSR 10-10.725. Fee: Five hundred dollars (\$500).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Dec. 30, 2003, effective July 1, 2004. Amended: Filed Sept. 14, 2005, effective Feb. 28, 2006. Amended: Filed May 23, 2006, effective Oct. 30, 2006. Amended: Filed Sept. 27, 2007, effective Feb. 29, 2008. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.724 Nonresident Mississippi River [Shovelnose Sturgeon] Roe Fish Commercial Harvest Permit.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment changes the name of the permit, adds paddlefish and bowfin as species that may only be taken by holders of this permit, adds reciprocal permit privileges for properly-licensed Illinois commercial fishers, and increases the cost of the permit.*

Required for nonresidents of Missouri in addition to the Commercial Fishing Permit to take and possess **bowfin, paddlefish, and** shovelnose sturgeon from the Mississippi River in accordance with 3 CSR 10-10.725; except that any person properly licensed to harvest shovelnose sturgeon by the states of **Illinois or** Tennessee may fish within, and harvest shovelnose sturgeon from, the Missouri portion of the Mississippi River adjacent to *[Tennessee,]* **the state where the fisherman is licensed**, as permitted by this Code. Fee: *[Five hundred dollars (\$500)]* **Three thousand five hundred dollars (\$3,500).**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 14, 2005, effective Feb. 28, 2006. Amended: Filed May 23, 2006, effective June 15, 2006. Amended: Filed Sept. 27, 2007, effective Feb. 29, 2008. Amended: Filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed amendment will cost private entities approximately seventeen thousand five hundred dollars (\$17,500) total in the five (5)-year aggregate. This information is based on one (1) permit sold  $\times$  \$3,500 each  $\times$  5 years = \$17,500 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 10 Commercial Permits: Seasons, Methods, Limits

Type of Rulemaking: Proposed amendment

Rule Number and Name: **3 CSR 10-10.724 Nonresident Mississippi River Roe Fish Commercial Harvest Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Nonresident Mississippi Roe Fish Commercial Fishers	N/A	\$17,500

**III. WORKSHEET**

One permit sold X \$3500 each X 5 years = \$17,500 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is estimated based on expected demand.

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

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



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

**PROPOSED AMENDMENT**

**3 CSR 10-10.725 Commercial Fishing: Seasons, Methods.** The commission proposes to amend subsections (1)(B) and (C).

*PURPOSE:* This amendment corrects the names of commercial permits.

(1) Commercial fish, and live bait for personal use, may be taken and possessed in any numbers by the holder of a commercial fishing permit from commercial waters with seines, gill nets, trammel nets, hoop nets with or without wings, trotlines, throwlines, limb lines, bank lines, or jug or block lines, and any number of hooks, except:

(B) On the Missouri River downstream from U.S. Highway 169 to Carl R. Noren Access and downstream from Chamois Access to its confluence with the Mississippi River, where shovelnose sturgeon twenty-four inches (24") to thirty inches (30") in length (measured from tip of snout to fork of tail) may be taken and possessed only from November 1 through May 15 and only by the holder of a Resident [*Shovelnose Sturgeon*] **Roe Fish Commercial Harvest Permit**. (Endangered species as listed in 3 CSR 10-4.111(3), including lake sturgeon and pallid sturgeon, may not be taken or possessed, and must be returned to the water unharmed immediately after being caught.)

(C) On portions of the Mississippi River defined as commercial waters where shovelnose sturgeon twenty-four inches (24") to thirty-two inches (32") in length (measured from tip of snout to fork of tail) may be taken and possessed only from October 15 through May 15 and only by holders of a Resident [*Shovelnose Sturgeon*] **Roe Fish Commercial Harvest Permit** or Nonresident Mississippi River [*Shovelnose Sturgeon*] **Roe Fish Commercial Harvest Permit**.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.726 Reciprocal Privileges: Commercial Fishing and Musseling; Commercial Waters.** The commission proposes to amend section (6).

*PURPOSE:* This amendment adds reciprocal fishing privileges for commercial fishers licensed to harvest shovelnose sturgeon by the state of Illinois.

(6) Any person possessing a valid commercial permit or license to harvest shovelnose sturgeon issued by the states of **Illinois or Tennessee** may fish within, and harvest shovelnose sturgeon from, the Missouri portion of the Mississippi River adjacent to [*Tennessee*] **the state where the fisherman is licensed** without further license, as permitted by this Code.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed March 14, 1973, effective March 24, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.727 Record Keeping and Reporting Required: Commercial Fishermen and Roe Fish Dealers.** The commission proposes to amend the title of the rule and sections (1) and (2) and delete the form which follows the rule in the *Code of State Regulations*.

*PURPOSE:* This amendment changes the title of the rule, adds reference to the *Roe Fish Dealers Permit*, and removes the monthly reporting form for commercial fishermen from the *Wildlife Code*.

(1) Commercial fishermen **and roe fish dealers** shall keep a dated receipt that includes the weight and species of fish, and the weight of extracted fish eggs (raw or processed) of each species, that were sold or given away and the name, address, and signature of the recipient. These receipts shall be retained for three (3) years and shall be made available for inspection by an authorized agent of the department at any reasonable time.

(2) Commercial fishermen **and roe fish dealers** shall submit a **complete and accurate** monthly report on a form furnished by the department, *which is included herein,* showing the origin (water area), weight, and species of fish and fish eggs taken **or purchased** by him/her during the preceding month, or a negative report if none were taken. **Printed copies of this report form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** Monthly reports must be received by the department within thirty (30) days of the end of each month. Failure to submit a monthly report shall be sufficient cause for the department to

revoke the current year's commercial fishing permit and deny renewal of the permit for the following year.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**PROPOSED RULE**

**3 CSR 10-10.728 Roe Fish Dealer Permit**

*PURPOSE: This rule establishes a permit needed to buy and subsequently sell shovelnose sturgeon, paddlefish, bowfin, or any parts of these species legally taken by commercial methods.*

To buy or possess for the purpose of selling, processing, transporting, or shipping legally-acquired bowfin, paddlefish, and shovelnose sturgeon or any parts of these species. While on waters of the state and adjacent banks, the head and tail must remain attached to all fish; bowfin and shovelnose sturgeon must remain whole and intact; and the ovaries of paddlefish must remain intact and accompany the fish from which they were removed. Commercial establishments that buy directly from a holder of a roe fish dealer permit and that sell directly to the general public are excluded from this permit requirement. Resident fee: Five hundred dollars (\$500). Nonresident fee: One thousand five hundred dollars (\$1,500).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 10, 2008.*

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

*PRIVATE COST: This proposed rule will cost private entities approximately fifteen thousand dollars (\$15,000) total in the five (5)-year aggregate. This information is based on 3 resident permits × \$500 each + 1 nonresident permit × \$1,500 each × 5 years = \$15,000 total aggregate cost over the five (5)-year term.*

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

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 3 - Department of Conservation

Division: 10 Conservation Commission

Chapter: 10 Commercial Permits: Seasons, Methods, Limits

Type of Rulemaking: Proposed rule

Rule Number and Name: **3 CSR 10-10.728 Roe Fish Dealer Permit**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Roe Fish Dealers	N/A	\$15,000

**III. WORKSHEET**

3 resident permits X \$500 each + 1 nonresident permit X \$1500 each X 5 years = \$15,000 total aggregate cost over the 5 year term.

**IV. ASSUMPTIONS**

Number of permit buyers is estimated based on expected demand.

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.735 Sale of Live Bait.** The commission proposes to amend section (1).

*PURPOSE:* This amendment clarifies availability of forms.

(1) Any person, group, or business that sells live bait, as defined in 3 CSR 10-6.605, must register annually with the department as a live bait dealer. *[[Initial registration may occur at any time. Annual registration in successive years shall occur on or after January 1, but prior to March 1. Registration forms *[may be obtained by contacting the Department of Conservation or by visiting [www.mdc.mo.gov](http://www.mdc.mo.gov)]] can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).**

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 2, 2006, effective Feb. 28, 2007. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.767 Taxidermy; Tanning; Permit, Privileges, Requirements.** The commission proposes to amend section (4).

*PURPOSE:* This amendment clarifies availability of forms.

(4) All licensed taxidermists and tanners shall keep accurate, up-to-date records of the number and species of all wildlife received, the full name and address of the consignor (or seller of furbearers), and the dates of all transactions and disposition of all wildlife on a form approved or provided by the department. **Printed copies of this form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** These records and wildlife shall be available for inspection by an authorized agent of the department at any reasonable time. All completed records required by this rule shall be retained for three (3) years. Renewal of a permit shall be conditioned upon compliance with this rule.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening

history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.784 Mussel Dealers: Reports, Requirements.** The commission proposes to amend section (1) and delete the forms which follow the rule in the *Code of State Regulations*.

*PURPOSE:* This amendment clarifies information on reporting forms and removes forms from appearing as part of the Code.

(1) Each mussel dealer shall keep an up-to-date, accurate record of all mussels purchased, sold, consigned, or stored. Transactions shall be recorded immediately on forms provided by the department. **Printed copies of these record forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** All records shall be made available for inspection by an authorized agent of the department at any reasonable time, and shall be submitted to the department no later than fifteen (15) days following the last day of each month.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 28, 1992, effective Feb. 26, 1993. Amended: Filed May 30, 1995, effective Jan. 1, 1996. Amended: Filed Oct. 10, 2008.

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.787 Reports Required: Commercial Musselers.** The commission proposes to amend provisions of this rule and delete the form that follows in the *Code of State Regulations*.

*PURPOSE:* This amendment clarifies information on reporting forms and removes forms from appearing as part of the Code.

All commercial musselers shall submit a monthly report during the mussel season on a form furnished by the department, showing the place of origin and the quantity and species of mussels taken by him/her during the preceding month, or a negative report if none were taken. **Printed copies of this report form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org).** Renewal of a permit for the following year shall be conditioned on receipt by the department of satisfactory monthly reports by September 15.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 21, 1993, effective Jan. 1, 1994. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 11—Wildlife Code: Special Regulations for**  
**Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.110 General Provisions.** The commission proposes to amend section (1).

*PURPOSE:* This amendment adds geocaching and letterboxing to the list of activities allowed on conservation areas by Special Use Permit.

(1) The following activities are allowed on department areas only where and as authorized by this chapter or by signs and area brochures or by a special use permit issued by the area manager: swimming, sailboarding, sailboating, skateboarding, boating, entry on areas closed to public use, bicycling, camping, shooting, hunting, fishing, trapping, removal of water, commercial use, vending, fires outside of designated camping areas, rock collecting, digging and other soil disturbance, field trials, horseback riding, ranging of horses and other livestock, possession of pets and hunting dogs, caving, rock climbing, rappelling, paint-balling, scuba diving, water skiing, **geocaching and letterboxing**, the use and possession of vehicles and aircraft, the use of decoys, and the use or construction of blinds and tree stands.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective Oct.

30, 2002. Amended: Filed Sept. 14, 2005, effective Feb. 28, 2006. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 11—Wildlife Code: Special Regulations for**  
**Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.115 Closings.** The commission proposes to amend subsections (3)(A), (B), (F), (H), (J), and (M) and reletter subsequent subsections of this rule.

*PURPOSE:* This amendment establishes hours of operation for the Louis H. Bangert Memorial Wildlife Area as consistent with those for St. Charles County Parks, and lists conservation areas in a more consistent manner.

(3) Department lands associated with offices, education centers, nature centers, hatcheries, staffed shooting ranges, and the following conservation areas are open to public use only as authorized by posting:

- (A) Louis H. Bangert Memorial Wildlife Area**  
[[A]](B) August G. Beckemeier [[August G.]] Conservation Area
- [[B]](C) Bellefontaine Conservation Area
- [[C]](D) Blind Pony Lake Conservation Area
- [[D]](E) Columbia Bottom Conservation Area
- [[E]](F) Jean and Joan Goodson [[Jean and Joan]] Conservation Area
- [[F]](G) Gravois Creek Conservation Area
- [[G]](H) Ronald and Maude Hartell [[Ronald and Maude]] Conservation Area
- [[H]](I) Hickory Woods Conservation Area
- [[I]](J) Roger Klamberg [[Roger]] Woods Conservation Area
- [[J]](K) Little Dixie Lake Conservation Area
- [[K]](L) Phantom Forest Conservation Area
- [[L]](M) James A. Reed [[James A.]] Memorial Wildlife Area
- [[M]](N) Rockwoods Range
- [[N]](O) Rockwoods Reservation
- [[O]](P) Wild Cherry Ridge Conservation Area

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Oct. 1, 2001, effective Oct. 15, 2001. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed April 20, 2005, effective Sept. 30, 2005. Amended: Filed Sept. 27, 2007, effective Feb. 29, 2008. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.140 Camping.** The commission proposes to delete paragraph (1)(B)14. and renumber subsequent paragraphs.

*PURPOSE: This amendment removes Overton Bottoms Conservation Area from the list of conservation areas where camping is allowed.*

(1) Camping is permitted only within areas designated by signs or brochures or as provided in subsection (1)(B) of this rule. Stays are limited to a period of fourteen (14) consecutive days in any thirty (30)-day period, with the period to commence the date the site is occupied or camping within any given department area first occurs. Personal property must be removed at the end of the fourteen (14)-day period. Total camping days on all department lands are limited to thirty (30) days within one (1) calendar year. Camping requests in excess of thirty (30) days within a calendar year may be granted with a special use permit. On those areas with established campsites, only two (2) camping or sleeping units are permitted in each site. Quiet hours are effective from 10:00 p.m. to 6:00 a.m. daily. Visitors who are not occupying a campsite are required to leave the campground by 10:00 p.m. Quiet hours are defined as the cessation of excessive noise from people or any mechanical device which causes disturbance to other campers. Camping fees are required at some areas. Groups of more than ten (10) people must obtain a special use permit prior to camping.

(B) Persons traveling the Missouri River by boat may camp on any suitable site within one hundred (100) yards of the river and moor overnight adjacent to camp but outside the navigation channel between April 1 and September 30 on the following conservation areas:

1. Bob Brown Conservation Area
2. Columbia Bottom Conservation Area
3. Cooley Lake Conservation Area
4. Deroin Bend Conservation Area
5. Diana Bend Conservation Area
6. Dupree Memorial Conservation Area
7. Eagle Bluffs Conservation Area
8. Grand Pass Conservation Area
9. Howell Island Conservation Area
10. Lower Hamburg Bend Conservation Area
11. Marion Bottoms Conservation Area
12. Monkey Mountain Conservation Area
13. Nishnabotna Conservation Area
- [14. Overton Bottoms (South) Conservation Area]
- [15.]14. Pelican Island Natural Area
- [16.]15. Plowboy Bend Conservation Area
- [17.]16. Rush Bottoms Conservation Area

- [18.]17. Saint Stanislaus Conservation Area
- [19.]18. Smoky Waters Conservation Area
- [20.]19. Tate Island Conservation Area
- [21.]20. Thurnau Conservation Area
- [22.]21. Weldon Spring Conservation Area
- [23.]22. Wolf Creek Bend Conservation Area
- [24.]23. Worthwine Island Conservation Area

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed Oct. 2, 2006, effective Feb. 28, 2007. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.150 Target Shooting and Shooting Ranges.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment changes the word "unmanned" to "unstaffed" for better clarity.*

Target shooting is permitted on designated public shooting ranges or by special use permit. Shooting hours on [unmanned] unstaffed ranges are one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. Range use shall be in accordance with posted range rules or as directed by the range officer listed on the special use permit, and is contingent upon the right to inspect permits, firearms, and ammunition by an agent of the department or certified law enforcement officer. Only paper targets attached to provided target holders may be used on [unmanned] unstaffed target shooting ranges, except that on portions of shooting ranges restricted to shotguns with shotshells, only clay targets may be used. Use of incendiary, including tracer ammunition, armor piercing, or explosive ammunition is prohibited. Fully automatic firearms are permitted only with a special use permit. Range use fees are required at some areas. Possession of alcoholic beverages is prohibited on all ranges and associated parking lots. Groups of more than ten (10) people must obtain a special use permit prior to use of a range.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed June 5, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 29, 2004, effective Feb. 28, 2005. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.160 Use of Boats and Motors.** The commission proposes to amend section (1) and delete paragraph (1)(A)5.

*PURPOSE: This amendment clarifies rental fees of department-owned boats and removes Overton Bottoms Conservation Area as the department no longer manages this area.*

(1) Boats (including sailboats) may be used on lakes and ponds except as further restricted in this chapter. Boats may not be left unattended overnight. Houseboats, and personal watercraft as defined in section 306.010, RSMo, are prohibited. Float tubes may be used for authorized fishing and hunting activities. Registration and a fee [are] may be required for rental of department-owned boats. Fees must be paid prior to use.

(A) Except as provided below, only electric motors are permitted on lakes and ponds of less than seventy (70) acres. Electric motors and outboard motors are permitted on lakes of seventy (70) or more acres and on certain areas in conjunction with waterfowl hunting, except as otherwise provided in paragraph (1)(A)2. of this rule. Outboard motors in excess of ten (10) horsepower must be operated at slow, no-wake speed, except as otherwise provided in paragraph (1)(A)3. of this rule.

1. On August A. Busch Memorial Conservation Area, Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, Lake Paho Conservation Area, and James A. Reed Memorial Wildlife Area, only department-owned boats may be used and only electric motors are permitted.

2. On Robert G. DeLaney Lake Conservation Area, only electric motors are permitted.

3. On Thomas Hill Reservoir, houseboats are prohibited at all times, and all boating is prohibited on the main arm of the lake above Highway T from October 15 through January 15. No other restrictions in this section apply to this area.

4. On Bellefontaine Conservation Area, boats are prohibited.

[5. Outboard motors of any size may be used on Overton Bottoms Conservation Area, but must be operated at slow, no-wake speed.]

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.165 Bullfrogs and Green Frogs.** The commission proposes to amend section (1).

*PURPOSE: This amendment adds atlatl as a method permitted for taking frogs on department areas.*

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, **atlatl**, gig, bow, snagging, snaring, grabbing, or pole and line, only on waters and within dates and hours those waters are open to fishing, except as further restricted in this chapter. Firearms may not be used to take bullfrogs and green frogs.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective March 1, 2003. Amended: Filed Sept. 28, 2007, effective Feb. 29, 2008. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.180 Hunting, General Provisions and Seasons.** The commission proposes to amend sections (4), (5), (8), (14), (16), (19), (27), remove section (21), add new sections (28) and (29), and renumber accordingly.

*PURPOSE: This amendment changes hunting provisions on various conservation areas to accommodate better management options and establishes consistency for the age of hunter mentors.*

(4) Hunting is prohibited on the following department areas except for deer hunting as authorized in the annual *Fall Deer and Turkey Hunting Regulations and Information* booklet:

**(G) August G. Beckemeier Conservation Area**

- [(G)](H) Bellefontaine Conservation Area
- [(H)](I) Bicentennial Conservation Area
- [(I)](J) Binder Community Lake
- [(J)](K) Bird's Blue Hole
- [(K)](L) Bittern Bottoms Conservation Area
- [(L)](M) Robert L. Blattner Conservation Area
- [(M)](N) Lois Arlene Boesl Outdoor Educational Area
- [(N)](O) Bolivar Forestry Office
- [(O)](P) Marguerite Bray Conservation Area
- [(P)](Q) Brookfield Maintenance Center
- [(Q)](R) Buffalo Radio Facility
- [(R)](S) Caldwell Memorial Wildlife Area
- [(S)](T) Camdenton Conservation Service Center
- [(T)](U) Cape Girardeau Conservation Campus Nature Center
- [(U)](V) Caruthersville Rookery Conservation Area
- [(V)](W) Clearwater District Headquarters
- [(W)](X) Climax Springs Towersite
- [(X)](Y) Clinton Office
- [(Y)](Z) Conservation Commission Headquarters
- [(Z)](AA) Robert G. DeLaney Lake Conservation Area
- [(AA)](BB) Doniphan Towersite
- [(BB)](CC) Drovers Prairie Conservation Area
- [(CC)](DD) Engelmann Woods Natural Area
- [(DD)](EE) Eugene Towersite
- (FF) Forest 44 Conservation Area**
- [(EE)](GG) Foxglove Conservation Area
- [(FF)](HH) Friendly Prairie Conservation Area
- [(GG)](II) Gay Feather Prairie Conservation Area
- (JJ) Goodson (Bittersweet Woods) Conservation Area**
- [(HH)](KK) Grandpa Chipley's Conservation Area
- (LL) Gavois Creek Conservation Area**
- [(II)](MM) Gavois Mills Access
- [(JJ)](NN) Great Spirit Cave Conservation Area
- [(KK)](OO) Grundy Memorial Wildlife Area
- [(LL)](PP) Ronald and Maude Hartell Conservation Area
- [(MM)](QQ) James R. Harter Conservation Area
- [(NN)](RR) Ruth and Paul Henning Conservation Area
- [(OO)](SS) Hickory Canyons Natural Area
- (TT) Hickory Woods Conservation Area**
- [(PP)](UU) Houston Forestry Office
- [(QQ)](VV) Hurley Radio Facility
- [(RR)](WW) Hurricane Deck Towersite
- [(SS)](XX) Jefferson City Radio Facility
- [(TT)](YY) Joplin Towersite
- [(UU)](ZZ) Juden Creek Conservation Area
- (AAA) Roger Klamberg Woods Conservation Area**
- [(VV)](BBB) LaPetite Gemme Prairie Conservation Area
- [(WW)](CCC) Lebanon Forestry Office
- [(XX)](DDD) Lebanon Towersite
- [(YY)](EEE) Lenox Towersite
- [(ZZ)](FFF) Lichen Glade Conservation Area
- [(AAA)](GGG) Limpp Community Lake
- [(BBB)](HHH) Lipton Conservation Area
- [(CCC)](III) Little Osage Prairie
- [(DDD)](JJJ) Lower Taum Sauk Lake
- [(EEE)](KKK) Malta Bend Community Lake
- [(FFF)](LLL) Mansfield Shop
- [(GGG)](MMM) Maple Flats Access
- [(HHH)](NNN) Maple Woods Natural Area
- [(III)](OOO) Miller Community Lake
- [(JJJ)](PPP) Mint Spring Conservation Area
- [(KKK)](QQQ) Mount Vernon Prairie
- [(LLL)](RRR) Neosho District Headquarters
- [(MMM)](SSS) New Madrid Forestry Office

- [(NNN)](TTT) Niawathe Prairie Conservation Area
- [(OOO)](UUU) Northeast Regional Office
- [(PPP)](VVV) Northwest Regional Office
- [(QQQ)](WWW) Onyx Cave Conservation Area
- [(RRR)](XXX) Ozark Regional Office
- [(SSS)](YYY) Parma Woods Range and Training Center (south portion)
- [(TTT)](ZZZ) Pawhuska Prairie
- [(UUU)](AAAA) Pelican Island Natural Area
- [(VVV)](BBBB) Perry County Community Lake
- [(WWW)](CCCC) Perryville District Headquarters
- (DDDD) Phantom Forest Conservation Area**
- [(XXX)](EEEE) Pickle Springs Natural Area
- [(YYY)](FFFF) Pilot Knob Towersite
- [(ZZZ)](GGGG) Plad Towersite
- [(AAAA)](HHHH) Port Hudson Lake Conservation Area
- [(BBB)](IIII) Powder Valley Conservation Nature Center
- [(CCCC)](JJJJ) Ray County Community Lake
- [(DDDD)](KKKK) Resource Science Center
- [(EEEE)](LLLL) Rocheport Cave Conservation Area
- (MMMM) Rockwoods Range**
- [(FFFF)](NNNN) Rockwoods Reservation
- [(GGGG) Rockwoods Towersite]
- [(HHHH)](OOOO) Rolla Public Contact Office
- [(IIII)](PPPP) Runge Conservation Nature Center
- [(JJJJ)](QQQQ) Rush Creek Conservation Area
- [(KKKK)](RRRR) Ryden Cave Conservation Area
- [(LLLL)](SSSS) Saeger Woods Conservation Area
- [(MMMM)](TTTT) Salem Maintenance Center
- [(NNNN)](UUUU) F. O. and Leda J. Sears Memorial Wildlife Area
- [(OOOO)](VVVV) Sedalia Conservation Service Center
- [(PPPP)](WWWW) Shawnee Mac Lakes Conservation Area
- [(QQQQ)](XXXX) Shepherd of the Hills Fish Hatchery
- [(RRRR)](YYYY) Sims Valley Community Lake
- [(SSSS)](ZZZZ) Southeast Regional Office
- [(TTTT)](AAAAA) Southwest Regional Office
- [(UUUU)](BBBBB) Springfield Conservation Nature Center
- [(VVVV)](CCCCC) Julian Steyermark Woods Conservation Area
- [(WWWW)](DDDDD) Sullivan Office
- (EEEE) Tezsars Woods Conservation Area**
- [(XXXX)](FFFFF) Thirtyfour Corner Blue Hole
- (GGGG) Robert H. Thompson Conservation Area**
- [(YYYY)](HHHHH) Tower Rock Natural Area
- [(ZZZZ)](IIIII) Twin Borrow Pits Conservation Area
- [(AAAAA)](JJJJJ) Twin Pines Conservation Education Center
- [(BBBBB)](KKKKK) Tywappity Community Lake
- [(CCCCC)](LLLLL) Ulman Towersite
- [(DDDDD)](MMMMM) Upper Mississippi Conservation Area (Clarksville Refuge)
- [(EEEE)](NNNNN) Vandalia Community Lake
- [(FFFF)](OOOOO) Wah-Kon-Tah Prairie (portion south of Highway 82)
- [(GGGGG)](PPPPP) Wah-Sha-She Prairie
- [(HHHHH)](QQQQQ) Walnut Woods Conservation Area
- [(IIIII)](RRRRR) Warrenton Office
- [(JJJJJ)](SSSSS) White Aloe Creek Conservation Area
- [(KKKKK)](TTTTT) Wildcat Glade Natural Area
- (UUUUU) Wild Cherry Ridge Conservation Area**
- [(LLLLL)](VVVVV) Walter Woods Conservation Area
- [(MMMMM)](WWWWW) Mark Youngdahl Urban Conservation Area

(5) Firearms firing single projectiles are prohibited on the following department areas except for deer hunting as authorized in the annual *Fall Deer and Turkey Hunting Regulations and Information* Booklet:

- (C) Black Island Conservation Area (Wolf Bayou Unit of)**
- [(C)](D) Bois D'Arc Conservation Area
- [(D)](E) Branch Towersite



~~[(E)](F)~~ Brickley Hollow Access  
~~[(F)](G)~~ Gerhild and Graham Brown Memorial Wildlife Area  
~~[(G)](H)~~ Catawissa Conservation Area  
~~[(H)](I)~~ Charity Access  
~~[(I)](J)~~ Columbia Bottom Conservation Area  
~~[(J) Crooked Creek Conservation Area]~~  
~~[(EEE) Wolf Bayou Conservation Area]~~  
~~[(FFF)](EEE)~~ Young Conservation Area

(8) Use or possession of lead shot is prohibited for hunting on the following department areas:

(A) Black Island Conservation Area (**Stephen C. Bradford Unit of**)

(14) On August A. Busch Memorial Conservation Area:

(E) *[Furbearers may only be hunted from 6:00 p.m. to 6:00 a.m. from December 15 through the end of the prescribed furbearer season. Coyotes may be taken only by shotgun during daylight hours from the fourth Saturday in May through September 30 and from December 15 through March 31, except coyotes may be taken during managed deer hunts by participants possessing a valid Managed Deer Hunting Permit and the prescribed hunting permit.] Furbearers treed with the aid of dogs may be taken using any prescribed method during the prescribed furbearer season, except that:*

1. Coyotes may be taken only by shotgun from one-half hour before sunrise to one-half hour after sunset from the fourth Saturday in May through September 30 and from December 15 through March 31.

2. Furbearers other than coyotes not treed with the aid of dogs may be taken only by shotgun from December 15 through the end of the prescribed furbearer season.

3. All furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.

*[(G) Quail hunting is permitted only during managed quail hunts.]*

(16) On Bois D'Arc Conservation Area and White River Trace Conservation Area, *[quail and] dove hunting [are] is permitted only until 1:00 p.m. daily. During the first seven (7) days of dove season, doves may be taken in assigned areas only by holders of a valid area daily hunting permit. [Quail may be taken only by holders of a valid area daily hunting permit until the area is posted closed based on harvest surveys.]*

(19) On Marais Temps Clair Conservation Area:

(B) *[Quail, r]Rabbit, pheasant, woodcock, squirrel, groundhog, furbearer, turkey, and crow hunting is prohibited.*

*[(21) Quail hunting is permitted only until 1:00 p.m. daily from November 1 through December 15 on the following department areas:*

(A) Capps Creek Conservation Area  
 (B) Reform Conservation Area  
 (C) Dr. O. E. and Eloise Sloan Conservation Area  
 (D) Robert E. Talbot Conservation Area  
 (E) Whetstone Creek Conservation Area]

*[(22)](21)* On Columbia Bottom Conservation Area and Saint Stanislaus Conservation Area, hunting is permitted only during managed hunts or by holders of a valid area daily hunting permit.

*[(23)](22)* On Lake Girardeau Conservation Area, hunting is permitted only from November 1 through April 1.

*[(24)](23)* On Settle's Ford Conservation Area, hunting of wildlife other than waterfowl is prohibited in designated waterfowl hunting areas from October 15 through the end of the prescribed Canada goose season.

*[(25)](24)* Hunting of wildlife other than waterfowl is prohibited, except in designated areas, from October 15 through the prescribed waterfowl season on the following department areas:

(A) Bob Brown Conservation Area  
 (B) Columbia Bottom Conservation Area  
 (C) Coon Island Conservation Area  
 (D) Duck Creek Conservation Area  
 (E) Eagle Bluffs Conservation Area  
 (F) Fountain Grove Conservation Area  
 (G) Grand Pass Conservation Area  
 (H) Marais Temps Clair Conservation Area  
 (I) Montrose Conservation Area  
 (J) Nodaway Valley Conservation Area  
 (K) Otter Slough Conservation Area  
 (L) Schell-Osage Conservation Area  
 (M) Ted Shanks Conservation Area  
 (N) Ten Mile Pond Conservation Area

*[(26)](25)* On the portion of Nodaway River bordered by the portion of Nodaway Valley Conservation Area which has been designated a waterfowl refuge, all hunting is prohibited from October 15 through the end of the prescribed waterfowl season.

*[(27)](26)* On Burr Oak Woods Conservation Area, spring turkey hunting is permitted only by persons under sixteen (16) years of age holding a Managed Turkey Hunting Permit in addition to the prescribed turkey hunting permit; provided, s/he is hunting in the immediate presence of a properly licensed adult hunter who is age **eighteen (18) or older and** who has in his/her possession a valid hunter education certificate card, **or was born before January 1, 1967.**

*[(28)](27)* On B. K. Leach Memorial Conservation Area, hunting of wildlife other than waterfowl is allowed during prescribed seasons, except that from October 15 through the end of the prescribed waterfowl season other wildlife may be hunted only by archery methods and only in designated areas.

**(28) On Dan and Maureen Cover Prairie Conservation Area and Carrick W. Davidson – Robert G. Paris Wildlife Area, rabbits may not be chased, pursued, or taken during the prescribed quail hunting season.**

**(29) On Montrose Conservation Area, firearms firing single projectiles larger than .22 caliber rimfire are prohibited.**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED RULE**

**3 CSR 10-11.184 Quail Hunting**

*PURPOSE: This rule establishes provisions for quail hunting on department areas.*

(1) Quail hunting is permitted on department areas in accordance with statewide regulations except as further restricted in this rule.

(2) Quail may be taken only by holders of the prescribed hunting permit and a valid area daily hunting tag, and hunters must check out immediately after the close of their hunting trip on the following department areas:

- (A) Bunch Hollow Conservation Area
- (B) Crowleys Ridge Conservation Area
- (C) Davisdale Conservation Area
- (D) Maintz Wildlife Preserve
- (E) Emmett and Leah Seat Memorial Conservation Area

(3) Quail hunting is permitted only through December 15 on the following department areas:

- (A) Dr. O. E. and Eloise Sloan Conservation Area
- (B) Whetstone Creek Conservation Area

(4) Quail hunting is permitted only through December 15 by holders of the prescribed hunting permit and a valid area daily hunting tag, and hunters must check out immediately after the close of their hunting trip on the following department areas:

- (A) Bois D'Arc Conservation Area
- (B) Robert E. Talbot Conservation Area
- (C) White River Trace Conservation Area

(5) Quail hunting is permitted only by holders of the prescribed hunting permit who have been selected to participate in the area's managed quail hunts on the following department areas:

- (A) Dan and Maureen Cover Prairie Conservation Area
- (B) Carrick W. Davidson – Robert G. Paris Wildlife Area

(6) Quail hunting is prohibited on the following department areas:

- (A) August A. Busch Memorial Conservation Area
- (B) Columbia Bottom Conservation Area
- (C) Marais Temps Clair Conservation Area
- (D) James A. Reed Memorial Wildlife Area
- (E) Saint Stanislaus Conservation Area

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.205 Fishing, Methods and Hours.** The commission proposes to amend subsection (1)(B).

*PURPOSE: This amendment adds the atlatl as a permitted method for taking carp, buffalo, suckers, and gar during statewide seasons in selected department areas or individually-named lakes.*

(1) On lakes and ponds, fish may be taken only with pole and line and not more than three (3) poles may be used by one (1) person at any time, except as otherwise provided in this chapter.

(B) Carp, buffalo, suckers, and gar may be taken by atlatl, gig, bow, or crossbow during statewide seasons on the following department areas or individually-named lakes:

1. Atlanta Conservation Area
2. Bismarck Conservation Area
3. Blackjack Access
4. Bob Brown Conservation Area
5. Columbia Bottom Conservation Area
6. Cooley Lake Conservation Area
7. Deer Ridge Conservation Area
8. Deroin Bend Conservation Area
9. Duck Creek Conservation Area
10. Eagle Bluffs Conservation Area
11. Femme Osage Slough (Weldon Spring Conservation Area)
12. Connor O. Fewel Conservation Area
13. Fountain Grove Conservation Area
14. Four Rivers Conservation Area (August A. Busch, Jr. Memorial Wetlands at)
15. Franklin Island Conservation Area
16. Grand Pass Conservation Area
17. Hunnewell Lake Conservation Area
18. King Lake Conservation Area
19. Kings Prairie Access
20. Lake Paho Conservation Area
21. Lamine River Conservation Area
22. B. K. Leach Memorial Conservation Area
23. Limpin Community Lake
24. Little Compton Lake Conservation Area
25. Locust Creek Conservation Area
26. Manito Lake Conservation Area
27. Marais Temps Clair Conservation Area
28. Nodaway County Community Lake
29. Nodaway Valley Conservation Area
30. Otter Lake (Otter Slough Conservation Area)
31. Peabody Conservation Area
32. Ralph and Martha Perry Memorial Conservation Area
33. Haysler A. Poague Conservation Area
34. Pony Express Lake Conservation Area
35. Rebel's Cove Conservation Area
36. Schell-Osage Conservation Area
37. Henry Sever Lake Conservation Area
38. Settle's Ford Conservation Area
39. Ted Shanks Conservation Area
40. H. F. Thurnau Conservation Area
41. Truman Reservoir Management Lands
42. Worth County Community Lake
43. Worthwine Island Conservation Area

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001,*

effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 11—Wildlife Code: Special Regulations for**  
**Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.210 Fishing, Daily and Possession Limits.** The commission proposes to add a new subsection (5)(C) and renumber subsequent subsections.

**PURPOSE:** This amendment establishes a daily limit of four (4) for white bass, striped bass, and their hybrids in the aggregate at Lake Paho Conservation Area.

(5) The daily limit for white bass, striped bass, and their hybrids in the aggregate shall be four (4) on the following department areas or individually named lakes:

**(C) Lake Paho Conservation Area**

[(C)](D) Perry County Community Lake

[(D)](E) James A. Reed Memorial Wildlife Area

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 11—Wildlife Code: Special Regulations for**  
**Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.215 Fishing, Length Limits.** The commission proposes to delete paragraph (2)(B)11. and add a new subsection (3)(C) and renumber accordingly.

**PURPOSE:** This amendment removes the fifteen inch (15") minimum length limit on black bass at Deer Ridge Lake (Deer Ridge Conservation Area) and establishes a minimum length limit of twenty inches (20") for white bass, striped bass, and their hybrids at Lake Paho.

(2) On lakes and ponds, except as listed below, black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught.

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

1. Amarugia Highlands Conservation Area
2. Apple Creek Conservation Area
3. Atkinson Lake (Schell-Osage Conservation Area)
4. Baltimore Bend Conservation Area
5. Bilby Ranch Lake Conservation Area
6. Binder Community Lake
7. Buffalo Bill Lake (Pony Express Lake Conservation Area)
8. August A. Busch Memorial Conservation Area (except Lakes 33 and 35)
9. Castor River Conservation Area
10. Che-Ru Lake (Fountain Grove Conservation Area)
- [11.]11. Deer Ridge Lake (Deer Ridge Conservation Area)
- [12.]11. General Watkins Conservation Area
- [13.]12. Hazel Hill Lake
- [14.]13. Jamesport Community Lake
- [15.]14. J. N. "Turkey" Kearn Memorial Wildlife Area
- [16.]15. Limpp Community Lake
- [17.]16. Lone Jack Lake Conservation Area
- [18.]17. Maple Leaf Lake Conservation Area
- [19.]18. Nodaway County Community Lake
- [20.]19. Otter Slough Conservation Area
- [21.]20. Perry County Community Lake
- [22.]21. Pony Express Lake (Pony Express Lake Conservation Area)
- [23.]22. Ray County Community Lake
- [24.]23. James A. Reed Memorial Wildlife Area
- [25.]24. Rinquelin Trail Community Lake
- [26.]25. Schell Lake (Schell-Osage Conservation Area)
- [27.]26. Ted Shanks Conservation Area
- [28.]27. Tobacco Hills Lake (Guy B. Park Conservation Area)
- [29.]28. Vandalia Community Lake
- [30.]29. Weldon Spring Conservation Area
- [31.]30. Worth County Community Lake

(3) White bass, striped bass, and their hybrids less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught on the following department areas or individually named lakes:

**(C) Lake Paho Conservation Area**

[(C)](D) Perry County Community Lake

[(D)](E) James A. Reed Memorial Wildlife Area

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.110 Use of Boats and Motors.** The commission proposes to amend sections (2), (5), and (6).

*PURPOSE: This amendment prohibits boat use at a number of small St. Louis City and St. Louis County lakes; removes two (2) St. Charles County lakes from the rule; and allows the operation of outboard motor in excess of ten (10) horsepower at a slow, no-wake speed on La Plata City Lake.*

(2) Boats are prohibited on the following areas:

- (A) **Ballwin (New Ballwin Park Lake, Vlasik Park Lake)**
- [(A)](B) Bridgeton (Kiwanis Lake)
- [(B)](C) California (Proctor Park Lake)
- [(C)](D) Cole County (Jaycee Park Lake)
- [(D)](E) Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods)
- [(E)](F) Confederate Memorial State Historic Site lakes
- [(F)](G) Dexter City Lake
- [(G)](H) Farmington (Giessing Lake, Hager Lake, [and] Thomas Lake)
- (I) **Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)**
- (J) **Ferguson (January-Wabash Park Lake)**
- [(H)](K) Jackson (Rotary Lake)
- [(I)](L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Scherer Lake, Wyatt Lake)
- [(J)](M) James Foundation (Scioto Lake)
- [(K)](N) Jefferson City (McKay Park Lake)
- [(L)](O) Jennings (Koeneman Park Lake)
- [(M)](P) Kirksville (Spur Pond)
- (Q) **Kirkwood (Walker Lake)**
- [(N)](R) Macon County (Fairgrounds Lake)
- [(O)](S) Mexico (Kiwanis Lake)
- [(P)](T) Mineral Area College (Quarry Pond)
- [(Q)](U) Mount Vernon (Williams Creek Park Lake)
- [(R)](V) Overland (Wild Acres Park Lake)
- [(S)](W) Potosi (Roger Bilderback Lake)
- [(T)](X) Rolla (Schuman Park Lake)
- [(U)](Y) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [(V)] *St. Charles County (Henry's Pond, Quail Ridge Park Lake)*
- (Z) **St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)**
- [(W)](AA) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)
- [(X)](BB) Sedalia (Clover Dell Park Lake, Liberty Park Pond)

- [(Y)](CC) Taos (Taos Countryside Park Lake)
- [(Z)](DD) Tipton (Tipton Park Lake)
- [(AA)](EE) University of Missouri (South Farm R-1 Lake)
- [(BB)](FF) Watershed Committee of the Ozarks (Valley Water Mill Lake)

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

- [(C)] *LaPlata City Lake*
- [(D)](C) Moberly (Rothwell Park Lake, Water Works Lake)
- [(E)](D) Springfield City Utilities (Lake Springfield)
- [(F)](E) Unionville (Lake Mahoney)
- [(G)](F) Wakonda State Park (Agate Lake and Wakonda Lake)

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

- (J) **La Plata City Lake**
- [(J)](K) Macon City Lake
- [(K)](L) Marceline (Marceline City Lake, Old Marceline City Reservoir)
- [(L)](M) Mark Twain National Forest (Council Bluff Lake, Palmer Lake)
- [(M)](N) Maysville (Willow Brook Lake)
- [(N)](O) Memphis (Lake Showme)
- [(O)](P) Milan (Elmwood Lake)
- [(P)](Q) Monroe City (Route J Reservoir)
- [(Q)](R) Watkins Woolen Mill State Park and Historic Site (Williams Creek Lake)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.115 Bullfrogs and Green Frogs.** The commission proposes to amend section (1) and subsections (1)(A) and (B).

*PURPOSE: This amendment adds atlatl as a method permitted for taking frogs at areas under management agreement with the department; prohibits the use of bows for taking frogs on Moberly (Beuth Park Lake); establishes regulations for harvesting bullfrogs and green frogs on Preslar, Upper Fabick, and Westside lakes (City of Fenton); establishes pole and line as the methods permitted for harvesting frogs at St. Louis City and St. Louis County CAP lakes; and removes St. Charles County (Henry's Pond, Quail Ridge Park Lake) from the rule.*

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

(A) Bows may not be used to take frogs on the following areas:

1. Blue Springs (Lake Remembrance)
2. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, A. Perry Phillips Park Lake, Stephens Lake, Twin Lake)
3. Farmington (Giessing Lake, Hager Lake, *[and]* Thomas Lake)
4. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
5. James Foundation (Scioto Lake)
6. Mark Twain National Forest (department managed portions)
7. Mexico (Lakeview Lake, Kiwanis Lake)
8. Moberly (**Beuth Park Lake**, Rothwell Park Lake, Water Works Lake)
9. Odessa (Lake Venita)

(B) Only pole and line may be used to take frogs on the following areas:

1. **Ballwin (New Ballwin Park Lake, Vlasis Park Lake)**  
[1.]2. Bridgeton (Kiwanis Lake)
- [2.]3. Butler City Lake
4. **Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)**
5. **Ferguson (January-Wabash Park Lake)**  
[3.]6. Jennings (Koeneman Park Lake)
- [4.]7. Kirksville (Spur Pond)
- [5.]8. Kirkwood (Walker Lake)
- [6.]9. Macon County (Fairground Lake)
- [7.]10. Mineral Area College (Quarry Pond)
- [8.]11. Overland (Wild Acres Park Lake)
- [9.]12. Potosi (Roger Bilderback Lake)
- [10.]13. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [11. St. Charles County (Henry's Pond, Quail Ridge Park Lake)]
14. **St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)**  
[12.]15. St. Louis County (Bee Tree Lake, **Bellefontaine Park Lake**, Creve Coeur Lake, **Queeny Park Lake**, Simpson Lake, Spanish Lake, Sunfish Lake, **Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)**  
[13.]16. Sedalia (Clover Dell Park Lake, Liberty Park Pond)
- [14.]17. Sedalia Water Department (Spring Fork Lake)
- [15.]18. Warrensburg (Lion's Lake)
- [16.]19. Watershed Committee of the Ozarks (Valley Water Mill Lake)
- [17.]20. Wentzville (Community Club Lake)
- [18.]21. Windsor (Farrington Park Lake)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 10, 2008.

**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 David

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 12—Wildlife Code: Special Regulations for**  
**Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.125 Hunting and Trapping.** The commission proposes to add a new paragraph (1)(B)10., delete paragraph (1)(B)28., and renumber accordingly.

**PURPOSE:** This amendment adds Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake) and removes St. Charles County (Henry's Pond, Quail Ridge Park Lake) from the list of areas where hunting is prohibited.

(1) Hunting, under statewide permits, seasons, methods, and limits, is permitted except as further restricted in this chapter and except for deer hunting as authorized in the current *Fall Deer & Turkey Hunting Regulations and Information* booklet, published annually in August. This publication is incorporated by reference. A copy of this booklet can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. It is also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendment or additions.

(B) Hunting is prohibited on the following areas:

1. Thomas S. Baskett Wildlife Research and Education Center
2. Bethany (Old Bethany City Reservoir)
3. Bridgeton (Kiwanis Lake)
4. Buchanan County (Gasper Landing)
5. California (Proctor Park Lake)
6. Carthage (Kellogg Lake)
7. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake)
8. Dexter City Lake
9. Farmington (Giessing Lake, Hager Lake, *[and]* Thomas Lake)
10. **Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)**  
[10.]11. Hamilton City Lake
- [11.]12. Harrisonville (North Lake)
- [12.]13. Jackson (Rotary Lake)
- [13.]14. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
- [14.]15. James Foundation (Scioto Lake)
- [15.]16. Jamesport City Lake
- [16.]17. Kirksville (Spur Pond)
- [17.]18. Lawson City Lake
- [18.]19. Macon County (Fairground Lake)
- [19.]20. Mexico (Lakeview Lake, Kiwanis Lake)
- [20.]21. Mineral Area College (Quarry Pond)
- [21.]22. Moberly (Rothwell Park Lake, Water Works Lake)
- [22.]23. Mount Vernon (Williams Creek Park Lake)
- [23.]24. Odessa (Lake Venita)
- [24.]25. Overland (Wild Acres Park Lake)
- [25.]26. Potosi (Roger Bilderback Lake)
- [26.]27. Rolla (Schuman Park Lake)
- [27.]28. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [28. St. Charles County (Henry's Pond, Quail Ridge Park Lake)]

- 29. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)
- 30. Savannah City Lake
- 31. Sedalia (Clover Dell Park Lake)
- 32. Sedalia Water Department (Spring Fork Lake)
- 33. Springfield City Utilities (Lake Springfield)
- 34. Warrensburg (Lion's Lake)
- 35. Watershed Committee of the Ozarks (Valley Water Mill Lake)
- 36. Windsor (Farrington Park Lake)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.135 Fishing, Methods.** The commission proposes to add a new subsection (3)(C) and renumber subsequent subsections.

*PURPOSE: This amendment establishes methods permitted for fishing at Preslar, Upper Fabick, and Westside lakes (City of Fenton).*

(3) Gizzard shad may be taken from lakes and ponds by dip net or throw net, except at the following areas:

- (C) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)**  
*[(C)](D) Ferguson (January-Wabash Park Lake)*  
*[(D)](E) Jennings (Koeneman Park Lake)*  
*[(E)](F) Kirkwood (Walker Lake)*  
*[(F)](G) Overland (Wild Acres Park Lake)*  
*[(G)](H) St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)*  
*[(H)](I) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veteran's Memorial Park Lake)*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.140 Fishing, Daily and Possession Limits.** The commission proposes to add new subsections (2)(J), (6)(B), and (11)(C) and renumber subsequent subsections.

*PURPOSE: This amendment establishes a daily limit for largemouth bass, crappie, and all other species in Preslar, Upper Fabick, and Westside lakes (City of Fenton).*

- (2) The daily limit for black bass is two (2) on the following lakes:  
**(J) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)**  
*[(J)](K) Ferguson (January-Wabash Lake)*  
*[(K)](L) Higginsville City Lake*  
*[(L)](M) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)*  
*[(M)](N) Jefferson City (McKay Park Lake)*  
*[(N)](O) Jennings (Koeneman Park Lake)*  
*[(O)](P) Keytesville (Maxwell Taylor Park Pond)*  
*[(P)](Q) Kirkwood (Walker Lake)*  
*[(Q)](R) Mexico (Teal Lake)*  
*[(R)](S) Mineral Area College (Quarry Pond)*  
*[(S)](T) Overland (Wild Acres Park Lake)*  
*[(T)](U) Potosi (Roger Bilderback Lake)*  
*[(U)](V) Sedalia Water Department (Spring Fork Lake)*  
*[(V)](W) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)*  
*[(W)](X) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)*  
*[(X)](Y) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)*  
*[(Y)](Z) Unionville (Lake Mahoney)*  
*[(Z)](AA) University of Missouri (South Farm R-1 Lake)*  
*[(AA)](BB) Warrensburg (Lion's Lake)*  
*[(BB)](CC) Watkins Mill State Park Lake*  
*[(CC)](DD) Wentzville (Community Club Lake)*  
*[(DD)](EE) Windsor (Farrington Park Lake)*

- (6) The daily limit for crappie is fifteen (15) on the following lakes:  
**(B) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)**  
*[(B)](C) Ferguson (January-Wabash Lake)*  
*[(C)](D) Kirksville (Hazel Creek Lake)*  
*[(D)](E) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)*

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

~~[(F)](G)~~ Springfield City Utilities (Fellows Lake)

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

~~[(C)](D)~~ Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)

~~[(C)](D)~~ Ferguson (January-Wabash Lake)

~~[(D)](E)~~ Jennings (Koeneman Park Lake)

~~[(E)](F)~~ Keytesville (Maxwell Taylor Park Pond)

~~[(F)](G)~~ Kirkwood (Walker Lake)

~~[(G)](H)~~ Mineral Area College (Quarry Pond)

~~[(H)](I)~~ Overland (Wild Acres Park Lake)

~~[(I)](J)~~ Potosi (Roger Bilderback Lake)

~~[(J)](K)~~ St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)

~~[(K)](L)~~ St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)

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

~~[(M)](N)~~ Wentzville (Community Club Lake)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 12—Wildlife Code: Special Regulations for**  
**Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.145 Fishing, Length Limits.** The commission proposes to amend subsections (2)(B) and (2)(C) and delete section (6) and renumber accordingly.

*PURPOSE: This amendment changes the length limit on black bass from a fifteen-inch (15") minimum length limit to a twelve- to fifteen-inch (12–15") length limit at Kirksville (Spur Pond) and Macon County (Fairgrounds Lake); removes the fifteen-inch (15") minimum length limit for channel catfish on Macon City Lake; removes St. Charles County (Quail Ridge Park Lake); and establishes length lim-*

*its for black bass in Preslar, Upper Fabick, and Westside lakes (City of Fenton).*

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

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

1. Arrow Rock State Historic Site (Big Soldier Lake)
2. Bethany (Old Bethany City Reservoir)
3. Blue Springs (Lake Remembrance)
4. Big Oak Tree State Park (Big Oak Lake)
5. Butler City Lake
6. California (Proctor Park Lake)
7. Cameron (Reservoirs No. 1, 2, and 3, Grindstone Reservoir)
8. Carthage (Kellogg Lake)
9. Columbia (Stephens Lake)
10. Concordia (Edwin A. Pape Lake)
11. Confederate Memorial State Historic Site lakes
12. Dexter City Lake
13. Hamilton City Lake
14. Harrison County Lake
15. Higginsville City Lake
16. Holden City Lake
17. Iron Mountain City Lake
18. Jackson (Rotary Lake)
19. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
20. Jefferson City (McKay Park Lake)
21. Keytesville (Maxwell Taylor Park Pond)
22. Kirksville (Hazel Creek Lake)
- ~~23. Kirksville (Spur Pond)]~~
- ~~24.] 23.~~ Macon (Blees Lake)
- ~~25. Macon County (Fairgrounds Lake)]~~
- ~~26.]24.~~ Maysville (Willow Brook Lake)
- ~~27.]25.~~ Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake)
- ~~28.]26.~~ Mineral Area College (Quarry Pond)
- ~~29.]27.~~ Odessa (Lake Venita)
- ~~30.]28.~~ Pershing State Park ponds
- ~~31.]29.~~ Potosi (Roger Bilderback Lake)
- ~~32.]30.~~ University of Missouri (Dairy Farm Lake No. 1, [and] McCredie Lake)
- ~~33.]31.~~ Warrensburg (Lion's Lake)
- ~~34.]32.~~ Watkins Mill State Park Lake
- ~~35.]33.~~ Windsor (Farrington Park Lake)

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

1. Ballwin (New Ballwin Lake, Vlasis Park Lake)
2. Bridgeton (Kiwanis Lake)
3. Columbia (Twin Lake)
4. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- ~~4.]5.~~ Ferguson (January-Wabash Lake)
- ~~5.]6.~~ Jennings (Koeneman Park Lake)
- ~~6.]7.~~ Kirkwood (Walker Lake)
- ~~7.]8.~~ Overland (Wild Acres Park Lake)
- ~~8.]9.~~ Sedalia Water Department (Spring Fork Lake)
- ~~9.]10.~~ St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- ~~10. St. Charles County (Quail Ridge Park Lake)]~~
11. St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)

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

13. Unionville (Lake Mahoney)

14. University of Missouri (South Farm R-1 Lake)

15. Wentzville (Community Club Lake)

*[(6)] Channel catfish less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on Macon City Lake.]*

*[(7)](6) Flathead catfish less than twenty-four inches (24") total length must be returned to the water unharmed immediately after being caught on Concordia (Edwin A. Pape Lake), Higginsville City Lake, and St. Louis County (Bee Tree Lake, Sunfish Lake).*

*[(8)](7) Walleye less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on Memphis (Lake Showme).*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

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

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 20—Wildlife Code: Definitions**

**PROPOSED AMENDMENT**

**3 CSR 10-20.805 Definitions.** The commission proposes to amend sections (26) and (49), delete sections (33) and (40), and renumber subsequent sections.

*PURPOSE: This amendment changes the name of the common snipe to the now-preferred name of Wilson's snipe, removes the definition of "Lessee" from this rule, and changes the word continuous to contiguous.*

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

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

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

*[(35)](34) Managed deer hunt: A prescribed deer hunt conducted on a designated area for which harvest methods, harvest quotas, and numbers of participants are determined annually and presented in the deer hunting rules (3 CSR 10-7.431 and 3 CSR 10-7.436).*

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

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

*[(38)](37) Muzzleloading firearm: Any firearm capable of being loaded only from the muzzle.*

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

*[(40)] Nonresident landowner: Any nonresident of Missouri who is the owner of at least seventy-five (75) acres in one (1) continuous tract in the state of Missouri, or any member of the immediate household whose legal residence and domicile is the same as the nonresident landowner's for at least thirty (30) days last past. In the case of corporate ownership only registered officers of corporations meet this definition.]*

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

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

*[(43)](41) Persons with disabilities: a person who is blind, as defined in section 8.700, RSMo, or a person with medical disabilities which prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician as follows: The person cannot ambulate or walk fifty (50) or less feet without stopping to rest due to a severe and disabling arthritic, neurological, or orthopedic condition, or other severe and disabling condition; or the person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or the person is restricted by a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mmHg on room air at rest; or the person uses portable oxygen; or the person has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association. (A person's age, in and of itself, shall not be a factor in determining whether such person is physically disabled.)*

*[(44)](42) Poisons, contaminants, pollutants: Any substances that have harmful effect upon wildlife.*

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



~~[[46]]~~**(44)** Possessed and possession: The actual and constructive possession and control of things referred to in this Code.

~~[[47]]~~**(45)** Public roadway: The right of way which is either owned in fee or by easement by the state of Missouri or any county or municipal entity, or which is used by the general public for travel and is also regularly maintained by Department of Transportation, federal, county, or municipal funds or labor.

~~[[48]]~~**(46)** Pursue or pursued: Includes the act of trying to find, to seek, or to diligently search for wildlife for the purpose of taking this wildlife.

~~[[49]]~~**(47)** Resident landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) *[continuous]* **contiguous** tract, or any member of the immediate household whose legal residence or domicile is the same as the landowner's for at least thirty (30) days last past. In the case of corporate ownership only registered officers of corporations meet this definition.

~~[[50]]~~**(48)** Sell: To exchange for compensation in any material form and the term shall include offering for sale.

~~[[51]]~~**(49)** Snare: A device for the capture of furbearers in a water-set by use of a cable loop. Snares must be constructed of cable that is at least five sixty-fourths inch (5/64") and no greater than one-eighth inch (1/8") in diameter, and must be equipped with a mechanical lock and anchor swivel.

~~[[52]]~~**(50)** Speargun: A mechanically powered device that propels a single- or multiple-pronged spear underwater.

~~[[53]]~~**(51)** Store and storage: Shall also include chilling, freezing, and other processing.

~~[[54]]~~**(52)** Take or taking: Includes killing, trapping, snaring, netting, or capturing in any manner, any wildlife, and also refers to pursuing, molesting, hunting, wounding; or the placing, setting, or use of any net, trap, device, contrivance, or substance in an attempt to take; and every act of assistance to every other person in taking or attempting to take any wildlife.

~~[[55]]~~**(53)** Transgenic: Any organism, or progeny thereof, that contains DNA from a species that was not a parent of that organism.

~~[[56]]~~**(54)** Transport and transportation: All carrying or moving or causing to be carried or moved from one point to another, regardless of distance, vehicle, or manner, and includes offering or receiving for transport or transit.

~~[[57]]~~**(55)** Underwater spearfishing: The taking of fish by a diver while underwater, with the aid of a manually or mechanically propelled, single- or multiple-pronged spear.

~~[[58]]~~**(56)** Ungulate: Hoofed animals.

~~[[59]]~~**(57)** Waters of the state: All rivers, streams, lakes, and other bodies of surface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned or leased by a single person or by two (2) or more persons jointly or as tenants in common or by corporate shareholders, and including waters of the United States lying within the state. Waters of the state will include any waters which have been stocked by the state or which are subject to movement of fishes to and from waters of the state.

~~[[60]]~~**(58)** Zoo: Any publicly owned facility, park, building, cage, enclosure, or other structure or premises in which live animals are held and exhibited for the primary purpose of public viewing.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-II.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 10, 2008.*

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

**Title 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 10-6.060 Construction Permits Required.** The commission proposes to amend subsections (1)(A), (1)(C), (4)(B), (6)(A) through (6)(C), (8)(A), (10)(A), (11)(B), (11)(D), (12)(A), (12)(B), and (12)(F) through (12)(J); amend sections (3) and (7); renumber original subsection (7)(C) as subsection (7)(E); delete original subsection (7)(D); add new subsections (7)(C), (7)(D), (7)(F), and (7)(G); delete subsection (8)(D) and renumber original subsections (8)(E) and (8)(F); delete subsection (9)(A); and amend and resequence original subsections (9)(B) through (9)(E). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regis/index.html](http://www.dnr.mo.gov/regis/index.html).

*PURPOSE: This rule defines sources which are required to obtain permits to construct. It establishes requirements to be met prior to construction or modification of any of these sources. This rule also establishes permit fees and public notice requirements for certain sources and incorporates a means for unifying the processing of construction and operating permit issuance. The purpose of this amendment is to implement the Environmental Protection Agency's (EPA) 2002 New Source Review (NSR) improvement rule in nonattainment areas, to remove portions of the EPA's NSR reform rule that have been vacated by the court from the attainment area permitting program, to update several references that were outdated, and to make several administrative or clarification changes. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the NSR improvement final rule published in the December 31, 2002, Federal Register (67 FR 80186) and comments in a letter from industry stakeholders dated July 29, 2004.*

**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.

(A) Definitions. **Definitions of certain terms used in this rule may be found in paragraph (b) of 40 CFR 52.21 which is incorporated by reference in subsection (8)(A) of this rule, except that—**

1. *[Baseline area—The continuous area in which the source constructs as well as those portions of the intrastate area which are not part of a nonattainment area and which would receive an air quality impact equal to or greater than one microgram per cubic meter (1 µg/m<sup>3</sup>) annual average (established by modeling) for each pollutant for which an installation receives a permit under section (8) of this rule and for which increments have been established in subsection (11)(A) of this rule. Each of these areas are references to the standard United States Geological Survey (USGS) County-Township-Range-Section system. The smallest unit of area for which a baseline date will be set is one (1) section (one (1) square mile).] Any provisions of 40 CFR 52.21(b) that are stayed shall not apply;*

2. *[Major operation—Any installation which has the potential to emit one hundred (100) tons per year or more of criteria pollutants, fifty (50) tons per year of volatile organic compound (VOC) or oxides of nitrogen in serious nonattainment areas; twenty-five (25) tons per year of VOC or oxides of nitrogen in severe nonattainment areas; or ten (10) tons per year of VOC or oxides of nitrogen in extreme nonattainment areas.] Solely for the purposes of section (7) of this rule, the following definitions shall be used in place of the definitions of the same terms specified elsewhere in this subsection:*

A. Major stationary source is defined in 40 CFR 51.165(a)(1)(iv), promulgated as of July 1, 2007; amended by 72 FR 24077 and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

B. Major modification is defined in 40 CFR 51.165(a)(1)(v), promulgated as of July 2, 2007, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that any incorporated provisions that are stayed shall not apply. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

C. Net emissions increase is defined in 40 CFR 51.165(a)(1)(vi), promulgated as of July 2, 2007, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

D. Significant is defined in 40 CFR 51.165(a)(1)(x), promulgated as of July 2, 2007, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

3. *[Definitions for key words or phrases used in this rule, other than those defined in this rule section, may be found in 40 CFR 52.21(b), promulgated as of July 1, 2003 and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.] Solely for the purposes of section (9) of this rule, the following definitions shall be used in addition to definitions specified elsewhere in this subsection:*

A. Construct a major source—

(I) Fabricate, erect, or install, at any greenfield site, a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs; or

(II) Fabricate, erect, or install, at any developed site, a new process or production unit which in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs;

B. Greenfield site—A contiguous area under common control that is an undeveloped site;

C. Process or production—Any collection of structures and/or equipment that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one (1) process or production unit;

D. Reconstruct a major source—Replace components at an existing process or production unit where the replacement of components in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs, whenever—

(I) The fixed capital cost of the new components exceeds fifty percent (50%) of the fixed capital cost that would be required to construct a comparable process or production unit; and

(II) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section;

E. Research and development activities—Activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a *de minimis* manner;

F. Similar source—A stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology; and

G. Definitions for certain terms, other than those defined in subparagraphs (1)(A)3.A. through F. of this rule, may be found in 40 CFR 63.41 promulgated as of January 1, 2007, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

4. Nonattainment Pollutant—Each and every pollutant for which the location of the source is in an area designated to be in nonattainment of a National Ambient Air Quality Standard (NAAQS) under section 107(d)(1)(A)(i) of the Act. Any constituent or precursor of a nonattainment pollutant shall be a nonattainment pollutant, provided that the constituent or precursor pollutant may only be regulated under this rule as part of

**regulation of the corresponding NAAQS pollutant. Both volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) shall be nonattainment pollutants for a source located in an area designated nonattainment for ozone;**

*[4.15. Definitions for [key words or phrases] certain terms used in this rule, other than those defined elsewhere in this [rule] subsection [or in 40 CFR 52.21(b)], may be found in 10 CSR 10-6.020(2)]; and*

**6. The provisions of subsection (8)(B) of this rule regarding the term administrator shall apply.**

(C) Construction/Operation Prohibited. No owner or operator shall commence construction or modification of any installation subject to this rule, begin operation after that construction or modification, or begin operation of any installation which has been shut down longer than five (5) years without first obtaining a permit from the permitting authority under this rule. For sources not subject to review under sections (7), (8), or (9) of this rule, construction may be commenced if authorized by the director. A request for authorization must include: a signed waiver of any state liability; a complete list of the activities to be undertaken; and, the applicant's full acceptance and knowledge of all liability associated with the possibility of denial of the permit application. A request will not be granted unless an application for permit approval under this rule has been filed. The waiver is not available to sources seeking federally enforceable permit restrictions to avoid review under sections (7)–(9) of this rule.

(3) Temporary Installations and Pilot Plants Permits. The permitting authority may exempt temporary installations and pilot plants having a potential to emit under one hundred (100) tons per year of each pollutant from any of the requirements of this rule, provided that these exemptions are requested in writing prior to the start of construction. These exemptions shall be granted only when the attainment or maintenance of ambient air quality standards is not threatened, when there will be no significant impact on any Class I area, and when the imposition of requirements of this rule would be unreasonable.

(4) Portable Equipment Permits. Portable equipment must meet the following criteria:

(B) The equipment was permitted previously under either section (5), (6), (7), or (8) of this rule and the previous permit is still valid;

(6) General Permit Requirements for Construction or Emissions Increase Greater Than *De Minimis* Levels.

(A) A permit shall be issued pursuant to this section only if it is determined that the proposed source operation or installation will not—

1. Violate any of the provisions of this rule;
2. Interfere with the attainment or maintenance of ambient air quality standards;
3. Cause or contribute to ambient air concentrations in excess of any applicable maximum allowable increase listed in subsection (11)(A), Table 1, of this rule, over the baseline concentration in any attainment or unclassified area;
4. Violate any applicable requirements or the Air Conservation Law; and
5. Cause an adverse impact on visibility in any Class I area (those designated in paragraph (12)(D)3. of this rule).

(B) In order for the permitting authority to make this determination, each applicant shall—

1. Complete and submit application forms supplied by the permitting authority. These forms shall consist of an Application for Authority to Construct and an Emissions Information for Construction Permit Application. Both forms shall be completed so that all information necessary for processing the permit is supplied;
2. Send to the permitting authority as part of the application: site information; plans; descriptions; specifications; and drawings

showing the design of the installation, the nature and amount of emissions of each pollutant, and the manner in which it will be operated and controlled;

3. Supply ambient air quality modeling data for the pollutant to determine the air quality impact of the installation on the applications with the potential to emit fifty (50) tons per year or more of particulate matter or sulfur dioxide. The modeling techniques to be used are as specified in the most recent version of the Environmental Protection Agency's (EPA) Guideline/s/ on Air Quality Models [*revised July 1986*] (EPA 450/2-78-027R), [*and*] including supplements [*A (July 1987)*] at the time of application, or another model which the permitting authority deems accurate. Temporary installations and portable equipment shall be exempt from this requirement provided that the source shall apply best available control technology (BACT) for each pollutant emitted in a significant amount;

4. Furnish any additional information, plans, specifications, evidence, documentation, modeling, or monitoring data that the permitting authority may require to complete review under this rule; and

5. Submit fees for the filing and processing of their permit application. The amount of the fee will be determined from section (10) of this rule.

(C) The review of each permit application will follow the procedures of subsection (12)(A), Appendix A of this rule and, when applicable, subsection (12)(B), Appendix B of this rule.

(7) Nonattainment Area Permits. **This section applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment.**

(A) [*Solely for the purpose of determining applicability with section (7) of this rule, fugitive emissions shall be considered when calculating potential to emit for construction and modification only for installations belonging to one of the source categories listed in 10 CSR 10-6.020(3)(B), Table 2.*] **Applicability Procedures.** The provisions of this subsection are used to determine, prior to beginning actual construction, if a project at an existing major stationary source is a major modification and thus subject to the permit application and review requirements of subsection (7)(B) of this rule.

1. Except for sources with a Plantwide Applicability Limit (PAL), which shall comply with subsection (7)(C) of this rule, and in accordance with the definition of the term major modification contained in subsection (1)(A) of this rule, a project is a major modification if it causes two (2) types of emissions increases for the nonattainment pollutant—a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2. The emissions increase from the project is determined by taking the sum of the emissions increases from each emissions unit affected by the project. An emissions unit is considered to be affected by the project if an emissions increase from the unit would occur as a result of the project, regardless of whether a physical change or change in the method of operation will occur at the particular emissions unit.

3. For each existing emissions unit affected by the project, the emissions increase is determined by taking the difference between the projected actual emissions for the completed project and the baseline actual emissions. In accordance with the definition of the term projected actual emissions found in 40 CFR 52.21 as referred to in subsection (1)(A) of this rule, the owner or operator of the major stationary source may elect to use the existing emission unit's potential to emit in lieu of the projected actual emissions for this calculation.

4. For each new emissions unit affected by the project, the emissions increase is equal to the potential to emit.

5. The procedure for calculating the net emissions increase (the significance of which is the second criterion for determining if a project is a major modification) is contained in the definition of the term net emissions increase found in subsection (1)(A) of this rule.

6. The provisions of subsection (7)(B) of this rule do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions to the extent quantifiable are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to one (1) of the source categories listed in items (i)(1)(vii)(a)-(aa) of 40 CFR 52.21 which is incorporated by reference in subsection (8)(A) of this rule.

(B) **Permit Requirements.** A permit shall not be issued for the construction of a new major [operation] stationary source for the nonattainment pollutants, or for a major modification for the nonattainment pollutant of an existing major [operation] stationary source, unless the following requirements, in addition to section (6) of this rule, are met:

1. By the time the source is to commence operation, sufficient emissions offsets shall be obtained as required to ensure reasonable further progress toward attainment of the applicable national ambient air quality standard and consistent with the requirements of Section 173(a)(1)(A) of the Clean Air Act;

2. In the case of a new or modified installation which is located in a zone (within the nonattainment area) identified by the administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, emissions of that pollutant resulting from the proposed new or modified installation will not cause or contribute to emissions levels which exceed the allowance permitted for that pollutant for that zone from new or modified installations;

3. Offsets have been obtained in accordance with the offset and banking procedures in 10 CSR 10-6.410;

4. The administrator has not determined that the state implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified;

5. Temporary installation and portable sources shall be exempt from this [sub]section provided that the source applies BACT for each pollutant emitted in a significant amount;

6. The applicant must provide documentation establishing that all installations in Missouri, which are owned or operated by the applicant (or by any entity controlling, controlled by or under common control with the applicant), are subject to emission limitations and are in compliance, or are on a schedule for compliance, with all applicable requirements;

7. [The applicant shall document that the provisions in its application for the installation and operation of pollution control equipment or processes will meet the lowest achievable emission rate (LAER) for the nonattainment pollutant. Temporary installations and portable equipment shall be exempt from LAER, provided the installation applies BACT for each pollutant emitted in a significant amount;] Permit applications shall include a control technology evaluation to demonstrate that any new major stationary source or major modification will meet the lowest achievable emission rate (LAER) for all new or modified emission units, unless otherwise provided in this section;

8. [For phased construction projects, the determination of LAER shall be reviewed and modified as appropriate at the latest reasonable time prior to commencement of construction of each independent phase of construction;] Any new major stationary source or major modification to be constructed in an area designated nonattainment shall comply with LAER as determined by the director and set forth in the construction per-

mit pursuant to this section, except where otherwise provided in this section;

9. The applicant must provide an alternate site analysis; and

10. The applicant shall provide an analysis of impairment to visibility in any Class I area (those designated in subsection (12)(I) of this rule) that would occur as a result of the installation or major modification and as a result of the general, commercial, residential, industrial, and other growth associated with the installation or major modification.

(C) **Plantwide Applicability Limits (PALs).** The provisions of subsection (aa) of 40 CFR 52.21, which is incorporated by reference in subsection (8)(A) of this rule, shall govern PALs of the nonattainment pollutant for projects at existing major stationary sources in an area designated nonattainment, except that—

1. The term Administrator shall be the director of the Missouri Department of Natural Resources' Air Pollution Control Program;

2. The term BACT or LAER and the term BACT shall both be LAER for the nonattainment pollutant;

3. The term PSD program, as it appears in 40 CFR 52.21(aa)(1)(ii)(b), and the term major NSR program, as it appears in 52.21(aa)(1)(ii)(c), both shall be Nonattainment Area Permit program of this section; and

4. The director shall not allow a PAL for VOC or NO<sub>x</sub> for any existing major stationary source located in an extreme ozone nonattainment area.

(D) **Reporting and Record Keeping.** This subsection applies to projects at existing major stationary sources, without a PAL, which are exempt from the permit requirements of subsection (7)(B) of this rule as a result of the applicability determination made in subsection (7)(A) of this rule. The owner or operator of such sources shall comply, in regards to the nonattainment pollutant, with the provisions of paragraph (r)(6) of 40 CFR 52.21, which is incorporated by reference in subsection (8)(A) of this rule, except that the term Administrator shall be the director of the Missouri Department of Natural Resources' Air Pollution Control Program.

[(C)](E) Any construction or modification that will impact a federal Class I area shall be subject to the provisions of subsection (12)(H) of this rule.

[(D)] *NO<sub>x</sub> Requirements.* For the purpose of section (7), any significant increase due to the levels of emission of oxides of nitrogen, shall be considered significant for ozone. Any installation with the potential to emit one hundred (100) tons per year of oxides of nitrogen located within an area which is nonattainment for ozone, must comply with the specific permit requirements of the nonattainment provisions of section (7) and with section (8) for any significant increase due to the levels of emission of oxides of nitrogen.]

(F) All permit applications subject to subsection (7)(B) of this rule are subject to the public participation requirements in subsection (12)(B) of this rule.

(G) The director of the Missouri Department of Natural Resources' Air Pollution Control Program shall transmit to the administrator of the U.S. Environmental Protection Agency a copy of each permit application filed under section (7) of this rule and shall notify the administrator of each significant action taken on the application.

(8) Attainment and Unclassified Area Permits.

(A) All of the subsections of 40 CFR 52.21, other than (a) Plan disapproval, (q) Public participation, (s) Environmental impact statements, and (u) Delegation of authority, [are incorporated by reference. 40 CFR 52.21 as used in this rule refers to 40 CFR 52.21] promulgated as of July 1, [2003] 2007, and amended by 72 FR 24078 and 72 FR 72617, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania

Avenue NW, Washington, D[.C./] 20408. This rule does not incorporate any subsequent amendments or additions.

*[(D)] Clean unit designations are subject to the public participation requirements of paragraph (12)(B)3. of this rule.]*

*[(E)](D)* The director of the Missouri Department of Natural Resources' Air Pollution Control Program shall transmit to the administrator of the U.S. Environmental Protection Agency a copy of each permit application filed under section (8) of this rule and shall notify the administrator of each significant action taken on the application.

*[(F)](E)* Applicants must obtain emission reductions, obtained through binding agreement prior to commencing operations and subject to 10 CSR 10-6.410, equal to and of a comparable air quality impact to the new or increased emissions in the following circumstances when the:

1. Area has no increment available; or
2. Proposal will consume more increment than is available.

(9) Hazardous Air Pollutant Permits. The requirements of this section apply to any owner or operator of a major source identified in subsection (9)(B) of this rule, unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) of the Clean Air Act and incorporated in another subpart of part 63 of the *Code of Federal Regulations* (CFR), or the owner or operator of such a major source has received all necessary air quality permits for construction or reconstruction before the effective date of this section.

*[(A)] Definitions. As used in section (9)–*

*1. Construct a major source means–*

*A. To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs; or*

*B. To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs;*

*2. Greenfield site means a contiguous area under common control that is an undeveloped site;*

*3. Process or production unit means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one (1) process or production unit;*

*4. Reconstruct a major source means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAP, whenever:*

*A. The fixed capital cost of the new components exceeds fifty percent (50%) of the fixed capital cost that would be required to construct a comparable process or production unit; and*

*B. It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section;*

*5. Research and development activities means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale*

*or exchange for commercial profit, except in a de minimis manner;*

*6. Similar source means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology; and*

*7. Other definitions contained in 40 CFR parts 63.40 through 63.44, to the extent they are different from the definitions found in 10 CSR 10-6.020, supersede the definitions found in 10 CSR 10-6.020 and are only applicable to this section (9).]*

*[(B)](A)* Applicability. No person may construct or reconstruct a major source unless they submit an application and receive approval from the permitting authority according to the procedures of paragraphs (9)[(D)](C)2. and (9)[(D)](C)3. **of this rule**; or unless all of the following are satisfied:

1. All HAPs emitted by the process or production unit that would otherwise be controlled under the requirements of this section will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

2. The permitting authority–

A. Has determined within a period of five (5) years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxic-best available control technology (T-BACT), or maximum achievable control technology (MACT) based on state air toxic rules for the category of pollutants which includes those HAPs to be emitted by the process or production unit; or

B. Determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or state air toxic rule MACT determination);

3. The permitting authority determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

4. The permitting authority has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (9)[(B)](A)1., 2., and 3. of this rule apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or state air toxic rule MACT determination;

5. If any commenter has asserted that a prior LAER, BACT, T-BACT, or state air toxic rule MACT determination is no longer adequate, the permitting authority has determined that the level of control required by that prior determination remains adequate;

6. The requirements of section (6) **of this rule** are met; and

7. Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the permitting authority are predicated will be construed by the permitting authority as applicable requirements under section 504(a) of the Clean Air Act and either have been incorporated into any existing Part 70 permit for the affected facility or will be incorporated into such permit upon issuance.

*[(C)](B)* Exemptions. The requirements of section (9) of this rule do not apply to–

1. Electric utility steam generating units unless they are listed on the source category list established in accordance with section 112(c) of the Clean Air Act; or

2. Research and development activities.

*[(D)](C)* MACT Review and Determinations.

1. General principles.

A. The MACT emission limitation or MACT requirements

recommended by the applicant and approved by the permitting authority shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the permitting authority.

B. Based upon available information, the MACT emission limitation and control technology recommended by the applicant and approved by the permitting authority shall achieve the maximum degree of reduction in emissions of HAPs which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

C. The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the permitting authority may approve such a standard if the permitting authority specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Clean Air Act.

D. The applicant has met the requirements of section (6) of **this rule**.

2. Application requirements for a case-by-case MACT determination.

A. An application for a MACT determination shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in paragraph (9)(D)(C)1. **of this rule**.

B. Where additional control technology or a change in control technology is required, the application for a MACT determination shall contain the following information:

(I) Emissions Information for Construction Permit Application;

(II) Standard application form and information as described in paragraph (12)(A)4. **of this rule**;

(III) The anticipated date of start-up;

(IV) The estimated emission rate for each such HAP, to the extent this information is needed by the permitting authority to determine MACT;

(V) Any applicable federally-enforceable emission limitations;

(VI) The maximum and expected utilization of capacity and the associated uncontrolled emission rates for that source, to the extent this information is needed by the permitting authority to determine MACT;

(VII) The controlled emissions in tons/year at expected and maximum utilization of capacity, to the extent this information is needed by the permitting authority to determine MACT;

(VIII) A recommended emission limitation consistent with the principles set forth in paragraph (9)(D)(C)1. **of this rule**;

(IX) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, **and** estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the permitting authority);

(X) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(XI) Any other relevant information required to be submitted by the permitting authority deemed necessary to determine MACT.

C. Where the owner or operator contends that source will be in compliance, upon start-up, with case-by-case MACT without a change in control technology, the application for a MACT determination shall contain the following information:

(I) The information described in parts (9)(D)(C)2.B.(II) through (9)(D)(C)2.B.(XI) **of this rule** to determine MACT; and

(II) Documentation of the control technology in place.

3. Administrative procedures for review of the MACT application.

A. The permitting authority will notify the owner or operator in writing, within thirty (30) days from the date the application is first received, as to whether the application for a MACT determination is complete or whether additional information is required.

B. The permitting authority will initially approve the recommended MACT emission limitation and other terms set forth in the application, or the permitting authority will notify the owner or operator in writing of its intent to disapprove the application, within thirty (30) calendar days after the owner or operator is notified in writing that the application is complete.

C. Notice of disapproval.

(I) The owner or operator may present, in writing, within sixty (60) calendar days after receipt of notice of the permitting authority's intent to disapprove the application, additional information or arguments pertaining to, or amendments to, the application for consideration by the permitting authority before it decides whether to finally disapprove the application.

(II) The permitting authority will either initially approve or issue a final disapproval of the application within ninety (90) days after it notifies the owner or operator of an intent to disapprove or within thirty (30) days after the date additional information is received from the owner or operator, whichever is earlier.

(III) A final determination by the permitting authority to disapprove any application will be in writing and will specify the grounds on which the disapproval is based. If any application is finally disapproved, the owner or operator may submit a subsequent application, provided that the subsequent application has been amended in response to the stated grounds for the prior disapproval.

D. Incorporation of the MACT determination into a construction permit.

(I) When an application for a MACT determination is approved pursuant to **this** section [(9)], the construction permit issued pursuant to this rule shall contain a MACT emission limitation (or a MACT work practice standard if the permitting authority determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP.

(II) Such construction permit will specify any notification, operation and maintenance, performance testing, monitoring, reporting, and record-keeping requirements. Such construction permit shall include:

(a) In addition to the MACT emission limitation additional emission limits, production limits, operational limits, or other terms and conditions necessary to ensure enforceability of the MACT emission limitation;

(b) Compliance certifications, testing, monitoring, reporting, and record-keeping requirements that are consistent with the requirements of 10 CSR 10-6.065;

(c) In accordance with section 114(a)(3) of the Clean Air Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements including emission limitations; and

(d) A statement requiring the owner or operator to comply with all applicable requirements.

(III) Approval shall expire if construction or reconstruction has not commenced within eighteen (18) months of issuance, unless the permitting authority has granted an extension. However, in no case will approval extend beyond thirty (30) months from the date of issuance if construction or reconstruction have not commenced.

E. Opportunity for public comment on the construction permit shall follow the procedure found in subsection (12)(B), Appendix B, Public Participation, **of this rule**.

F. EPA notification. The permitting authority shall send a copy of the final construction permit or other notice of approval issued to the administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in affected states;

G. Compliance date. On and after the date of start-up, a constructed or reconstructed major source which is subject to these requirements shall be in compliance with all applicable requirements specified in the MACT determination.

~~/(E)/(D)~~ Requirements for constructed or reconstructed major sources subject to a subsequently promulgated standard or MACT requirement.

1. If an emission standard is promulgated under section 112(d) or section 112(h) of the Clean Air Act or the state issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under **this** section ~~/(9)~~ before the date that the owner or operator has obtained a final and legally effective MACT determination under any of the review options available in this rule, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under **this** section ~~/(9)~~ by the state, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

2. If an emission standard is promulgated under section 112(d) or section 112(h) of the Clean Air Act or the state issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under **this** section ~~/(9)~~ and has been subject to a prior case-by-case MACT determination pursuant to **this** section ~~/(9)~~, and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgated date of such emission standard, then the state shall (if the initial part 70 permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial part 70 permit has been issued) revise the operating permit according to the reopening procedures in 40 CFR part 70 or part 71, whichever is relevant, to incorporate the emission standard or determination.

A. The EPA may include in the emission standard established under section 112(d) or section 112(h) of the Clean Air Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under **this** section ~~/(9)~~ and which have submitted the information required by **this** section ~~/(9)~~ to the EPA before the close of the public comment period for the standard established under section 112(d) of the Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but no longer than eight (8) years after such standard is promulgated. In that event, the state shall incorporate the applicable compliance date in the part 70 operating permit.

B. If no compliance date has been established in the promulgated **section** 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under **this** section ~~/(9)~~, then the permitting authority shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight (8) years after such standard is promulgated or a section 112(j) determination is made.

3. Notwithstanding the requirements of paragraphs (9)~~/(E)/(D)~~1. and 2. **of this rule**, if an emission standard is promulgated under section 112(d) or section 112(h) of the Clean Air Act or the state issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under **this** section ~~/(9)~~ and which is the subject of a prior case-by-case MACT determination pursuant to **this** section ~~/(9)~~, and the

level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the state is not required to incorporate any less stringent terms of the promulgated standard in the part 70 operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such operating permit.

(10) Permit Amendments and Fees.

(A) Permit Fees.

1. All installations or source operations requiring permits under this rule shall make application to the permitting authority and submit the application with a permit filing fee of one hundred dollars (\$100). Failure to submit the permit filing fee constitutes an incomplete permit application according to paragraph (12)(A)2. of this rule.

2. Upon the determination that a complete application for a permit or a permit amendment has been received, a fee for permit processing in the amount of fifty dollars (\$50) per hour of actual staff time will begin to accrue. In lieu of the fifty-dollar (\$50) per-hour review fee, for projects subject to review under paragraph (4)(D)1. of this rule, a fee of two hundred dollars (\$200) shall be submitted by the applicant.

3. The applicant shall submit fees for the processing of the permit application within ninety (90) calendar days of the final review determination, whether the permit is approved, denied, withdrawn, or not needed. After the ninety (90) calendar days, the unpaid processing fees shall have interest imposed upon the unpaid amount at the rate of ten percent (10%) per annum from the date of billing until payment is made. Failure to submit the processing fees after the ninety (90) calendar days will result in the permit being denied (revoked for portable installation location amendments) and the rejection of any future permit applications by the same applicant until the processing fee plus interest have been paid.

4. In addition to permit filing and processing fees, the applicant shall pay for any publication of notice required and shall pay for the original and one (1) copy of the transcript, to be filed with the permitting authority, of any hearing required under this rule. No permit shall be issued until all publication and transcript costs have been paid.

5. Partially processed permits that are withdrawn after submittal shall be charged at the same processing fee rate in paragraph (10)(A)2. **of this rule** for the time spent processing the application.

6. The commission may reduce the permit processing fee or exempt any person from payment of the fee upon an appeal filed with the commission stating and documenting that the fee will create an unreasonable economic hardship upon the person.

7. Any person who obtains a valid permit from a city or county holding a certificate of authority granted by the commission under section 643.140, RSMo, shall be deemed to have met the fee requirements of this section for that permit.

(11) Tables.

(B) Table 2—*[De Minimis Ambient Air Quality Impacts.] Significant Monitoring Concentrations.*

Pollutant	Air Quality Impact
Carbon monoxide	575, 8-hour average
Nitrogen dioxide	14, annual
Particulate matter—	
10 micron (PM <sub>10</sub> )	10, 24-hour
Sulfur dioxide	13, 24-hour
Ozone	*
Lead	.1, 3-month
Mercury	0.25, 24-hour
Beryllium	.001, 24-hour

Fluorides	0.25, 24-hour
Vinyl chloride	15, 24-hour
Total reduced sulfur	10, 1-hour
Hydrogen sulfide	0.2, 1-hour
Reduced sulfur compounds	10, 1-hour

Note: All impacts in micrograms per cubic meter.

\*No [de minimis air quality level] significant monitoring concentration is provided for ozone. However, any potential net increase of 100 tons per year, or more, of volatile organic compounds or nitrogen oxides subject to section (8) of this rule would require an ambient impact analysis, including the gathering of ambient air quality data.

(D) Table 4—[Levels of Significant Air Quality Impact for Areas Not Meeting 10 CSR 10-6.010] Significant Levels for Air Quality Impact in Class II Areas.

Pollutant	Annual	Averaging Time (Hours)			
		24	8	3	1
SO <sub>2</sub>	1.0	5		25	
PM <sub>10</sub>	1.0	5			
NO <sub>2</sub>	1.0				
CO			.5		2

Note: All impacts in micrograms per cubic meter, except for CO in milligrams per cubic meter.

(12) Appendices.

(A) Appendix A, Permit Review Procedures.

1. Preapplication meeting. Prior to submittal of a complete permit application, the applicant may request a preapplication meeting with the permitting authority to discuss the nature of and apparent requirements for the forthcoming permit application. This meeting shall not fall under the permit fee requirements.

2. Complete application.

A. The permitting authority shall review each application for completeness and shall inform the applicant within thirty (30) days if the application is not complete. In order to be complete, an application must include a completed application form and, to the extent not called for by the form, the information required in paragraph (12)(A)4. of this rule.

B. If the permitting authority does not notify the installation that its application is not complete within thirty (30) days of receipt of the application, the application shall be deemed complete. However, nothing in this subsection shall prevent the permitting authority from requesting additional information that is reasonably necessary to process the application.

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

(II) If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or to take final action on that application, the permitting authority may request this additional information in writing. In requesting this information, the permitting authority shall establish a reasonable deadline for a response. The review period will be extended by the amount of time necessary to collect the required information.

(III) In submitting an application for amendment of a construction permit, the applicant may incorporate by reference those portions of the existing permit (and the permit application and any permit amendment) that describe products, processes, operations, and emissions. The applicant must identify specifically and list which portions of the previous permit, applications, or both, are incorporated by reference. In addition, a permit amendment applica-

tion must contain—

(a) Information specified in paragraph (12)(A)4. of this rule for those products, processes, operations, and emissions—

I. That are not addressed in the previous permit or application;

II. That are subject to applicable requirements that are not addressed in the previous permit or application; or

III. For which the applicant seeks permit terms and conditions that differ from those in the previous permit or application.

C. Confidential information. An applicant may submit information to the permitting authority under a claim of confidentiality pursuant to 10 CSR 10-6.210.

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

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

4. Standard application form and required information. The director will provide a standard application package for applicant's use. An applicant shall submit an application package consisting of the standard application form and Emissions Information for Construction Permit Application. 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 application package must include all information needed to determine applicable requirements. The application must include information needed to determine the applicability of any applicable requirement. The applicant shall submit the information called for by the application form for each emissions unit at the installation to be permitted. The standard application form (and any attachments) shall require that the following information be provided:

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

B. Processes and products. A description of the installation's processes and products (by two (2)-digit Standard Industrial Classification Code);

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

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

(II) Identification and description of all emissions units whose emissions are included in part (12)(A)4.C.(I) of this rule, in sufficient detail to establish the applicability of all requirements;

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

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

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

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



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

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

(IX) Calculations on which the information in items (12)(A)4.C.(I)–(VIII) of this rule is based;

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

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

6. Receipt of the complete application. Upon receipt of a complete permit application, the permitting authority shall proceed with processing of the application.

7. Notification of processing fees. The permitting authority, as timely as possible, will notify the applicant in writing if the permit processing fee approaches one thousand dollars (\$1,000) and in one thousand-dollar (\$1,000) increments after that.

8. Public participation. For all applications for sources that emit five (5) or more tons of lead per year, or that contain good engineering practice stack height demonstrations, or that are subject to section (7) or (8) of this rule, the permitting authority shall follow the procedures for public participation as specified in section (12), Appendix (B) of this rule.

9. Final completeness determination. Final determination will be made on the following schedules:

A. The permitting authority will make final determinations for complete permit applications processed under section (7), (8), or (9) of this rule no later than one hundred [and] eighty-four (184) calendar days after receipt of a complete application, taking into account any additional time necessary for missing information;

B. The permitting authority will make final determination for complete permit applications processed under section (3), (4), (5), or (6) of this rule no later than ninety (90) calendar days after receipt of a complete application, taking into account any additional time necessary for missing information; and

C. If the permitting authority exceeds the time for review described in subparagraph/s/ (12)(A)9.A. or B. of this rule, the applicant shall not be required to pay the processing fee associated with the application.

10. Conditions required by permitting authority. The permitting authority may impose those conditions in a permit as may be necessary to accomplish the purposes of this rule, any applicable requirements, or the Air Conservation Law, Chapter 643, RSMo, and are no less stringent than any applicable requirements. Nothing in this rule shall be deemed to limit the power of the permitting authority in this regard. The following condition examples are solely for the purposes of illustration, and do not limit the generality of the preceding liberal sentence:

- A. Sampling ports of a suitable size, number, and location;
- B. Safe access to each port;
- C. Instrumentation to monitor and record emission data;
- D. Other sampling and testing facilities;
- E. Operating or work practice constraints to limit the maximum level of emissions;
- F. Emission control device efficiency specifications to limit the maximum level of emissions;
- G. Maximum level of emissions;
- H. Emission testing after commencing operations, to be con-

ducted by the owner or operator, as necessary to demonstrate compliance with applicable requirements or other permit conditions;

I. Data reporting; and

J. Post-construction ambient monitoring and reporting.

11. Drafts for public comment. Following review of an application, the permitting authority shall issue a draft permit for public comment, in accordance with subsection (12)(B) of this rule. The draft shall be accompanied by a statement setting forth the legal and factual basis for the draft permit conditions (including references to applicable statutory or regulatory provisions). The permitting authority shall send this statement to the administrator, to affected states, and to the applicant, and shall place a copy in the public file.

12. Additional procedures needed for unified reviews of this rule's section (6), (7), (8), or (9) unified review/s/ construction permit applications and part 70 operating permit applications.

A. Permit review by the administrator and affected states.

(I) Administrator review.

(a) Copies of applications, proposals, and final actions. The applicant will provide two (2) copies of the information included in an application. The permitting authority will forward to the administrator one (1) copy of each permit application and each final operating permit.

(b) Administrator's objection. No permit shall be issued under this rule if the administrator objects to its issuance in writing within forty-five (45) days after receipt of the proposed permit and all necessary supporting information.

(c) Failure to respond to objection. If the permitting authority does not respond to an objection of the administrator by transmitting a revised proposed permit within ninety (90) days after receipt of that objection, the administrator may issue or deny the permit in accordance with the Act.

(d) Public petitions for objection. If the administrator does not object to a proposed permit action, any person may petition the administrator to make such an objection within sixty (60) days after expiration of the administrator's forty-five (45)-day review period.

I. This petition may only be based on objections raised during the public review process, unless the petitioner demonstrates that it was impracticable to raise objection during the public review period (including when the grounds for objection arose after that period).

II. If the administrator responds to a petition filed under this section by issuing an objection, the permitting authority will not issue the permit until the objection has been resolved. If the permit was issued after the administrator's forty-five (45)-day review period, and prior to any objection by the administrator, the permitting authority shall treat that objection as if the administrator were reopening the permit for cause. In these circumstances, the petition to the administrator does not stay the effectiveness of the issued permit, and the permittee shall not be in violation of the requirement to have submitted a complete and timely permit application.

(II) Affected state review.

(a) Notice of draft actions. The permitting authority will give notice of each draft permit to any affected state on or before the time that the permitting authority provides notice to the public. Affected states may comment on the draft permit action during the period allowed for public comment, as shall be set forth in a notice to affected states.

(b) Refusal to accept recommendations. If the permitting authority refuses to accept all recommendations for a proposed permit action that any affected state has submitted during the review period, the permitting authority shall notify the administrator and the affected state in writing of its reasons for not accepting those recommendations.

B. Proposals for review. Following the end of the public comment period, the permitting authority shall prepare and submit to the administrator a proposed permit.

(I) The proposed permit shall be issued no later than forty-five (45) days after the deadline for final action under this section and shall contain all applicable requirements that have been promulgated and made applicable to the installation as of the date of issuance of the draft permit.

(II) If new requirements are promulgated or otherwise become newly applicable to the installation following the issuance of the draft permit, but before issuance of a final permit, the permitting authority may elect to either—

(a) Extend or reopen the public comment period to solicit comment on additional draft permit provisions to implement the new requirements; or

(b) If the permitting authority determines that this extension or reopening of the public comment period would delay issuance of the permit unduly, the permitting authority may include in the proposed or final permit, or both, a provision stating that the operating permit will be reopened immediately to incorporate the new requirements and stating that the new requirements are excluded from the protection of the permit shield. If the permitting authority elects to issue the proposed or final permit, or both, without incorporating the new requirements, the permitting authority, within thirty (30) days after the new requirements become applicable to the source, shall institute proceedings pursuant to this section to reopen the permit to incorporate the new requirements. These reopening proceedings may be instituted, but need not be completed, before issuance of the final permit.

C. Action following the administrator's review.

(I) Upon receipt of notice that the administrator will not object to a proposed permit that has been submitted for the administrator's review pursuant to this section, the permitting authority shall issue the permit as soon as practicable, but in no event later than the fifth day following receipt of the notice from the administrator.

(II) Forty-five (45) days after transmittal of a proposed permit for the administrator's review, and if the administrator has not notified the permitting authority that s/he objects to the proposed permit action, the permitting authority shall promptly issue the permit, but in no event later than the fiftieth day following transmittal to the administrator.

(III) If the administrator objects to the proposed permit, the permitting authority shall consult with the administrator and the applicant, and shall submit a revised proposal to the administrator within ninety (90) days after the date of the administrator's objection. If the permitting authority does not revise the permit, the permitting authority will so inform the administrator within ninety (90) days following the date of the objection and decline to make those revisions. If the administrator disagrees with the permitting authority, the administrator may issue the permit with the revisions incorporated.

13. Notification in writing. After making a final determination whether the permit should be approved, approved with conditions, or denied, the permitting authority shall notify the applicant in writing of the final determination and the total permit processing fees due.

14. Notice of processing fees due. If payment of permit processing fees has not been received from the applicant eighty (80) calendar days after the final determination, the permitting authority shall issue in writing to the applicant a final notice of payment due.

15. Processing fees unpaid. If payment of permit processing fees has not been received from the applicant ninety (90) calendar days after the final determination, the permitting authority shall notify the applicant that the permit has been denied, provided the application previously had been approved in the final determination. The permitting authority also shall advise the applicant that the fee is still due and, as specified in paragraph (10)(A)3. **of this rule**, the fee shall have interest imposed upon it from the date of billing until payment is made.

16. Payment received. No later than three (3) calendar days after receipt of the whole amount of the fee due, the permitting authority will send the applicant a notice of payment received. The permit will also be issued at this time, provided the final determina-

tion was for approval and the permit processing fee was timely received.

(B) Appendix B, Public Participation.

1. This subsection shall apply to applications for unified review, as well as applications under sections (7) and (8) **of this rule**, applications for source operations or installations emitting five (5) or more tons of lead per year, and applications containing GEP stack height demonstrations as defined in 10 CSR 10-6.020(1)(G)3.A.-C.

2. For those applications subject to section (7) or (8) **of this rule**, completing the final determination within one hundred eighty-four (184) days after receipt of a complete application involves performing the following actions in a timely manner:

A. Preliminary determination. Within ninety (90) days after receipt of a complete application, the permitting authority shall make a preliminary determination whether construction should be approved, approved with conditions, or denied;

B. *[Public notice of hearing]* **Draft for public comment and public hearing opportunity.** No later than ten (10) days after the close of the preliminary review period, the permitting authority shall *[cause]* **issue a draft permit and solicit comments by publishing a notice [to be published]** in a newspaper of general circulation within or nearest to the county in which the project is proposed to be constructed or operated. The public notice shall describe the nature of the application, including, with reasonable specificity, the following: name, address, phone number, and representative of the agency issuing the public notice; name and address of the applicant; and the proposed project, including its location and permits applied for; a description of the amount and location of emission reductions that will offset the emissions increase from the new or modified source~~[,]~~; and include information on how LAER was determined for the project (where appropriate). The public notice shall also include degree of increment consumption, when appropriate, the permitting authority's preliminary determination of whether or not to approve, approve with conditions or deny, and any reference to conditions relating to visibility as required in paragraph (8)(C)5. **of this rule.** The notice shall state~~,~~ **that the department will hold a public hearing [shall be held,]** if **one is requested, [concerning the permit application,]** at which time any interested person may submit any relevant information, materials, and views in support of or opposed to the permit applied for. The notice shall state the location and time of the public hearing *[[if one is requested],]* with the hearing being held in the county in which all or a major part of the proposed project is to be located and *[with]* **state that the hearing [being held] will be canceled if a request for a hearing is not received within twenty-eight (28) days of the publication of the notice. The hearing shall be scheduled not less than thirty (30) nor more than forty (40) days [after] from the date of publication of the notice.** The notice also shall state that any interested person may submit relevant information materials and views to the permitting authority, in writing, until the end of the **fortieth day [on which the public hearing is held, or would be held if requested] after the date of publication of the notice for public hearing.** The notice shall further state that a copy of materials submitted by the applicant and used in making the preliminary determination, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination are available for public inspection at the Department of Natural Resources' regional office in the region in which the proposed installation or major modification would be constructed, as well as at the Jefferson City Central Office of the Air Pollution Control Program. The permitting authority shall submit a copy of this public notice to the administrator;

C. Availability of preliminary determination. After the close of the preliminary review period, but no later than the date public notice is published, the permitting authority shall make available to the public, until the end of the public comment period, at the regional office in the region in which the proposed installation or major modification would be constructed, as well as in the Air Pollution

Control Program Office in Jefferson City, a copy of the preliminary determination, and a copy of summary of other materials, if any, considered in making the preliminary determination;

D. The permitting authority may designate another person to conduct any hearing under this section;

E. Distribution of public notice. Within ten (10) days after the close of the preliminary review period, the permitting authority shall send a copy of the public notice to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: local air pollution control agencies, the chief executive of the city and county where the installation or modification would be located, any comprehensive regional land use planning agency, any state air program permitting authority, and any Federal Land Manager (FLM) whose lands may be affected by emissions from the installation or modification;

F. Public comment and applicant response. The permitting authority shall consider all written comments submitted within the time specified in the public notice and all comments received at the public hearing, if one is held, in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The permitting authority shall consider the applicant's response in making a final decision. The permitting authority shall make all comments available for public inspection in the same locations where the permitting authority made available prehearing information relating to the proposed installation or modification. Further, the permitting authority shall prepare written response to all comments and make them available at the locations referred to previously;

G. Final determination. The permitting authority shall make a final determination whether construction should be approved, approved with conditions, or denied pursuant to this rule, then notify the applicant in writing of the final determination and make this notification available for public inspection at the same locations where the permitting authority made available prehearing information and public comments relating to the installation or modification. The permitting authority shall submit a copy of this final determination to the administrator;

H. Public notice exception. If the administrator has provided public notice and opportunity for public comment and hearing equivalent to that provided by this subsection, the permitting authority may make a final determination without providing public notice and opportunity for public comment and hearing required by this subsection; and

1. Class I area visibility review and notice to the FLM.

(I) For proposed installation subject to specific permit requirements in sections (7) and (8) of this rule, but not dependent on any quantity of lead emissions as stated in paragraph (12)(B)1. **of this rule**, the permitting authority shall provide advance notification to any FLM where, in the judgment of the permitting authority, visibility may be affected in a Class I area of the FLM's responsibility. The notice shall be provided within thirty (30) days of receipt of an initial application or when first learning of the applicant's intent for a permit.

(II) No later than thirty (30) days after receipt of a complete application, the permitting authority shall make written notification to the FLM whose Class I area (those designated in paragraph (12)(I)3. **of this rule**) may be affected by emissions from the proposed source. The notification must include all information relevant to the permit application and shall include an analysis of anticipated Class I visibility impacts. The permitting authority may also make this notification to any additional FLM whose Class I area's visibility, in the judgment of the permitting authority, may be impacted.

(III) The permitting authority shall consider any analysis performed by an FLM that is provided to the permitting authority within thirty (30) days of the FLM's receipt of the notification and analysis required in part (12)(B)2.I.(II) **of this rule**. Where the FLM's analysis indicates that an adverse impact on visibility (as

defined in 10 CSR 10-6.020) would occur in a Class I area as a result of the proposed project, and analysis does not demonstrate an adverse impact to the permitting authority's satisfaction, the permitting authority shall so indicate the dissatisfaction in the public notice of hearing. With this condition, the public notice also shall contain the location where an explanation of the permitting authority's reasoning can be found, and that the explanation be available for public inspection no later than the date public notice is published.

3. This paragraph is for those applications not subject to section (7) or (8) **of this rule**, but which propose an emission of five (5) or more tons of lead per year or applications containing GEP stack height demonstrations. For these applications, completing the final determination within ninety (90) calendar days after receipt of the complete application involves performing the same public participation activities as those subject to section (7) or (8) **of this rule**, but with shorter time frames. The following specifies the new time frames:

A. Permitting authority's preliminary determination—No later than forty-five (45) calendar days after receipt of a complete application;

B. Public notice of hearing—No later than five (5) calendar days after the preliminary determination;

C. Public hearing—No later than thirty (30) calendar days after the date of the public notice; and

D. Applicant response—No later than five (5) calendar days after the end of the public comment period, the applicant may submit a written response to any comments submitted.

(F) Appendix F, Air Quality Models.

1. All estimates and analyses of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in the **Environmental Protection Agency's (EPA) Guideline on Air Quality Models [(Revised, July 1986)] (EPA 450/2-78-027R) [and] including [S]supplements [A (July 1987)] at the time of application.**

2. Any model(s) designated in paragraph (12)(F)1. **of this rule** may be adjusted upon a determination by the administrator and the permitting authority, after notice and opportunity for public hearing, that the adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from the source. Methods like those outlined in the *Workbook for the Comparison of Air Quality Models* (United States EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, May 1978) should be used to determine the comparability of air quality models.

3. Where the *Guideline on Air Quality Models [(Revised, July 1986)] (EPA 450/2-78-027R) [and] including [S]supplements [A (July 1987)] at the time of application* does not address a situation requiring modeling, the administrator and the permitting authority, after notice and opportunity for public hearing, may approve the use of a model which they deem accurate for modeling that situation.

(G) Appendix G, Increment Tracking.

1. The permitting authority will track ambient air increment consumption at fixed baseline locations within the baseline areas.

2. Available increment will be allocated on a first-come, first-serve basis. The marked received date of a complete application will be used by the permitting authority to determine which applicant is entitled to prior allocation of increments.

3. At the intervals of five (5) years from the baseline date, the permitting authority shall determine the actual air quality increment available or consumed for a location(s) for which complete air monitoring data exists using subsection (11)(C), Table 3, **of this rule**.

4. Exclusions from increment consumption. Upon written request of the owner or operator of an installation, made after notice and opportunity for at least one (1) public hearing to be held in accordance with the procedures established in subsection (12)(B) **of this rule**, the permitting authority shall exclude the following concentrations in determining consumption of a maximum allowable increase:

A. Concentrations attributable to the increase in emissions from installations which have converted from the use of petroleum products, natural gas, or both, by reason of an order in effect under sections 2(a) and (b) of the Energy Supply Environmental Coordination Act of 1974 over the emissions from those sources before the effective date of the order;

B. Concentrations attributable to the increase in emissions from installations which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from those sources before the effective date of the plan;

C. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities, however;

D. No exclusion of these concentrations shall apply more than five (5) years after the effective date of the order to which subparagraph (12)(G)4.A. of this rule refers or the plan to which subparagraph (12)(G)4.B. of this rule refers, whichever is applicable. If both the order and the plan are applicable, no exclusion shall apply more than five (5) years after the later of the effective dates.

(H) Appendix H, Impacts on Class I Areas.

1. At any time prior to the close of the public comment period specified in subsection (12)(B) of this rule, the FLM for any federal Class I area may provide information to the permitting authority demonstrating that the emissions from the proposed installation or major modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I area, notwithstanding that the change in air quality, resulting from emissions from the installation or major modification, would not cause or contribute to concentrations which would exceed the maximum allowable increase for a Class I area, as specified in subsection (11)(A), Table 1, of this rule. If the permitting authority concurs in the demonstration by the FLM, the permit shall be denied.

2. Class I variances. The owner or operator of a proposed installation or major modification may demonstrate to the FLM that the emissions from the source would have no adverse impact on the air quality-related values of any federal mandatory Class I area (including visibility), notwithstanding that the change in air quality resulting from emissions from the source would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the FLM concurs with a demonstration and so certifies to the permitting authority, the permitting authority, providing that all other applicable requirements of this rule are met, may issue the permit with those emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen dioxide would not exceed the following maximum allowable increases over baseline concentration for these pollutants:

Pollutant	Maximum Allowable Increase
<u>Particulate Matter 10 Micron:</u>	
Annual arithmetic mean	17
24-hour maximum	30
<u>Sulfur Dioxide:</u>	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325
<u>Nitrogen Dioxide:</u>	
Annual arithmetic mean	25

Note: Increases are in micrograms per cubic meter.

3. Sulfur dioxide variance by governor with FLM's concurrence.

A. If the owner or operator of a proposed installation or major modification who has been denied an FLM's certification pur-

suant to paragraph (12)(H)1. of this rule demonstrates to the governor that the installation or major modification cannot be constructed as a result of any maximum allowable increase for sulfur dioxide for periods of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this part would not adversely affect the air quality-related values of the area (including visibility), then the governor, after consideration of the FLM's recommendation (if any) and subject to his/her concurrence, may grant, after notice and an opportunity for a public hearing, a variance from these maximum allowable increases.

B. If a variance is granted, the permitting authority may issue a permit to an installation or major modification in accordance with the requirements of paragraph (12)(H)5. of this rule, provided that all other applicable requirements of this rule are met.

4. Variance by the governor with the president's concurrence.

A. The recommendations of the governor and the FLM shall be transferred to the president in any case where the governor recommends a variance in which the FLM does not concur.

B. If this variance is approved by the president pursuant to 42 U.S.C.A. section 7475(d)(2)(D)(ii), the permitting authority may issue a permit in accordance with the requirements of paragraph (12)(H)5. of this rule provided that all other applicable requirements of this rule are met.

5. Emission limitations for presidential or gubernatorial variance.

A. In the case of a permit issued pursuant to paragraph (12)(H)3. or 4. of this rule, the permitting authority shall impose, as conditions of the permit, emission limitations as may be necessary to assure that emissions of [sulfurdioxide] sulfur dioxide from the installation or major modification (during any day on which the otherwise applicable maximum allowable increases are exceeded) will not cause or contribute to concentrations which will exceed the following maximum allowable increases over the baseline concentration:

**Maximum Allowable Increase  
(micrograms per cubic meter)**

Period of Exposure	Terrain Areas	
	Low	High
24-hour maximum	36	62
3-hour	130	221

B. These emission limitations also shall assure that the emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

6. The permitting authority shall transmit to the administrator a copy of each permit application under this subsection (12)(H) of this rule and provide notice to the administrator of every action related to the consideration of a permit.

(I) Appendix I, Attainment and Unclassified Area Designations.

1. Area classification.

A. The following areas shall be Class I areas and may not be redesignated:

(I) Hercules Glade National Wilderness Area; and

(II) Mingo National Wilderness Area.

B. Any other area, unless specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this section.

C. The following areas may be redesignated only as Class I or II:

(I) An area which as of August 7, 1977, exceeded ten thousand (10,000) acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore; and

(II) A national park or national wilderness area established after August 7, 1977, which exceeds ten thousand (10,000) acres in size.

2. Area redesignation.

A. All areas (except as otherwise provided under paragraph (12)(I)1. **of this rule**) are designated Class II as of December 5, 1974. Redesignation (except as precluded by paragraph (12)(I)1. **of this rule**) may be proposed by the commission as provided in this rule, subject to approval by the administrator.

B. The commission may submit to the administrator a proposal to redesignate areas of the state as Class I or Class II provided that—

(I) At least one (1) public hearing has been held in accordance with procedures established in **sections** 643.070 and 643.100, RSMo;

(II) Other states and FLMs whose lands may be affected by the proposed redesignation were notified at least thirty (30) days prior to the public hearing;

(III) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least thirty (30) days prior to the hearing and the notice announcing the hearing containing appropriate notification of the availability of that discussion;

(IV) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the commission has provided written notice to the appropriate FLM and afforded adequate opportunity (not in excess of sixty (60) days) to confer with the commission respecting the redesignation and to submit written comments and recommendations. In redesignating any area, with respect to which any FLM had submitted written comments and recommendations, the commission shall have published a list of any inconsistencies between the redesignation and comments and recommendations (together with the reasons for making redesignation against the recommendation of the FLM); and

(V) The commission has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

C. Any area other than an area to which paragraph (12)(I)1. **of this rule** refers may be redesignated Class III if—

(I) The redesignation would meet the requirements of provisions established in accordance with subparagraph (12)(I)2.B. **of this rule**;

(II) The redesignation has been approved by the commission and the governor;

(III) The redesignation has been approved by the governor after consultation with the appropriate committees of the legislature if it is in session, or with the leadership of the legislature if it is not in session;

(IV) General purpose units of local government, representing a majority of the residents of the area to be redesignated, adopt resolutions concurring in the redesignation;

(V) The redesignation would not cause or contribute to a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(VI) Any permit application for any installation or major modification subject to provisions established in accordance with subparagraph (12)(I)2.A. **of this rule** which could receive a permit only if the area in question were redesignated as Class III and any material submitted as part of that application were available, insofar as was practicable, for public inspection prior to any public hearing on redesignation of any area as Class III.

3. Area class designations.

Area Class	Description
Class I	Hercules Glade National Wilderness Area Mingo National Wilderness Area
Class II	All areas of the state which are not nonattainment
Class III	No areas designated

(J) Appendix J, Air Quality Analysis for Hazardous Air Pollutants.

1. The director shall maintain a table of emission threshold levels, risk assessment levels, and screening model action levels for hazardous air pollutants. Applicants will not be required to submit a hazardous air pollutant air quality analysis for applications having a maximum design capacity no more than the hazardous air pollutant emission threshold levels unless paragraph (12)(J)2. **of this rule** applies.

2. Exceptions. The director may require an air quality analysis for applications if it is likely that the construction or modification will result in the discharge of air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, plant, or animal life or the use of property or complaints filed in the vicinity of the proposed construction or modification warrant an air quality analysis.

*AUTHORITY: section 643.050, RSMo 2000. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*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., February 3, 2009. The public hearing will be held at the Governor Office Building, 200 Madison Street, Jefferson City, 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 or email statement of their views until 5:00 p.m., February 10, 2009. 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. Email comments shall be sent to apcprulespn@dnr.mo.gov.*

**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 10-6.100 Alternate Emission Limits.** The commission proposes to amend subsections (3)(D) and (3)(F). If the commission adopts this rule action, it will not be submitted to the U.S. Environmental Protection Agency for replacement in the Missouri

State Implementation Plan (SIP) because the current rule is not included in the SIP. The evidence supporting the need for this proposed rule-making 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 rule-making can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/index.html](http://www.dnr.mo.gov/regs/index.html).

*PURPOSE: This rule allows installations in ozone nonattainment areas to propose alternate means of achieving reductions of volatile organic compounds emissions to those prescribed in rules establishing volatile organic compounds limits. This rule allows greater flexibility and efficiency in attaining the ambient air quality standards. The purpose of this amendment is to correct a reference made obsolete by a concurrent proposed rule action to 10 CSR 10-6.060 Construction Permit Required. Other amendments include two (2) minor administrative corrections made for the sake of clarity and consistency. The evidence supporting the need for this proposed rule-making, per section 536.016, RSMo, is the public hearing testimony on this rulemaking.*

(3) General Provisions.

(D) Criteria for Approval.

1. An Alternate Emission Limits Permit application must demonstrate that the proposed control will not cause total emissions from the source operations to exceed the level of emissions determined in subsection (3)(C) of this rule.

2. Applicants desiring to make use of emission reductions occurring at another installation must demonstrate that the emissions have occurred or will occur prior to the commencement of the alternate emission limit; and that the owner or operator of the installation from which emission reductions are obtained has entered a legally binding and enforceable agreement approved by the director or changed the installation's permit conditions to limit emissions of VOCs at the specified source operations to the levels and rates identified in the application.

3. No alternate emission limit may be approved which allows a new or modified source operation to exceed New Source Performance Standards (NSPS) in 10 CSR 10-6.070 or 40 CFR part 60 or the requirement for lowest achievable emission rate (LAER) in 10 CSR 10-6.060(7)(C)2.

4. No alternate emission limit may be approved which allows emissions of a hazardous pollutant from any source operation to exceed National Emission Standards for Hazardous Air Pollutants (NESHAPS) in 10 CSR 10-6.080 or 40 CFR part 61 or which allows emissions of a hazardous pollutant to increase for which a standard has not yet been promulgated.

5. An application proposing an emission decrease from process curtailments or source operation shutdowns will not be approved if the proposed decrease will be negated by countervailing emission increases occurring at other installations in the same area in response to the applicant's process curtailment or shutdown.

6. An application proposing to use emission reductions from the shutdown of an installation will not be approved. These reductions are available only to the owner of the shutdown installation for replacement purposes or to new or modified installations in the area as growth margin.

7. An application proposing to make use of emission reductions which occurred prior to applying for an alternate emission limit permit is subject to the following time constraints:

A. No application may be approved involving emission reductions which occurred prior to January 1, 1980, in the St. Louis metropolitan area or January 1, 1977, in the Kansas City metropolitan area unless the emission reductions were accounted for in the respective base year inventory as banked emission reduction credits;

B. For emission reductions which occurred between January 1, 1980, in St. Louis or January 1, 1977, in Kansas City and December 11, 1982, applications must be submitted within nine (9) months (September 11, 1983) after December 11, 1982, unless credit for the emission reductions is banked in accordance with 10 CSR 10-6.410; and

C. For emission reductions which occur after the effective date (December 11, 1982), applications must be submitted within one (1) year of the emission decrease unless credit for the emission reductions is banked in accordance with 10 CSR 10-6.410.

8. No application may be approved which proposes to use emission reductions which previously have been used to offset emission increases as described in 10 CSR 10-6.410 or to net against emission increases as discussed in the definitions of major modification and net emission increase in [10 CSR 10-6.020] 10 CSR 10-6.060(1)(A). Emission reductions used to create an alternate emission limit are likewise for the duration of the alternate emission limit not eligible to be banked, used for offset purposes, or used to net against emission increases.

9. An application must include an expeditious schedule of implementation that adheres as closely as possible to any compliance dates the source operation would otherwise be subject to.

10. An application will be approved only if it is determined that the alternate emission limit will not interfere with attainment and maintenance of the ambient air quality standard or create any public nuisance.

11. All alternate emission limits that are approved by the director will not be considered federally enforceable (and will not shield a source from the federal obligation to comply with the underlying emission limits) by the United States Environmental Protection Agency (EPA) until submitted to the EPA and approved by the EPA.

(F) Permanence of Emission Reductions. It shall be a violation of this rule for any person to operate an installation from which emission reductions were obtained so as to emit volatile organic compounds at levels greater than those identified in the agreement or permit conditions referred to in paragraph (3)(D)2. of this rule.

*AUTHORITY: section 643.050, RSMo 2000. Original rule filed June 14, 1982, effective Dec. 11, 1982. Amended: Filed Nov. 14, 2002, effective July 30, 2003. Amended: Filed Oct. 15, 2008.*

*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., February 3, 2009. The public hearing will be held at the Governor Office Building, 200 Madison Street, Jefferson City, 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 or email statement of their views until 5:00 p.m., February 10, 2009. 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. Email comments shall be sent to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov).*

**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 10-6.410 Emissions Banking and Trading.** The commission proposes to amend subsection (3)(B). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/index.html](http://www.dnr.mo.gov/regs/index.html).

*PURPOSE: This rule provides a mechanism for companies to acquire offsets for economic development in accordance with section 643.220, RSMo. The purpose of this amendment is to remove a reference to Clean Unit Projects. The federal Clean Unit Project provisions were vacated by court action on June 24, 2005, as part of the litigation related to the 2002 Environmental Protection Agency's (EPA) New Source Review reforms. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the EPA final rule, removing the vacated provisions, published in the June 13, 2007, Federal Register (72 FR 32526) and a letter dated February 28, 2006, from the director of the Air Pollution Control Program to the EPA committing the department to removing references to these vacated provisions in a timely fashion.*

(3) General Provisions.

(B) ERC Generation.

1. Computation of ERCs.

A. The number of ERCs shall be the difference between—

(I) The amount of actual emissions that would have been emitted during the generation period based on actual activity levels during that period and normal source operation; and

(II) The amount of actual emissions during the generation period based on actual activity levels during that period.

B. Protocols. The amount of ERCs must be calculated using quantification protocols that meet the requirements of paragraph (3)(B)7. of this rule.

2. Limitations on generation. An ERC shall not be created by emissions reductions of activities or source categories identified in this subsection:

A. Permanent shutdowns or curtailments, unless it meets the requirements of paragraph (3)(A)10. of this rule;

B. Modification or discontinuation of any activity that is otherwise in violation of any federal, state, or local requirements;

C. Emission reductions required to comply with any state, federal, or local action including but not limited to:

(I) State, federal, or local consent agreements;

(II) Any provision of a state implementation plan; or

(III) Requirements for attainment of a National Ambient Air Quality Standard;

D. Emission reductions of hazardous air pollutants from application of a standard promulgated under section 112 of the Clean Air Act;

E. Reductions credited or used under any other emissions trading program;

F. Emission reductions occurring at a source which received an alternate emission limit to meet a state reasonably available control technology (RACT) requirement, except to the extent that the emissions are reduced below the level that would have been required

had the alternate emission limit not been issued; or

G. Emission reductions previously used in determining net emission increases or used to create alternate emission limits[; or].

[H. Emission reductions used to initially qualify a project for a pollution control project exclusion.]

3. Notice and Certification of Generation.

A. The owner or operator of a generator source shall provide a Notice and Certification of Generation to the Missouri Department of Natural Resources no later than ninety (90) days after the ERC generation activity was completed.

B. Required information. The Notice and Certification of Generation shall include the information specified in subsection (4)(B) of this rule.

C. The department shall review the Notice of Generation and notify the authorized account representative of approval or denial of the Notice of Generation within thirty (30) days of receipt of the notice.

D. The Notice and Certification of Generation shall be accompanied by an operating permit modification application.

E. Certification under penalty of law. Any Notice and Certification of Generation submitted pursuant to this subsection shall contain certification under penalty of law by a responsible official of the generator source of truth, accuracy, and completeness. This certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

4. ERC use.

A. Time of acquisition. ERCs may not be used until they are acquired by the user source.

B. Sufficiency. The user source must hold sufficient ERCs to cover its offset obligation.

C. Offset calculation. The amount of ERCs needed to offset emissions shall be the anticipated actual emissions multiplied by the offset ratio.

D. Notice of Intent to Use ERCs.

(I) ERCs may be used only if the authorized account representative of the user source submits to the staff director of the Missouri Department of Natural Resources' Air Pollution Control Program a Notice of Intent to Use.

(II) Required information. The Notice of Intent to Use ERCs shall include the information specified in subsection (4)(C) of this rule.

(III) The department shall review the Notice of Intent to Use and notify the facility of approval or denial within thirty (30) days of receipt of the notice.

(IV) The Missouri Department of Natural Resources' Air Pollution Control Program shall reserve the specified ERCs when the permit application is deemed complete by the Initial Review Unit.

(V) Upon issuance of the construction permit, the appropriate number of reserved ERCs shall be permanently retired.

E. Notice of Withdrawal.

(I) An account holder may at any time withdraw ERCs from the program.

(II) Required information. The Notice of Withdrawal shall include the information specified in subsection (4)(D) of this rule.

(III) The department shall review the Notice of Withdrawal and notify the facility of approval or denial within thirty (30) days. Upon approval, the specified ERCs shall be removed from the facility's account.

F. Notice of Transfer.

(I) Account holders seeking an account transfer must submit a Notice of Transfer.

(II) Required information. The Notice of Transfer shall include the information specified in subsection (4)(E) of this rule.

(III) The department shall review the Notice of Transfer and notify the facilities of approval or denial within thirty (30) days. Upon approval, the specified ERCs shall be transferred to the specified account.

5. Use limitations. ERCs may not be used—
  - A. Before acquisition by the user of the ERCs;
  - B. For netting or to avoid the applicability of NSR requirements;
  - C. For NSR offsets unless the requirements of paragraph (3)(B)8. of this rule are met;
  - D. To meet Clean Air Act requirements for new source performance standards (NSPS) under section 111; lowest achievable emission rate (LAER) standards; best available control technology (BACT) standards; hazardous air pollutant (HAP) standards under section 112; reasonably available control technology (RACT);
  - E. To meet the requirements for one (1) class of criteria pollutants or precursor by using ERCs generated in a different class of pollutants or precursors (e.g., NO<sub>x</sub> reductions may not be exchanged for volatile organic compound (VOC) increases, or vice-versa); or
  - F. To meet requirements contained in Title IV of the Federal Clean Air Act.
6. Geographic scope of trading.
  - A. ERCs may be used in a nonattainment or maintenance area only if generated in the same nonattainment or maintenance area.
  - B. ERCs generated inside a modeling domain may be used in the same modeling domain. Trading of ERCs within a modeling domain is subject to the limitations of subparagraph (3)(B)6.A. of this rule.
  - C. Interstate trading. *(Reserved)*
7. Protocol development and approval. To quantify the amount of ERCs generated and the amount needed for compliance, all sources shall use the following hierarchy as a guide to determine the most desirable emission data to report to the department. If data is not available for an emission estimation method or an emission estimation method is impractical for a source, then the subsequent emission estimation method shall be used in its place:
  - A. Continuous Emission Monitoring System (CEMS) as specified in 10 CSR 10-6.110;
  - B. Stack tests as specified in 10 CSR 10-6.110;
  - C. Material/mass balance;
  - D. AP-42 (Environmental Protection Agency (EPA) Compilation of Air Pollution Emission Factors) or FIRE (Factor Information and Retrieval System);
  - E. Other U.S. EPA documents as specified in 10 CSR 10-6.110;
  - F. Sound engineering calculations; **or**
  - G. Facilities shall obtain department approval of emission estimation methods other than those listed in subparagraphs (3)(B)7.A.–F. of this rule before using any such method to estimate emissions in the submission of data.
8. ERC use for NSR. All ERCs used to meet NSR offset requirements shall comply with the requirements of state rule 10 CSR 10-6.060 Construction Permits Required.
9. Compliance burden.
  - A. The ERC user source is responsible for assuring that the generation and use of ERCs comply with this rule.
  - B. The ERC user source (not the enforcing authority) bears the burden of proving that ERCs used are valid and sufficient and that the ERC use meets all applicable requirements of this rule. The ERC user source is responsible for compliance with its underlying obligations. In the event of enforcement against the user source for non-compliance, it shall not be a defense for the purpose of determining civil liability that the user source relied in good faith upon the generator source's representations.
  - C. In the event of an invalid ERC, the generator source shall receive a Notice of Violation and the ERC user must find additional ERCs to comply with offset requirements.
10. Sources that emit less than ten (10) tons per year. *(Reserved)*

*AUTHORITY: section 643.050, RSMo 2000 and section 643.220, RSMo Supp. [2003] 2007. Original rule filed Aug. 2, 2002, effective*

*April 30, 2003. Amended: Filed May 17, 2004, effective Dec. 30, 2004. Amended: Filed Oct. 15, 2008.*

*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., February 3, 2009. The public hearing will be held at the Governor Office Building, 200 Madison Street, Jefferson City, 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 or email statement of their views until 5:00 p.m., February 10, 2009. 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. Email comments shall be sent to apcprulespn@dnr.mo.gov.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 3—Hazardous Waste Management System:  
General**

**PROPOSED AMENDMENT**

**10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information.** The commission is amending section (1) and subsection (3)(M).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006, and also changes contained in the federal rule for cathode ray tubes published at 71 FR 42928 on July 28, 2006. Department staff have reviewed the changes made to 40 CFR part 260, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR part 260, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 71 FR 42928, July 28, 2006, are incorporated by reference, except for the changes made at 70 FR 53453, September 8, 2005, subject to the following additions, modifications, substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.



(A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1. “Director” shall be substituted for “Administrator” or “Regional Administrator” except where those terms are defined in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25. **All applications, approvals, petitions, appeals, or other paperwork associated with the United States Environmental Protection Agency’s “National Environmental Performance Track” shall not be submitted to the director in lieu of the administrator or regional administrator.**

2. “Missouri Department of Natural Resources” shall be substituted for “EPA,” “U.S. EPA,” or “U.S. Environmental Protection Agency” except where those terms appear in definitions in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

3. “Section 260.395.15, RSMo,” shall be substituted for “Section 3005(e) of RCRA.”

4. “Sections 260.375(9), 260.380.1(9), 260.385(7), and 260.390(7), RSMo,” shall be substituted for “Section 3007 of RCRA.”

5. “Sections 260.410 and 260.425, RSMo,” shall be substituted for “Section 3008 of RCRA.”

6. “10 CSR 25-3.260” shall be substituted for any reference to 40 CFR part 260.

7. “10 CSR 25-4.261” shall be substituted for any reference to 40 CFR part 261.

8. “10 CSR 25-5.262” shall be substituted for any reference to 40 CFR part 262.

9. “10 CSR 25-6.263” shall be substituted for any reference to 40 CFR part 263.

10. “10 CSR 25-7.264” shall be substituted for any reference to 40 CFR part 264.

11. “10 CSR 25-7.265” shall be substituted for any reference to 40 CFR part 265.

12. “10 CSR 25-7.266” shall be substituted for any reference to 40 CFR part 266.

13. “10 CSR 25-7.268” shall be substituted for any reference to 40 CFR part 268.

14. “10 CSR 25-7.270” shall be substituted for any reference to 40 CFR part 270.

15. “10 CSR 25-8.124” shall be substituted for any reference to 40 CFR part 124.

16. “10 CSR 25-11.279” shall be substituted for any reference to 40 CFR part 279.

17. “10 CSR 25-16.273” shall be substituted for any reference to 40 CFR part 273.

18. “Sections 260.350–260.434, RSMo” shall be substituted for “Subtitle C of RCRA Act,” or “RCRA,” except where those terms are defined in 40 CFR 260.10, incorporated in this rule.

19. “Section 260.380.1(1), RSMo” shall be substituted for “Section 3010 of RCRA.”

20. “Section 260.420, RSMo” shall be substituted for “Section 7003 of RCRA.”

21. “Waste within the meaning of section 260.360(21), RSMo,” shall be substituted for “solid waste within the meaning of section 1004(27) of RCRA.” Residual materials specified as wastes under section 260.360(21), RSMo shall mean any spent materials, sludges, by-products, commercial chemical products, or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

22. “Section 260.360(9), RSMo” shall be substituted for “Section 1004(5) of RCRA.”

23. “Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B) and 10 CSR 25-7.270(2)(B)” shall be substituted for any reference to the Federal Freedom of Information Act (5 U.S.C. 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

24. “Owner/operator” shall be substituted for each reference to “owner and operator” and “owner or operator” in the 40 CFR parts incorporated in 10 CSR 25.

25. All quantities of solid waste which are defined as hazardous waste pursuant to 10 CSR 25-4 are hazardous waste and are regulated under sections 260.350–260.434, RSMo and 10 CSR 25. A person shall manage all hazardous waste which is not subject to requirements in 10 CSR 25 in accordance with subsection 260.380.2, RSMo. When a person accumulates one hundred kilograms (100 kg) of nonacute hazardous waste or one kilogram (1 kg) of acutely hazardous waste or one gram (1 g) of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), or the aggregate of one hundred kilograms (100 kg) of acute and nonacute hazardous waste, whichever first occurs, that person is subject to the provisions in 10 CSR 25. This provision is in addition to the calendar-month generation provisions in 40 CFR 261.5 which are incorporated by reference and modified in 10 CSR 25-4.261(2)(A).

26. The term variance in 10 CSR 25 means an action of the commission pursuant to section 260.405, RSMo. In any case where a federal rule that is incorporated by reference in 10 CSR 25 uses the term variance but the case-by-case decision or action of the department or commission does not meet the description of a variance pursuant to section 260.405, RSMo, the decision or action shall be considered an exception or exemption based on the conditions set forth in the federal regulation incorporated by reference or the omission from regulation.

27. The rules of grammatical construction in 40 CFR 260.3 incorporated by reference in this rule shall also apply to the incorporated text of 40 CFR parts 266 and 270 and to 10 CSR 25.

(3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions which modify or add to those definitions in 40 CFR parts 60, 260–270, 273, and 279[,] and 49 CFR parts 40, 171–180, 383, 387, and 390–397.

(M) Definitions beginning with the letter M.

[1. *Manifest means the shipping document form EPA 8700-22/MDNR-HWG 10 or EPA form 8700-22 which, in accordance with 10 CSR 25-5.262, shall be initiated by the generator.*

2. *Manifest document number means the U.S. EPA twelve (12)-digit identification number and the Missouri generator identification number assigned to the generator plus a consecutive five (5)-digit document number assigned to the manifest by the generator for recording and reporting purposes. (Note: These items are explained in the Missouri manifest instructions.)*

[3.]1. Missouri hazardous waste mileage means the total fleet miles that materials requiring a hazardous waste transporter license are transported in Missouri over a period specified by rule. Additionally, all miles traveled transporting containers with residues of these materials, as defined at 49 CFR 171.8, will be included in the Missouri hazardous waste mileage.

[4.]2. Motor vehicle means a vehicle, machine, tractor, trailer, or semitrailer, or any combination of them, propelled or drawn by mechanical power and used upon the highways in transportation. It does not include a vehicle, locomotive, or car operated exclusively on a rail(s).

*AUTHORITY: section[s] 260.370, RSMo Supp. [2005] 2007 and section 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*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:** *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.*

*Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 4—Methods for Identifying Hazardous Waste**

**PROPOSED AMENDMENT**

**10 CSR 25-4.261 Methods for Identifying Hazardous Waste.** The commission is amending section (1) and subsection (2)(A) and adding new subsection (2)(E).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006, and also changes contained in the federal rule for cathode ray tubes published at 71 FR 42928 on July 28, 2006. Department staff have reviewed the changes made to 40 CFR part 261, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR part 261, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 71 FR 42928, July 28, 2006, and 72 FR 31185, June 6, 2007, are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990, 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, [and] 63 FR 33823, June 19, 1998, and 70 FR 53453,

**September 8, 2005.** This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) This section sets forth specific modifications of the regulations incorporated in section (1) of this rule. A person required to identify a hazardous waste shall comply with this section as it modifies 40 CFR part 261 as incorporated in this rule. (Comment: This section has been organized in order that all Missouri additions, changes, or deletions to any subpart of the federal regulation are noted within the corresponding subsection of this section. For example, changes to 40 CFR part 261 subpart A will be located in subsection (2)(A) of this rule.)

(A) General. The following are changes to 40 CFR part 261 subpart A incorporated in this rule:

1. Material that is stored or accumulated in surface impoundments or waste piles is inherently waste-like as provided in 40 CFR 261.2(d) incorporated in this rule, and is a solid waste, regardless of whether the material is recycled;

2. A solid waste, as defined in 40 CFR 261.2, as incorporated in this rule, is a hazardous waste if it is a mixture of solid waste and one (1) or more hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, and has not been excluded from 40 CFR 261.3(a)(2), as incorporated in this rule, under 40 CFR 260.20 and 260.22, as incorporated in 10 CSR 25-3.260. However, mixtures of solid wastes and hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, are not hazardous wastes (except by application of 40 CFR part 261.3(a)(2)(i) or (ii), as incorporated in this rule) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is regulated under Chapter 644, RSMo, the Missouri Clean Water Law;

3. In Table 1 of 40 CFR 261.2, add an asterisk in column 3, row 6, Reclamation of Commercial Chemical Products listed in 40 CFR 261.33 and add the following additional footnote: "Note 2. Commercial chemical products listed in 40 CFR 261.33 are not solid wastes when the original manufacturer uses, reuses or legitimately recycles the material in his/her manufacturing process";

4. Except as provided otherwise in 40 CFR 261.3(c)(2)(ii), as incorporated in this rule, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run off) is a hazardous waste. (However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.);

5. In addition to the requirements in 40 CFR 261.3 incorporated in this rule, hazardous waste may not be diluted solely for the purpose of rendering the waste nonhazardous unless dilution is warranted in an emergency response situation or where the dilution is part of a hazardous waste treatment process regulated or exempted under 10 CSR 25-7 or 10 CSR 25-9;

6. Fly ash that is not regulated under sections 260.200–260.245, RSMo, or section 644.006–644.564, RSMo, or is not beneficially reused as allowed under 10 CSR 80-2.020(9)(B), and fails **Toxicity Characteristic Leaching Procedure (TCLP)** is not subject to the exclusion at 40 CFR 261.4(b)(4) and shall be disposed of in a permitted hazardous waste facility;

7. In 40 CFR 261.4(a)(8)(i) incorporated in this rule, substitute "is a totally enclosed treatment facility" for "through completion of reclamation is closed";

8. 40 CFR 261.4(a)(11) is not incorporated in this rule;

9. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16) added by 63 FR 33823, June

19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

10. Household hazardous waste which is segregated from the solid waste stream becomes a regulated hazardous waste upon acceptance by delivery at a commercial hazardous waste treatment, storage, or disposal facility. Any waste for which the commercial facility becomes the generator in this way shall not be subject to waste minimization requirements under 40 CFR 264.73(b)(9), as incorporated by 10 CSR 25-7.264(1), nor shall that facility be required to pay hazardous waste fees and taxes on that waste pursuant to 10 CSR 25-12.010;

11. A generator shall submit the information required in 40 CFR 261.4(e)(2)(v)(C) as incorporated in this rule to the department along with the *[summary manifest reports]* **Generator's Hazardous Waste Summary Report** required in 10 CSR 25-5.262(2)(D)1.;

12. The changes to 40 CFR 261.5, special requirements for hazardous waste generated by small quantity generators, incorporated in this rule are as follows:

A. The modification set forth in 10 CSR 25-3.260(1)(A)25. applies in this rule in addition to other modifications set forth;

B. 40 CFR 261.5(g)(2) is not incorporated in this rule;

C. A process, procedure, method, or technology is considered to be on-site treatment for the purposes of 40 CFR 261.5(f)(3) and 40 CFR 261.5(g)(3), as incorporated in this rule, only if it meets the following criteria:

(I) The process, procedure, method, or technology reduces the hazardous characteristic(s) and/or the quantity of a hazardous waste; and

(II) The process, procedure, method, or technology does not result in off-site emissions of any hazardous waste or constituent; and

D. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to 40 CFR 279.10(b)(3) as incorporated in 10 CSR 25-11.279;

13. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 261.6(a)(3)(i), as incorporated in this rule. The state may not assume authority from the **Environmental Protection Agency** (EPA) to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies;

14. 40 CFR 261.6(a)(4) is amended by adding the following sentence: "Used oil that exhibits a hazardous characteristic and that is released into the environment is subject to the requirements of 10 CSR 25-3, 4, 5, 6, 7, 8, 9, and 13.";

15. Provided they are managed in accordance with the requirements of 40 CFR 261.9 and 10 CSR 25-16.273, the following wastes are excluded from the requirements of 10 CSR 25-5.262 to 10 CSR 25-7.270:

A. Batteries as described in 40 CFR 273.2 and as modified in 10 CSR 25-16.273(2)(A)2.;

B. Pesticides as described in 40 CFR 273.3 and as modified in 10 CSR 25-16.273(2)(A)3.;

C. Mercury switches as described in 10 CSR 25-16.273(2)(A)4.A., mercury containing thermometers and manometers as described in 10 CSR 25-16.273(2)(A)4.B.; and

D. Lamps as described in 40 CFR 273.5.;

16. Recyclable materials that meet the definition of used oil in 40 CFR 260.10 as incorporated in 10 CSR 25-3.260(1), shall be managed in accordance with 10 CSR 25-11.279 and applicable portions of 10 CSR 25-3.260–10 CSR 25-9.020; *[and]*

17. The resource recovery of hazardous waste is regulated by 10 CSR 25-9.020. An owner/operator of a facility that uses, reuses, or recycles hazardous waste shall be certified under 10 CSR 25-9 or permitted under 10 CSR 25-7, unless otherwise excluded. Therefore, the parenthetical text in 40 CFR 261.6(c)(1) is not incorporated in this rule.; and

**18. In accordance with 260.432.5(2), used cathode ray tubes (CRTs) may not be placed in a sanitary landfill, except as permitted by 260.380.3.**

**(E) Exclusions/Exemptions.**

**1. The substitution of the director of the Department of Natural Resources for the regional administrator discussed in 10 CSR 25-3.260(1)A.1. does not apply to the requirement for notification of the export of used CRTs established in 40 CFR 261.41.**

*AUTHORITY: section 260.370, RSMo Supp. [2005] 2007. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*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:** *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.*

*Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

## **Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 5—Rules Applicable to Generators of Hazardous Waste**

### **PROPOSED AMENDMENT**

**10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste.** The commission is amending sections (1) and (2).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations.*

*Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 262, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 49 CFR part 172, October 1, 1999, 40 CFR 302.4 and .5, July 1, [2004] **2006**, and 40 CFR part 262, July 1, [2004] **2006**, except Subpart H, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) A generator **located in Missouri**, except as conditionally exempted in accordance with 10 CSR 25-4.261, shall comply with the requirements of this section in addition to the requirements incorporated in section (1). Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional storage standards which are added to 40 CFR part 262 subpart C are found in subsection (2)(C) of this rule.)

(A) General. The following registration requirements are additional requirements to, or modifications of, the requirements specified in 40 CFR part 262 subpart A:

1. In lieu of 40 CFR 262.12(a) and (c), a generator **located in Missouri** shall comply with the following requirements:

A. A person generating in one (1) month or accumulating at any one (1) time the quantities of hazardous waste specified in 10 CSR 25-4.261 and a transporter who is required to register as a generator under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260–10 CSR 25-9.020 and 10 CSR 25-12.010;

*[B. An out-of-state generator who utilizes a hazardous waste management facility within Missouri shall register before utilizing the facility;]*

*[C.]B.* A person generating hazardous waste on a “one (1)-time” basis may apply for a temporary registration. A temporary registration shall be valid for one (1) initial **thirty** (30)-day period with the possibility of an extension of one (1) additional **thirty** (30)-day period. Should a temporary registration exceed the total **sixty** (60)-day period outlined here, the department shall consider the registration to be permanent rather than temporary. *[Temporary, one-time registrations shall only be issued to Missouri generators.]* All reporting requirements and registration fees outlined in this chapter shall apply to temporary registrations; and

*[D.]C.* Conditionally exempt generators may choose to register and obtain **Environmental Protection Agency** (EPA) and Missouri identification numbers, but in doing so will be subject to any initial registration fee and annual renewal fee outlined in this chapter;

2. An owner/operator of a treatment, storage, disposal, or resource recovery facility who ships hazardous waste from the facility shall comply with this rule;

3. The following constitutes the procedure for registering:

A. A person who is required to register shall file a completed registration form furnished by the department. The department

shall require an original ink signature on all registration forms before processing. In the event the department develops the ability to accept electronic submission of the registration form, the signature requirement will be consistent with the legally-accepted standards in Missouri for an electronic signature on documents. All generators located in Missouri shall use only the Missouri version of the registration form;

B. A person required to register shall also complete and file an updated generator registration form if the information filed with the department changes;

C. The department may request additional information, including information concerning the nature and hazards associated with a particular waste or any information or reports concerning the quantities and disposition of any hazardous wastes as necessary to authorize storage, treatment, or disposal and to ensure proper hazardous waste management;

D. A person who is required to register, and those conditionally-exempt generators who choose to register, shall pay a **one hundred-dollar** (\$100) initial **or reactivation** registration fee at the time their registration form is filed with the department. **If a generator site has an inactive registration, and a generator required to register reactivates that registration, the generator shall file a registration form and pay the one hundred-dollar (\$100) registration reactivation fee.** The department shall not process any form for an initial registration **or reactivation of a registration** if the **one hundred-dollar** (\$100) fee is not included. Generators **required to register** shall thereafter pay an annual renewal fee of \$100 in order to maintain their registration in good standing; and

E. Any person who pays the registration fee with what is found to be an insufficient check shall have their registration immediately revoked;

4. The following constitutes the procedure for registration renewal:

A. The calendar year shall constitute the annual registration period;

B. Annual registration renewal billings will be sent *[on]* by December 1 of each year to all generators holding an active registration;

C. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but shall not pay the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee;

D. Any generator *[failing]* **required to register who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;**

E. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay *[a \$50 administrative reinstatement fee]* **the fifteen percent (15%) late fee required by section 260.380.4, RSMo**, in addition to the **one hundred-dollar** (\$100) annual renewal fee **for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;**

F. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay a **fifty-dollar** (\$50) administrative reinstatement fee in addition to the **one hundred-dollar** (\$100) annual renewal fee; and

G. Any person who pays the annual renewal fee with what is found to be an insufficient check shall have their registration immediately revoked;

5. The department may administratively inactivate the registration of generators that fail to pay any applicable hazardous waste fees and taxes in a timely manner after appropriate notice to do so.

(B) The Manifest. *[This subsection sets forth requirements for manifest acquisition and use.]* Additional manifest and reporting requirements are set forth in subsections (2)(D) and (E). This subsection is applicable to all Missouri generators and to all other generators who deposit hazardous waste in Missouri. (Note: This section is not applicable to an out-of-state or international generator who is shipping hazardous waste through, in less than ten (10) days, but not depositing hazardous waste in Missouri. This subsection does not prevent a transporter from voluntarily carrying information in addition to the manifest. Any reference to the United States Environmental Protection Agency (EPA) form 8700-22 means the form as revised by EPA and approved by the federal Office of Management and Budget (OMB)).

*[1. The Missouri manifest form has its own set of instructions, these regulations do not allow the use of the continuation sheet, and these regulations require the manifest to be completed prior to shipping the hazardous waste off-site.*

*2. In addition to the requirements set forth in 40 CFR 262.20, the generator must record legibly the following additional information on the manifest prior to shipment and in accordance with instructions:*

*A. The Missouri hazardous waste manifest document number, which is the six (6)-digit Missouri generator identification number and the consecutive shipment number;*

*B. The actual site address (street, city, state and zip code) if different from the mailing address of the shipment's origin;*

*C. The license plate number for the waste-carrying portion of the vehicle used to transport waste, including the state of registration;*

*D. The transport company's identification number(s) assigned by the department and telephone number(s);*

*E. The receiving facility's Missouri identification number if the designated facility is located in Missouri and the telephone number of the receiving facility;*

*F. The EPA hazardous waste number(s) for each waste material being shipped. If the waste(s) being shipped is a mixture of different EPA hazardous waste types as listed in 10 CSR 25-4.261, each EPA hazardous waste type found within the mixture shall be identified by its respective EPA hazardous waste number;]*

*[G.]1. Generators must list [T]he Missouri waste code MH02 if the hazardous waste is 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) as listed in 10 CSR 25-4.261(2)(D)3.;]*

**2. If the waste contains MH02 or MH01, these must be one (1) of the six (6) waste codes listed on the manifest.**

*[H.]3. Generators must list [T]he Missouri waste code D098 if the hazardous waste is a used oil as described [at] in 10 CSR 25-11.279(2)(I)1.B.; and]*

*[I.]4. Generators must record [E]ither the total weight in kilograms or pounds or the specific gravity for wastes listed or measured in gallons, liters, or cubic yards.*

*[3. Any generator who is required to use the Missouri/EPA form 8700-22/MDNR-HWG 10 and who copies or prints his/her own uniform manifest forms is subject to the following requirements in addition to the requirements of 40 CFR 262.21:*

*A. A generator shall ensure that the form is printed so that there is no displacement of information or alteration of the form;*

*B. The generator shall copy or print and attach the instruction sheets to the manifest form;*

*C. Generator information may only be added to the manifest form or instruction sheets in accordance with subparts (a) and (b) of 40 CFR part 262.21 and as follows:*

*(l) Any information requirements may be printed on the forms or instruction sheets except that the certification*

*signature and acceptance signatures shall be handwritten and shall not be printed or stamped on the manifest; and*

*(ll) Transporter safety information, treatment, storage or disposal information, and bill of lading information may be printed in the special handling instructions and additional information space or, if necessary, on the back of the manifest form;*

*D. Copy distribution and other general company information may be printed in the margin or on the back of the manifest form. The manifest shall be marked for copy distribution as follows:*

*First page (original)—to the department;*

*Second page—generator file copy;*

*Third page—treatment, storage or disposal facility final copy;*

*Fourth page—transporter number one;*

*Fifth page—optional (second transporter, other state); and*

*Sixth page—generator (shipment confirmation); and*

*E A hazardous materials (HM) column in item 11 may be printed in accordance with United States Department of Transportation regulations in 49 CFR 172.201. Organizational marks such as light lines or line identifiers are permitted to facilitate proper character placement of information.*

*4. This paragraph sets forth requirements for the use of the Missouri manifest or another state's manifest in different situations.*

*A. A Missouri generator who deposits hazardous waste out of Missouri but not in a foreign country shall use the receiving state's form equivalent to the EPA form 8700-22, if that state supplies and requires its use. Although another state's form is used, the generator shall record Missouri information on that state's manifest as specified under paragraph (2)(B)2. of this rule.*

*B. If a Missouri generator manages hazardous waste in another state and not a foreign country and the receiving state does not supply or require use of a specific state manifest, the generator shall acquire from the department and use the EPA 8700-22/MDNR-HWG 10 form except as provided otherwise in paragraph (2)(B)3. of this rule.*

*C. Any person who imports hazardous waste into Missouri from a foreign country or who generates hazardous waste in Missouri and exports this hazardous waste to a foreign country shall acquire from the department and use the EPA 8700-22/MDNR-HWG 10 form except as provided otherwise in paragraph (2)(B)3. of this rule.*

*D. Any Missouri generator and any out-of-state generator who deposits hazardous waste in Missouri shall acquire from the department and use the EPA 8700-22/MDNR-HWG 10 form except as provided otherwise in paragraph (2)(B)3. of this rule.*

*5. Missouri requires that a copy of the completed manifest be submitted to the department by an authorized representative of the generator. Therefore, in 40 CFR 262.22, substitute "two (2) copies" for "another copy."*

*[6.]5. Manifest reporting. This paragraph sets forth additional requirements for manifest reporting. The generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the hazardous waste was accepted by the initial transporter. A generator, in addition to this requirement, and where applicable under paragraph (2)(D)2. of this rule, shall file exception reports.*

*(D) Record Keeping and Reporting. In addition to requirements in 40 CFR 262.40, generators shall retain registration information required in subsection (2)(A) of this rule and the [summary manifest report] **Generator's Hazardous Waste Summary Report** required in paragraph (2)(D)1. of this rule for no fewer than three (3)*

years. The period of record retention referred to in 40 CFR 262.40(d) begins the day the initial transporter signs the manifest. The period of record retention referred to extends upon the written requests of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity.

1. This paragraph establishes requirements for quarterly *[manifest summary reports]* **Generator's Hazardous Waste Summary Reports.**

A. All generators who are required to register in accordance with subsection (2)(A) of this rule shall complete a *[manifest summary report]* **Generator's Hazardous Waste Summary Report.** *[The manifest summary]* This report shall be completed on a form provided by the department or on a reproduction of the form provided by the department or in the same format as the form provided by the department **after review and approval by the department.**

B. Persons who do not ship any hazardous wastes or who make only one (1) shipment of hazardous waste during the entire reporting year, July 1 through June 30, or are defined as a small quantity generator for the entire reporting year, may file an annual report by August *[15]* **14** following the reporting year period. However, persons who are defined as a large quantity generator and have more than one (1) shipment of hazardous waste during the reporting years shall file quarterly.

C. A generator who is registered with the department shall report the quantity, type, and status of all hazardous waste(s) shipped off-site during the reporting period on the *[manifest summary report]* **Generator's Hazardous Waste Summary Report** regardless of the destination of the shipment(s). *[A generator who is located out of Missouri shall only report the quantity, type and status of hazardous waste(s) shipped to any designated facility located in Missouri on the manifest summary report.]*

D. The *[manifest summary report]* **Generator's Hazardous Waste Summary Report** shall be signed and certified by an authorized representative as defined in 40 CFR 260.10 incorporated by reference in 10 CSR 25-3. The certification statement shall read as follows: "CERTIFICATION: I certify under penalty of law that I personally examined and am familiar with the information submitted on this form and all attached documents and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." The handwritten signature of the authorized representatives shall follow this certification.

E. The generator shall submit the completed *[summary manifest report, including the appropriate completed manifest documents as indicated in the manifest instructions,]* **Generator's Hazardous Waste Summary Report** within forty-five (45) days after the end of each reporting period. The reporting periods and submittal dates are as follows: January 1 through March 31, with a submittal date of May 14 of the same year; April 1 through June 30, with a submittal date of August 14 of the same year; July 1 through September 30, with a submittal date of November 14 of the same year; and October 1 through December 31, with a submittal date of February 14 of the following year.

F. A generator shall submit the information required in 40 CFR 261.4(e)(2)(v)(C) incorporated by reference in 10 CSR 25-4.261(1) to the department along with the completed *[manifest summary report]* **Generator's Hazardous Waste Summary Report.**

G. **Generators failing to file the reports required by this rule shall have their registration administratively inactivated. Their registration shall be reactivated after all required reporting is filed, applicable fees are paid, and an updated generator registration form is submitted to the department.**

2. Exception reporting. 40 CFR 262.42 is not incorporated in this rule. In lieu of those requirements, a generator shall comply with the following requirements:

A. A generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the date the waste was accepted by the initial transporter. A generator, in addition to the requirements of this subsection, shall comply with manifest reporting requirements in paragraph (2)(B)6. of this rule;

B. A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter shall contact the transporter, the owner, or both, or operator of the designated facility, to determine the status of the hazardous waste;

C. A generator who has not received the completed manifest with the handwritten signature of the designated facility operator within thirty-five (35) days from the date the waste was accepted by the initial transporter shall submit a completed exception report to the department within forty-five (45) days from the date the waste was accepted by the initial transporter; and

D. The exception report may be completed on the exception report form provided by the department or in a format which shall include the following: the generator's EPA identification number (if applicable), the Missouri generator identification number and the generator's name, address, and telephone number; the name, address, phone number, EPA identification number (if applicable), and Missouri transporter license number for each transporter; the EPA identification number of the facility (if applicable), the Missouri facility identification number, the facility telephone number, and the designated facility's name and address; the Missouri and EPA hazardous waste manifest document numbers followed by the date of shipment; the waste description and EPA waste code identification number as listed in 10 CSR 25-4 for each hazardous waste appearing on the manifest; the total quantity of each hazardous waste and the appropriate abbreviation for units of measure as follows: G—gallons (liquids only); P—pounds; T—tons (2,000 lbs.); Y—cubic yards; L—liters (liquids only); K—kilograms; M—metric tons (1,000 kg); N—cubic meters; the following certification statement, signed and dated by an authorized representative of the generator: "I have personally examined and am familiar with the information submitted on this form. I hereby certify that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information which include/s/ fine and imprisonment"; a legible copy of the manifest document originated by the generator and signed by the initial transporter which was retained by the generator and for which the generator does not have confirmation of delivery; and a cover letter signed by the generator or his/her authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts. The director may require a generator to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 10 CSR 25-4.261 as the director deems necessary under section 260.375(7), RSMo.

3. Reporting requirements for small quantity generators. 40 CFR 262.44 is not incorporated in this rule.

(J) **Generator Fee and Taxes.** A generator who is required to register under this rule, unless otherwise exempted, shall pay fees and taxes in accordance with 10 CSR 25-12.010. **Generators failing to pay the fees, taxes, or applicable late fees outlined in 10 CSR 25-12.010 by the due date shall have their registration administratively inactivated. Their registration shall be reactivated after all applicable fees, taxes, and late fees are paid and an updated generator registration form is submitted to the department.**

*AUTHORITY: sections 260.370 and 260.380, RSMo Supp. [2005] 2007. This rule was previously filed as 10 CSR 25-5.010. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history,*

please consult the *Code of State Regulations*. Amended: Filed Oct. 15, 2008.

**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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 6—Rules Applicable to Transporters of  
Hazardous Waste**

**PROPOSED AMENDMENT**

**10 CSR 25-6.263 Standards for Transporters of Hazardous Waste.** The commission is amending section (1) and subsection (2)(B).

**PURPOSE:** This rule needs to be periodically updated to incorporate by reference the most current edition of the *Code of Federal Regulations* (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 263, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the *Code of Federal Regulations*.

(1) The regulations set forth in 40 CFR part 263, July 1, [2004] 2006; 49 CFR parts 171–180, November 1, 1990, and December 1, 1997; and 49 CFR parts 40, 383, 387, 390–397, October 1, 1990, and October 1, 1997, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are

incorporated by reference, except for 49 CFR 390.3(f)(2), which is not incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule except that the modifications do not apply to the 49 CFR parts incorporated in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) A hazardous waste transporter shall comply with the requirements of this section in addition to those set forth in section (1). Any reference to a 40 CFR cite in this section shall mean as that provision is incorporated in 10 CSR 25. Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized in order within the corresponding subsection of this section. For example, the additional requirements being added to 40 CFR part 263 subpart A are found in subsection (2)(A).)

(B) Compliance with the Manifest System and Record Keeping. This subsection sets forth requirements in addition to or in lieu of the requirements set forth in 40 CFR part 263 subpart B.

1. Manifests.

A. In lieu of the requirements in 40 CFR 263.20(a), the following shall apply:

(I) In addition to the requirements in 10 CSR 25-5.262, a transporter shall not accept hazardous waste from a generator unless it is accompanied by a manifest signed and dated by the generator which contains federally-required information in accordance with 10 CSR 25-5.262, except that the transporter may accept shipments of hazardous waste without a manifest from persons not required to register as provided in 10 CSR 25-5.262(2)(A) provided that the waste is transported only to a facility which is permitted or certified to accept the waste. The transporter shall maintain records on wastes accepted from those generators which contain information including the type or identity of each waste, the source of each waste, and disposition of each waste. (Note: This paragraph is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.)

*[(III) When the waste being transported is used oil as described at 10 CSR 25-11.279(2)(I)1.B., or wastes described or listed in 10 CSR 25-4.261, then the Missouri transporter identification number shall appear on the manifest.]*

*[(III)](II) Hazardous waste shall be transferred between licensed transporters only; and*

*[(IV)](III) For [international shipments] exports, the transporter shall also comply with the following requirements: [In the case of exports, a] A transporter may not accept hazardous waste from a primary exporter or other person—1) if s/he knows the shipment does not conform to the EPA Acknowledgement of Consent, and 2) unless, in addition to a manifest signed in accordance with 10 CSR 25-5, the waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). The shipping paper for exports by water (bulk shipment) shall contain all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent shall accompany the hazardous waste. Rail transporters shall ensure that a shipping paper contains all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste at all times. A transporter shall also provide a copy of the manifest to a United States Customs official at the point of departure from the United States.*

B. In addition to requirements in 40 CFR 263.22, the following shall apply: Each day that a vehicle is used for the transportation of hazardous waste, the driver of that vehicle, prior to the transportation, shall inspect the vehicle to meet the requirements of 49 CFR 396.11 incorporated by reference in section (1) of this rule. The vehicle inspection shall be documented in writing. At a minimum once annually, transporters shall provide and document hazardous waste/materials training for each driver employee who transports hazardous waste. Records relating to hazardous waste transportation shall be available to representatives of the department for inspection and copying during regular business hours. Current files on driver vehicle inspections, vehicle maintenance, annual employee training, and records of incident reports shall also be maintained for a period of three (3) years by the licensed transporter regardless of whether the vehicle(s) is owned or leased. The period of record retention for these records also extends automatically during the course of any unresolved enforcement action, and the records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

2. (Reserved)

*AUTHORITY:* section[s] 260.370, RSMo Supp. [2005] 2007 and sections 260.385 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.

*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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners/Operators of  
Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities.** The commission is amending sections (1)–(3).

*PURPOSE:* This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2000 CFR, which includes changes through July 1, 2004.

*One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 264, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR part 264, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modification set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control. "Owner/operator," as defined in 10 CSR 25-3.260(2)(O)3., shall be substituted for any reference to "owner and operator" or "owner or operator" in 40 CFR part 264 incorporated in this rule.

(2) The owner/operator of a permitted hazardous waste treatment, storage, or disposal facility shall comply with this section in addition to the regulations of 40 CFR part 264. In the case of contradictory or conflicting requirements, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 264 subpart E are found in subsection (2)(E) of this rule.)

(B) General Facility Standards. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart B.

1. The substitution of terms at 10 CSR 25-3.260(1)(A)1. does not apply to 40 CFR 264.12(a), incorporated by reference in this rule. In addition to the requirements in 40 CFR 264.12(a) incorporated in this rule, an owner/operator shall submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each analysis shall contain the following information: the foreign generator's name, site address, and telephone number; a list of applicable United States Environmental Protection Agency (EPA) waste codes and a percentage of each for each hazardous waste; the flash point determined in accordance with 40 CFR 261.21 incorporated by reference in 10 CSR 25-4; a list of reactive waste(s) as defined in 40 CFR 261.23 incorporated by reference in 10 CSR 25-4; and results of toxicity tests conducted in accordance with 40 CFR 261.24 incorporated by reference in 10 CSR 25-4.261, if applicable.

2. Information describing the frequency and type of analysis performed on run off and leachate generated at the hazardous waste management units shall be included as part of the waste analysis plan required in 40 CFR 264.13(b) incorporated in this rule.

**3. 40 CFR 264.15(b)(5) is not incorporated in this rule.**

[3.]4. The comment following 40 CFR 264.18(a) is not incorporated in this rule.

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart E.

1. [In addition to the requirements in 40 CFR 264.71(a)(1) and (2) and 40 CFR 264.71(b)(1) and (2) incorporated in section (1) of this rule, the owner/operator shall record the appropriate handling code(s) on the manifest as



specified by the instructions for form 8700-22/MDNR-HWG 10.] Missouri requires an original copy of the manifest to be submitted to the department by all in-state and out-of-state Treatment, Storage, or Disposal Facilities (TSDFs) in accordance with 40 CFR 264.71(e).

2. As it becomes available, the following additional information shall be maintained in the operating record described in 40 CFR 264.73 incorporated in this rule until final closure, at which time the operating record shall be submitted to the department:

A. The information from each manifest shall be maintained in the operating record;

B. In addition to the requirements in 40 CFR 264.73(b)(2) incorporated in this rule, an owner/operator of a hazardous waste disposal facility shall record the location and quantity of each hazardous waste shipment on a map or diagram of each cell or disposal area with respect to a surveyed permanent benchmark and baseline;

C. In addition to the requirements in 40 CFR 264.73(b)(2) incorporated in this rule, an owner/operator of a facility which has had a release or which has hazardous waste or hazardous waste constituent migration beyond the hazardous waste management unit shall record the locations and concentrations of contamination on a map or diagram with respect to a surveyed permanent benchmark and baseline;

D. If applicable, information regarding volumes, dates of removal, and disposition of leachate removed from collection points shall be maintained in the operating record; and

E. A complete copy of the final, approved permit application, including all approved engineering plans, shall be maintained in the operating record.

3. The owner/operator of a hazardous waste management facility shall submit a report to the department as set forth in this paragraph.

A. All owners/operators shall comply with the *[manifest summary]* reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner/operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

B. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, resource recovery, or disposal, the owner/operator shall meet the same requirements for the following:

(I) All hazardous waste generated on-site during the reporting period that is managed on-site; and

(II) All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner/operator.

C. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner/operator shall include the following information in the summary report:

(I) A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

(II) For each hazardous waste that was received from off-site, a description and the quantity of each hazardous waste, the corresponding state, and EPA identification numbers of each generator;

(III) For imports, the name and address of the foreign generator;

(IV) The corresponding method of treatment, storage, resource recovery, disposal, or other approved management method used for each hazardous waste;

(V) The quantity and description of hazardous waste residue generated by the facility; and

(VI) A summary of both quantitative and qualitative groundwater monitoring data that was received during the reporting period, as required in 40 CFR part 264 subpart F incorporated in this rule and subsection (2)(F) of this rule. (Comment: This does not change the frequency of monitoring required by rules or in specific permit conditions. It only changes the frequency of reporting.)

4. As outlined in section 260.380.2, RSMo, all owners/operators shall pay a fee to the department of two dollars (\$2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee shall be referred to as the Out-of-State Waste Fee and shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner/operator, this fee shall be paid on or before January 1 of each year and shall be based on the total tons of hazardous waste received in the aggregate by that owner/operator for the twelve (12)-month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve (12)-month period ending on June 30 shall be referred to as a reporting year.

B. Owners/operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the reporting required in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners/operators may elect, but are not required, to pay the fee at the time they file their final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

**EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION**

**Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:**

$$\text{\$2} \times \text{250 tons} = \text{\$500 fee}$$

**Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri.  
The number of tons would be rounded to 411:**

$$\text{\$2} \times \text{411 tons} = \text{\$822 fee}$$

**Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri.  
The number of tons would be rounded to 52,150:**

$$\text{\$2} \times \text{52,150 tons} = \text{\$104,300 fee}$$

(H) Financial Assurance Requirements. This subsection sets forth the requirements which modify or add to those requirements in 40 CFR part 264 subpart H.

1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any facility that would be considered a commercial hazardous waste TSD facility for the purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined by 10 CSR 25-13.010.

2. In 40 CFR 264.143(a)(3), incorporated by reference in this rule, delete "the term of the initial RCRA permit" and insert in its place "a period of five (5) years, beginning with the date the permit is issued."

3. In 40 CFR 264.145(a)(3), incorporated by reference in this rule, delete "the term of the initial RCRA permit" and insert in its place "a period of five (5) years, beginning with the date the permit is issued."

4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust fund or post-closure trust fund per 40 CFR 264.143(b) or 40 CFR 264.145(b), incorporated in this rule.

A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a closure or post-closure trust fund and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation:

(I) The director deems the facility abandoned; or

(II) The permit is terminated or revoked, or a new permit is denied; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11 U.S.C. section 1, et seq.; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (4)(H)4.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bond(s) guaranteeing payment into a closure trust fund or a post-closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

5. This paragraph modifies the requirements for surety bonds guaranteeing performance of closure or performance of post-closure

care per 40 CFR 264.143(c) or 40 CFR 264.145(c), incorporated in this rule.

A. A surety company issuing a surety bond for closure or post-closure performance shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond for closure or post-closure performance shall not cancel, terminate, or fail to renew a surety bond guaranteeing performance of closure or post-closure care and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation:

(I) The director deems the facility abandoned; or

(II) The permit is terminated or revoked, or a new permit is denied; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (4)(H)5.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bonds guaranteeing performance of closure or performance of post-closure care as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

6. This paragraph modifies the requirements for letters of credit per 40 CFR 264.143(d), 40 CFR 264.145(d), and 40 CFR 264.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association. *[If the issuing institution is not located in Missouri, a bank or trust association located in Missouri shall confirm the letter of credit and the confirmation and the letter of credit shall be filed with the department.]*

7. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 264.143(f), 40 CFR 264.145(f), or 264.147(f), incorporated in this rule.

8. This paragraph modifies the requirements for closure insurance per 40 CFR 264.143(e), incorporated in this rule, post-closure insurance per 40 CFR 264.145(e), incorporated in this rule, liability coverage for sudden accidental occurrences per 40 CFR 264.147(a)(1), incorporated in this rule, and liability coverage for non-sudden accidental occurrences per 40 CFR 264.147(b)(1), incorporated in this rule. Each insurance policy shall be issued by an insurer *[which] who*, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

9. In 40 CFR 264.143(f), incorporated in this rule, delete “or a firm with a ‘substantial business relationship’ with the owner or operator.”

10. In 40 CFR 264.145(f), incorporated in this rule, delete “or a firm with ‘a substantial business relationship’ with the owner or operator.”

11. In 40 CFR 264.147(g), incorporated in this rule, delete “or a firm with a ‘substantial business relationship’ with the owner or operator.”

(I) Containers. This subsection sets forth requirements in addition to 40 CFR part 264 subpart I incorporated in this rule.

1. An owner/operator of a facility which treats hazardous waste in containers shall meet the requirements of 40 CFR 264.601–264.603 incorporated in this rule and subsection (2)(X) of this rule.

2. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-5.262(2)(C) during the entire storage period.

3. Container storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).

4. Containers holding ignitable or reactive waste that are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

5. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet (50') from the facility's property line unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5) hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property, that can be built upon, shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Agency (NFPA) Code 80, *Standards for Fire Doors and Windows*], 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with the NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) standards. Final design of these systems shall be approved by a/n *independent*, qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be either a one and one-half (1.5)-inch line or a one-inch (1") hard rubber line. Where a one and one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable Shipping Tanks* shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked or placed closer than three feet (3') from ceilings or any roof members, or both; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.

(3) The following requirements apply to hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad tank car (railcar).

(B) Railcars shall not be used as container or tank storage units at a facility unless the owner/operator complies with the standards for container storage set forth in 40 CFR part 264 subpart I as incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270. During the time allowed for loading and unloading as set forth in this section, the railcar shall not be considered to be in storage.

1. The owner/operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours after loading is initiated. For the purposes of this section, shipment occurs when—

A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

B. The transporter returns a signed copy of the manifest to the facility; and

C. The railcar crosses the property boundary line of the TSD facility.

2. The owner/operator shall have a maximum of ten (10) days following receipt of a shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the approved railcar management plan for each facility as part of the permit. The department will review and approve each railcar management plan on a case-by-case basis and will base its decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and security standards, enclosure of the facility, type and amount of emergency response equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management plan, the owner/operator shall unload hazardous waste from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

A. The owner/operator signs the shipping paper; or

B. The owner/operator signs the manifest; or

C. The railcar crosses the property boundary line of the TSD facility.

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo [(1994)] 2000, that fall within [the initial seventy-two (72)-hour time period] the time period approved in the railcar management plan.

4. If the owner/operator finds that a railcar shipment must be rejected, the railcar shall be shipped within twenty-four (24) hours of that determination, or within the [initial seventy-two (72)-hour time period] time period approved in the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in the facility's operating record.

5. The owner/operator shall attempt to arrange for the rail carrier to provide the owner/operator a notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner/operator must document the refusal in the

operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

6. If the loading and unloading time frames specified in this section are exceeded, then the owner/operators utilizing railcars shall comply with the standards for container storage in 40 CFR part 264 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270.

*AUTHORITY: section[s] 260.370, RSMo Supp. [2005] 2007 and sections 260.390 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*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:** *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.*

*Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners/Operators of  
Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities.** The commission is amending sections (1) and (2).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 265, the corresponding*

*part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR part 265, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) The owner/operator of a treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 265 incorporated in this rule. In the case of contradictory or conflicting requirements in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional requirements to be added to 40 CFR part 265 subpart A are found in subsection (2)(A) of this rule.)

(B) General Facility Standards. This subsection sets forth requirements that modify or add to the requirements in 40 CFR part 265 subpart B.

1. In addition to the requirements in 40 CFR 265.12(a) incorporated in this rule, an owner/operator shall submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each analysis shall contain the following information: the foreign generator's name, site address, and telephone number; a list of applicable EPA waste codes and a percentage of each for each hazardous waste; the flash point determined in accordance with 40 CFR 261.21, incorporated by reference in 10 CSR 25-4; a list of reactive waste(s) as defined in 40 CFR 261.23, incorporated by reference in 10 CSR 25-4; and results of toxicity tests conducted in accordance with 40 CFR 261.24, incorporated by reference in 10 CSR 25-4.261, if applicable.

2. [(Reserved)] 40 CFR 265.15(b)(5) is not incorporated in this rule.

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 265 subpart E.

1. All owners/operators shall comply with the [manifest summary] reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner/operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

2. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, resource recovery, or disposal, the owner/operator shall meet the same requirements for the following:

A. All hazardous waste generated on-site during the reporting period that is managed on-site; and

B. All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner/operator.

3. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner/operator shall include the following information in the summary report:

A. A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

B. For each hazardous waste that is received from off-site, a description and the quantity of each hazardous waste and the corresponding state and EPA identification numbers of each generator;

C. For imports, the name and address of the foreign generator;

D. The corresponding method of treatment, storage, resource recovery, disposal, or other approved management method used for each hazardous waste; and].

*[E In addition to the requirements in 40 CFR 265.71(a)(1) and (2) and 265.71(b)(1) and (2) incorporated by reference in section (1) of this rule, the owner/operator shall record the appropriate handling code(s) on the manifest as specified by the instructions for completing form 8700-22/MDNR-HWG 10.]*

4. As outlined in section 260.380.2, RSMo, all owners/operators shall pay a fee to the department of two dollars (\$2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee shall be referred to as the Out-of-State Waste Fee and shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner/operator, this fee shall be paid on or before January 1 of each year and shall be based on the total tons of hazardous waste received in the aggregate by that owner/operator for the twelve (12)-month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve (12)-month period ending on June 30 shall be referred to as a reporting year.

B. Owners/operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the reporting required in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners/operators may elect, but are not required, to pay the fee at the time they file their final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

#### EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

**Example 1.** ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

$$\text{\$2} \times 250 \text{ tons} = \text{\$500 fee}$$

**Example 2.** ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411.

$$\text{\$2} \times 411 \text{ tons} = \text{\$822 fee}$$

**Example 3.** ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150.

$$\text{\$2} \times 52,150 \text{ tons} = \text{\$104,300 fee}$$

(H) Financial Assurance Requirements. This subsection sets forth the requirements which modify or add to those requirements in 40 CFR part 265 subpart H.

1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any facility that would be considered a commercial hazardous waste treatment, storage, and disposal facility for purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined by 10 CSR 25-13.010.

2. In 40 CFR 265.143(a)(3), incorporated by reference in this

rule, delete "the 20 years" and insert in its place "a period of five (5) years."

3. In 40 CFR 265.145(a)(3), incorporated by reference in this rule, delete "the 20 years" and insert in its place "a period of five (5) years."

4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust fund or post-closure trust fund per 40 CFR 265.143(b) or 40 CFR 265.145(b), incorporated in this rule.

A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a closure or post-closure trust fund and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation—

(I) The director deems the facility abandoned; or

(II) Interim status is terminated or revoked; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11 U.S.C. section 1, et seq.; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (2)(H)4.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bonds guaranteeing payment into a closure trust fund or a post-closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

5. This paragraph modifies the requirements for letters of credit per 40 CFR 265.143(c), incorporated in this rule, 40 CFR 265.145(c), incorporated in this rule, and 40 CFR 265.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association. *[If the issuing institution is not located in Missouri, a bank or trust association located in Missouri shall confirm the letter of credit and the confirmation and the letter of credit shall be filed with the department.]*

6. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 265.143(e), incorporated in this rule, 40 CFR 265.145(e), incorporated in this rule, or 40 CFR 265.147(f), incorporated in this rule.

7. This paragraph modifies the requirements for closure insurance per 40 CFR 265.143(d), incorporated in this rule, post-closure insurance per 40 CFR 265.145(d), incorporated in this rule, liability coverage for sudden accidental occurrences per 40 CFR 265.147(a)(1), incorporated in this rule, and liability coverage for non-sudden accidental occurrences per 40 CFR 265.147(b)(1), incorporated in this rule. Each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

8. In 40 CFR 265.143(e), incorporated in this rule, delete “or a firm with a ‘substantial business relationship’ with the owner or operator.”

9. In 40 CFR 265.145(e), incorporated in this rule, delete “or a firm with a ‘substantial business relationship’ with the owner or operator.”

10. In 40 CFR 265.147(g), incorporated in this rule, delete “or a firm with a ‘substantial business relationship’ with the owner or operator.”

(I) Use and Management of Containers. This subsection sets forth additional standards for container storage areas.

1. Container storage areas shall have a containment system that is designed and operated in accordance with paragraph (2)(I)2. of this rule except as provided by paragraph (2)(I)4. of this rule.

2. A containment system shall be designed, maintained, and operated as follows:

A. A containment system shall have a base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

B. The base shall be sloped or the containment system shall be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or otherwise protected from contact with accumulated liquids;

C. The containment system shall have a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this calculation;

D. Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in subparagraph (2)(I)2.C. of this rule to contain any run-on which might enter the system; and

E. Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

3. The containment system shall also be inspected as part of the weekly inspections required by 40 CFR 265.174, incorporated in this rule.

4. Storage areas that store containers holding only wastes that do not contain free liquids or storage facilities that store less than one thousand kilograms (1,000 kg) of nonacute hazardous waste containing free liquids need not have a containment system described in paragraph (2)(I)2. of this rule provided that—

A. The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

B. The containers are elevated or are otherwise protected from contact with accumulated liquid.

5. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-5.262(2)(C) during the entire storage period.

6. Container storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N, as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.265(2)(G).

7. Containers holding ignitable or reactive waste which are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

8. Containers holding ignitable or reactive waste which are stored indoors shall be located at least fifty feet (50') from the facility's property line, unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5)-hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Association (NFPA) Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition)

Standards. Final design of these systems shall be approved by a/n *independent,* qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be a one and one-half (1.5)-inch line or one-inch (1") hard rubber line. Where a one and one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable Shipping Tanks* (1990 edition) shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so that there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked, placed, or both, closer than three feet (3') from ceilings or any roof members; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.

*AUTHORITY: section[s] 260.370, RSMo Supp. [2005] 2007 and sections 260.390 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*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:** *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.*

*Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners/Operators of  
Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.** The commission is amending section (1).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 266, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR part 266, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

*AUTHORITY: section[s] 260.370, RSMo Supp. [2005] 2007 and sections 260.390 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners/Operators of  
Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.268 Land Disposal Restrictions.** The commission is amending section (1).

*PURPOSE:* This rule needs to be periodically updated to incorporate by reference the most current edition of the *Code of Federal Regulations (CFR)*. Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 268, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the *Code of Federal Regulations*.

(1) The regulations set forth in 40 CFR part 268, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

*AUTHORITY:* section[s] 260.370, RSMo Supp. [2005] 2007 and sections 260.390, 260.395, and 260.400, RSMo 2000. Original rule filed Feb. 16, 1990, effective Dec. 31, 1990. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 15, 2008.

*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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on

December 26, 2008. Faxed or emailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners/Operators of  
Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program.** The commission is amending section (1) and subsections (2)(B) and (2)(D).

*PURPOSE:* This rule needs to be periodically updated to incorporate by reference the most current edition of the *Code of Federal Regulations (CFR)*. Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 270, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the *Code of Federal Regulations*.

(1) The regulations set forth in 40 CFR part 270, July 1, [2004] 2006, except for the changes made at 70 FR 53453 September 8, 2005, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) The owner/operator of a permitted hazardous waste treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this rule along with 40 CFR part 270, incorporated in this rule. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.)

(B) Permit Application. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart B.

1. Existing hazardous waste management facilities must submit a state Part A permit application to the department no later than sixty (60) days after the effective date of state rules which first require them to comply with the requirements set forth in 10 CSR 25-7.265 or 10 CSR 25-7.266. A facility which did not meet federal notification and Part A submittal requirements under the Hazardous and Solid Waste Amendments (HSWA) shall not qualify for state interim



status. State interim status is granted to those facilities which either meet federal interim status requirements, are required to meet state interim status requirements because no federal interim status requirements affect the filing, or become subject to regulations under state rules which are not promulgated to meet the requirements of 40 CFR part 271.

2. Confidentiality may be requested for the information required in 40 CFR 270.13(a)–(m) incorporated in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential business information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not incorporated by reference in this rule.

3. The topographic map required in 40 CFR 270.13(l) incorporated in this rule shall also depict surrounding land uses such as residential, commercial, agricultural, and recreational.

4. Seismic evaluation requirements for hazardous waste management facility permit applicants. 40 CFR 270.14(b)(11)(i) and (ii) are not incorporated in this rule. An applicant for a hazardous waste management facility permit (excluding post-closure) shall design and construct the facility to withstand stresses due to earthquake loading or certify that the existing facility is able to withstand stresses due to earthquake loading. In the event that the regulated unit cannot withstand stresses, the facility shall certify that a release or situation which will endanger human health and/or the environment is not likely to occur. The applicant shall submit as part of the permit application a certification of the adequacy of the design or the ability of the existing facility to withstand stresses due to earthquake loading. The certification shall consider the location of the facility (e.g., the proximity of the facility to an active seismic zone) and must be completed by a qualified [*independent*] professional engineer registered in Missouri.

5. In addition to the topographic map required in 40 CFR 270.14(b)(19) incorporated in this rule, an applicant for a land-based hazardous waste management facility permit shall submit drawings which depict at a minimum—

- A. Original contours;
- B. Proposed final contours;
- C. Original surface water drainage patterns;
- D. Proposed final surface water drainage patterns;
- E. Layout of the leachate collection system;
- F. Layout of the monitoring system;
- G. Access roads;
- H. Location of soil borings and trenches;
- I. Major rock outcrops and sinkholes within the map area;
- J. Occupied permanent residential dwelling houses within one-fourth (1/4) mile of the disposal facility boundaries;
- K. All available information on private and public wells, public water supply lines, and any aquifers, seeps, sinkholes, caves, or mining areas within one-fourth (1/4) mile of the facility; and
- L. For landfills only, a coordinate system referenced to a benchmark and baseline that have been permanently established on the site and referenced to Government Land Office corners and the legal boundaries of the facility as described by a registered land surveyor licensed by Missouri.

6. All submitted engineering plans and reports shall be approved by a registered professional engineer licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction methods, design standards and specifications for hazardous waste management facilities, and processes that will be utilized in the construction and operation of the facility. The engineering plans and reports shall also include a diagram of any piping, instrumentation or process flows, and descriptions of any feed systems, safety cutoffs, bypass systems, and pressure controls (for example, vents).

7. The applicant for a hazardous waste facility permit to construct or operate a facility shall submit the application to the department in triplicate (quadruplicate, if application is made for a land-based management facility). If a permit is issued, the permittee shall

submit two (2) copies of the entire approved application to the department.

8. The permit application fee set forth in 10 CSR 25-12.010 shall be submitted with the application.

9. The department will supervise any field work undertaken to collect geologic and engineering data which is to be submitted with the application. The applicant shall contact the department at least five (5) working days prior to conducting any field work that is undertaken to collect geologic and engineering data which is to be submitted with the application. A fee shall also be assessed pursuant to 10 CSR 25-12.010 for all costs incurred by the department in the observation of field work, engineering and geological review of the application, and all other review necessary by the department to verify that the application complies with section 260.395.7., RSMo.

10. The permit application shall include the following information for the purpose of notification:

A. Names and address of all persons listed on the facility mailing list as defined in 10 CSR 25-8.124(1)(A)10.C.(I)(c) shall be submitted in the form of an alphabetical list with five (5) sets of addressed, self-adhesive mailing labels also included; and

B. The name, address, and telephone number of the location where the permit application and supporting documents are to be placed, as described in 10 CSR 25-8.124(1)(B)3.B.(II)(c) and the name of the person at that location who may be contacted to schedule a review of the documents.

11. The applicant shall submit the information required by subsection (2)(H) of this rule in the form of a disclosure statement as part of the permit application.

12. An applicant may be required to submit other information as may be necessary to enable the department to carry out its duties.

13. In addition to the requirements in 40 CFR 270.15 incorporated in this rule, an owner/operator of a facility that treats hazardous waste in containers shall meet the requirements in 40 CFR 270.23 incorporated in this rule.

14. In addition to the requirements in 40 CFR 270.16 incorporated in this rule, an owner/operator of a facility that treats hazardous waste in a tank system shall meet the requirements in 40 CFR 270.23 incorporated in this rule.

15. 40 CFR 270.16(h)(2) is not incorporated in this rule.

16. An owner/operator who stores, treats, or disposes of hazardous waste in surface impoundments shall provide the following information in addition to the requirements of 40 CFR 270.17 incorporated in this rule: detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment and the design of a double-liner system that incorporates a leak detection system between liners.

17. An owner/operator who disposes of hazardous waste in landfills shall provide the following information in addition to the requirements of 40 CFR 270.21 incorporated in this rule:

A. Engineering reports which describe the geology and hydrology of the site and demonstrate the site suitability as required in 10 CSR 25-7.264(2)(N)1.;

B. Detailed plans and an engineering report addressing the following items:

(I) Management of run off from the disposal facility or unit;

(II) Minimization of erosion, landslides, and sloughing;

(III) Control of horizontal migration of leachate where applicable;

(IV) Delineation of a three hundred foot (300') buffer between the property line of the disposal facility and area to be permitted;

(V) Control of wind dispersal of waste particulate matter where applicable;

(VI) Control of odor dispersal where applicable; and

(VII) Control of escape of gases where applicable.

C. Detailed plans and engineering report explaining the location of the saturated zone in relation to the landfill and the design of

a double-liner system that incorporates a leachate collection and removal system above and between the liners; and

D. An explanation of how the volatile waste standards in 10 CSR 25-7.264(2)(N)4. are met.

18. An owner/operator of a hazardous waste treatment facility or operating disposal facility shall submit a health profile as set forth in 10 CSR 25-7.264(2)(P).

19. The person applying for a permit under sections 260.350–260.434, RSMo, shall notify the department in the permit application of any convictions for any acts occurring after July 9, 1990, which would have the effect of limiting competition. The applicant, after submission of the permit application and prior to permit issuance, shall notify the department in writing within thirty (30) days of any conviction for any act which would have the effect of limiting competition.

20. 40 CFR 270.26 is not incorporated in this rule.

21. The owner/operator of a TSD facility that accepts and/or ships hazardous waste via railroad tank car (railcar) shall submit a railcar management plan in accordance with the requirements set forth in 10 CSR 25-7.264(3).

22. The person applying for a permit under sections 260.350–260.434, RSMo shall comply with the requirements of 10 CSR 25-8.124(1).

(D) Changes to Permit. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart D.

1. In addition to the requirements of 40 CFR 270.40(b), the department shall determine, in accordance with subsection (2)(H) of this rule, whether the proposed owner or operator, including an officer or management employee of the proposed owner or operator, is a person described in section 260.395.16, RSMo, and whether any of the conditions specified in section 260.395.17, RSMo, would exist if the proposed transfer were to take place.

2. “Revocation and reissuance” of a permit, as that term is used in 40 CFR part 270 incorporated in this rule, shall mean the same as “total modification” as that term is used in 10 CSR 25-8.124.

3. The “termination” of a permit, as used in 40 CFR part 270 incorporated in this rule, shall mean the same as “revocation” of a permit as used in 10 CSR 25-8.124.

4. The director shall suspend, revoke, or not renew the permit of any person to treat, store, and dispose of hazardous waste if that person has had two (2) or more convictions in any court of the United States or of any state other than Missouri, or two (2) or more convictions within a Missouri court for crimes or criminal acts occurring after July 9, 1990, an element of which involves restraint of trade, price fixing, intimidation of the customers of any person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under Chapter 260, RSMo, the Resource Conservation and Recovery Act, or similar laws of other states within any five (5)-year period. Convictions by entities which occurred prior to the purchase or acquisition by a permittee shall not be included. The permittee shall submit a written report to the department within thirty (30) days of the conviction or plea. The report shall include information explaining the charge(s) on which the permittee was convicted, the date(s) of the conviction(s), and the date(s) and charge(s) of previous convictions.

5. The owner/operator of a facility that has had his/her permit (issued under the provisions of sections 260.350–260.434, RSMo) revoked under section 260.379, RSMo, may apply to the department for reinstatement of his/her permit after five (5) years [has] have elapsed from the date of the last conviction of crimes or criminal acts as described in section 260.379, RSMo. The application must be in writing and accompanied by a reapplication fee, updated permit application, and any other information the department deems necessary in order to reinstate the permit.

6. 40 CFR 270.42(j)(1) and 40 CFR 270.42(j)(2) are not incorporated in this rule.

7. **40 CFR 270.42(l) is not incorporated into this rule.**

*AUTHORITY: section[s] 260.370, RSMo Supp. [2005] 2007 and sections 260.390 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*PUBLIC COST: This proposed amendment will not cost state agencies or public 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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.*

*Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 11—Used Oil**

**PROPOSED AMENDMENT**

**10 CSR 25-11.279 Recycled Used Oil Management Standards.**  
The commission is amending section (1).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 279, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR parts 110.1, 112, and 279, July 1, [2004] 2006, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A)

shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

*AUTHORITY:* section 260.370, RSMo Supp. [2005] 2007. Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 15, 2008.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 12—Hazardous Waste Fees and Taxes**

**PROPOSED AMENDMENT**

**10 CSR 25-12.010 Fees and Taxes.** The commission is amending section (1) and subsection (3)(A).

*PURPOSE:* This amendment codifies changes to fees paid by hazardous waste generators that were contained in Senate Bill 225, passed by the Missouri General Assembly in 2005.

(1) Hazardous Waste Fees [and Taxes] Applicable to Generators of Hazardous Waste.

(A) A generator of hazardous waste shall pay [the following fee as required by subdivision 260.380.1(10), RSMo. A generator as defined in 10 CSR 25-5.262, unless paragraph (1)(A)1., 2. or 3. of this rule provides otherwise, shall pay a fee of one dollar per ton (\$1/ton) of hazardous waste generated. This fee shall be payable to the state of Missouri. The fee shall be paid in accordance with the following procedures: The fee shall be paid on an annual basis on or before January 1 of each year. The fee shall equal the product of one dollar per ton (\$1/ton) multiplied by the amount of tons of hazardous waste generated during the twelve (12)-month period ending June 30 of the calendar year immediately preceding January 1 of the calendar year in which payment is due. (For example, a generator would be billed in December 1992 for waste produced during the period July 1, 1991 through June 30, 1992.) The fee is applied

to hazardous waste defined by or listed in 10 CSR 25-4.261 which is regulated as hazardous waste at the time of its generation except as paragraph (1)(A)1., 2. or 3. of this rule provides otherwise. The fee shall not exceed ten thousand dollars (\$10,000) per generator per year.] a fee annually in accordance with section 260.380.1(10), RSMo. This fee shall be referred to as the In-State Waste Fee. The fee shall be paid annually, on or before January 1 of each year, at the rate of five dollars (\$5) per ton or portion thereof for the hazardous waste reported to the department for the twelve (12)-month period ending June 30 of the previous year. The fee shall not be less than one hundred fifty dollars (\$150) and not more than fifty-two thousand dollars (\$52,000) annually per generator site. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee.

EXAMPLES OF IN-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports 25 tons of hazardous waste:

$$\$5 \times 25 \text{ tons} = \$125 \text{ fee}$$

The fee would be \$150, because that is the minimum annual fee.

Example 2. ABC Company reports 41.3 tons of hazardous waste.

The number of tons would be rounded to 42:

$$\$5 \times 42 \text{ tons} = \$210 \text{ fee}$$

Example 3. ABC Company reports 11,000 tons of hazardous waste:

$$\$5 \times 11,000 \text{ tons} = \$55,000 \text{ fee}$$

The fee would be \$52,000, because that is the maximum annual fee.

1. Hazardous waste that is discharged by a generator to a municipal wastewater treatment plant, which is regulated by a permit issued by the Missouri Clean Water Commission, shall be assessed a fee of zero cents per ton (0¢/ton) of hazardous waste so managed.

[2. The fee shall not be imposed upon any generator who has registered with the department, in accordance with 10 CSR 25-5.262, less than ten (10) tons of hazardous waste per year.]

(C) A generator required to register in accordance with 10 CSR 25-5.262, in accordance with [subdivision 260.390(8)] section 260.390.2, RSMo, shall pay a landfill tax which is collected by the landfill owner/operator when depositing waste at a hazardous waste landfill.

[ (D) An individual generator required to register in accordance with 10 CSR 25-5.262 shall pay a tax based on the volume by weight and management method in accordance with subsection (1)(E) of this rule and as required by section 260.479, RSMo. Sixty percent (60%) of revenues collected from this tax shall be transmitted by the department to the Missouri Department of Revenue for deposit in the hazardous waste remedial fund and forty percent (40%) of revenues collected from this tax shall be deposited in the hazardous waste fund. The tax will be based on the volume of hazardous waste generated and the management method utilized beginning on July 1 of the year preceding the billing year and through June 30 of the billing year. A company shall not annually pay more than eighty-four thousand one hundred thirty-two dollars (\$84,132) collectively for all combined plant sites under the provisions of this subsection unless the company also has a facility utilizing blended hazardous waste fuel, nor shall a generator who is required to register in accordance with 10 CSR 25-5.262 pay less than fifty-two dollars and fifty-nine cents (\$52.59) annually. However, as outlined in subdivision 260.479.2(2), RSMo these minimum and maximum amounts may be adjusted annually by the commission by up to (2.55%).

1. The following hazardous wastes are exempted from this tax:

A. Any hazardous wastes generated by the state and any political subdivision of the state;

B. Waste oil;

C. Any hazardous waste generated by a person who qualifies as a conditionally exempt generator due to the quantity of waste generated in one (1) month or accumulated at one (1) time as specified under 10 CSR 25-3.260(1)(A)25.; and

D. Hazardous wastes legitimately discharged into a publicly-owned treatment works and exempted in 10 CSR 25-4.261. (Comment: This exclusion does not exclude sludges that are hazardous waste and are generated by industrial wastewater treatment.)

2. This tax shall not be imposed upon the following hazardous waste: hazardous waste fuel produced from hazardous waste by processing, blending or other treatment; hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site under sections 260.435–260.550, RSMo or as part of a remedial plan required under sections 260.350–260.434, RSMo; or smelter slag waste from the processing of materials into reclaimed metals.

A. Beginning with the billing sent out in December 2001 for hazardous waste generated July 1, 2000 through June 30, 2001, the exemption for hazardous waste fuel produced from hazardous waste by processing, blending or other treatment shall be removed in accordance with subdivisions 260.479.5, RSMo and 260.479.7, RSMo. However, this tax on hazardous waste fuel shall be assessed upon and paid by the facility utilizing such hazardous waste fuel as a substitute for other fuel. The tax shall be assessed and paid based upon the reporting year in which the hazardous waste fuel is received by the facility. No individual facility utilizing hazardous waste fuel shall pay more than eighty-four thousand one hundred thirty-two dollars (\$84,132) annually as a facility utilizing blended hazardous waste fuel; however, this amount is in addition to the potential eighty-four thousand one hundred thirty-two dollars (\$84,132) company cap which these facilities may be subject to as a generator of hazardous waste.

(E) A generator who is not otherwise exempted by paragraph (1)(D)1., 2. or 3. of this rule shall pay a tax in each of the applicable subdivisions.

1. SUBDIVISION A—TAX.

A. A generator who manages hazardous waste by on-site storage that requires a permit in accordance with 10 CSR 25-7.264 or interim status in accordance with 10 CSR 25-7.265 or off-site storage that is not in conjunction with incineration, resource recovery, treatment or any other similar management method and a generator utilizing a disposal facility shall use the following formula to calculate his/her tax for hazardous waste generated from each state fiscal year, July 1 of each year through June 30 of the following year. (Note: A disposal facility means a facility or part of a facility at which hazardous waste is intentionally placed into

or on any land or water and, at which, the waste will remain after closure.)

B. Tax in subdivision A =  $(\$22.93 + (\$.084015 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})$ . No individual site shall pay more than eighty-four thousand one hundred thirty-two dollars (\$84,132) annually for subdivision A waste.

### 2. SUBDIVISION B—TAX.

A. A generator who utilizes a management technique not included in subdivision A shall use the following formula to calculate his/her tax for hazardous waste generated during the state fiscal year.

B. Tax in subdivision B =  $(\$11.47 + (\$.042008 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})$ . No individual site shall pay more than forty-two thousand sixty-six dollars (\$42,066) annually for subdivision B waste.

### 3. TOTAL TAX.

A. The total tax for a generator is the applicable tax in subdivision A plus the applicable tax in subdivision B. No company shall pay annually more than eighty-four thousand one hundred thirty-two dollars (\$84,132) or less than fifty-two dollars and fifty-nine cents (\$52.59) under subsection (1)(E) unless they are also a facility utilizing blended hazardous waste fuel.

B. The billing of each year will be based on information submitted by generators and facilities on the quarterly manifest summary reports required at 10 CSR 25-5.262(2)(D)1., 10 CSR 25-7.264(2)(E)3. and 10 CSR 25-7.265(2)(E). The billing will be based on waste generated during the previous state fiscal year.]

[(F)](D) The department will bill those generators whose records on file indicate that they are subject to taxes or fees in section (1). However, if a generator does not receive a billing, it does not relieve the generator of the responsibility to pay fees or taxes imposed by this rule.

[(G) As outlined in subdivision 260.479.2(2), RSMo, the commission may annually adjust by a maximum of (2.55%), all fee amounts referred to in (1)(D) and (1)(E) of this rule. This adjustment may include the minimum fee, the maximum fees and the rates used to calculate the fee each generator shall pay.]

(3) Fees and Taxes Applicable to Applicants for Permits or Certifications and to Owners/Operators of Treatment, Storage, Disposal, or Resource Recovery Facilities.

(A) An owner/operator of hazardous waste treatment, storage, or disposal facility shall pay fees and taxes required in subsections (1)(A), (B), [(D) and (E)] and (C) of this rule. An owner/operator of a hazardous waste treatment, storage, disposal, or resource recovery facility also shall pay fees and taxes required in section (1) of this rule for hazardous waste which is transported off-site for final disposition. (Note: These fees are not applicable to waste transported off-site for storage only; however, the fees are applicable to the waste transported from the storage facility to the point of final disposition except as provided in section (1).)

**AUTHORITY:** sections 260.370, 260.380, and 260.391, RSMo Supp. 2007 and sections 260.390, 260.395, 260.437, and 260.479, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 15, 2008.

**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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 13—Polychlorinated Biphenyls

### PROPOSED AMENDMENT

**10 CSR 25-13.010 Polychlorinated Biphenyls.** The commission is amending sections (1) and (4).

**PURPOSE:** This rule needs to be periodically updated to incorporate by reference the most current edition of the *Code of Federal Regulations* (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 761, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The commission is amending sections (1) and (4) of this rule.

**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 regulations set forth in 40 CFR parts 761.3, 761.30(a)(2)(v), 761.60(b)(1)(i)(B), 761.60(g), 761.65(b), 761.71, 761.79, [40 CFR] 761.72, and 761.180(b), July 1, [2000] 2006, as published by the Office of Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any

other modifications set forth in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(4) Manifesting, Record Keeping, and Reporting.

(B) Manifests. *[No Missouri PCB facility shall accept a consignment of PCB material, PCB units or both unless it is accompanied by a hazardous waste manifest that meets the requirements of this section. All consignments of PCB material, PCB units or both originating from a Missouri PCB facility shall be accompanied by a hazardous waste manifest that meets the requirements of this section.] All shipments destined to or originating from a Missouri PCB facility shall use EPA's Uniform Hazardous Waste Manifest.*

*[1. If a consignment is destined for a Missouri PCB facility, then an EPA Form 8700-22/MDNR-HWG-10 (Missouri Hazardous Waste Manifest) (see 10 CSR 25-7.270) or its equivalent shall be completed and used according to the Missouri Hazardous Waste Manifest Instructions and the supplemental instructions for PCB manifests. The manifests and instructions are available from the department;*

*2. If a consignment originates from a Missouri PCB facility and is destined for a facility located in a state which does not regulate PCBs, then an EPA form 8700-22/MDNR-HWG-10 (Missouri Hazardous Waste Manifest) or its equivalent shall be completed and used according to the Missouri Hazardous Waste Manifest Instructions and the supplemental instructions for PCB manifests. The manifests and instructions are available from the department;*

*3. If a consignment originates from a Missouri PCB facility and is destined for a facility located in a state which regulates PCBs and the receiving state requires the use of a particular version of the Uniform Hazardous Waste Manifest (EPA Form 8700-22 or its equivalent), then the receiving state's manifest shall be used and completed according to the receiving state's manifest instructions;*

*4. The manifest shall include the following information:*

*A. The consignor's name, business address and phone number;*

*B. The transporter(s) name(s), phone number(s) and Missouri identification number(s);*

*C. The designated facility's name, site address and phone number;*

*D. The proper United States Department of Transportation (DOT) description of the consignment;*

*E. The number and type of containers;*

*F. The total quantity of the consignment expressed in standard units of weight or volume;*

*G. The appropriate PCB identification number(s) from subsection (4)(A) of this rule;*

*H. A prominent display of the words "PCB Manifest" in item 15 of the manifest; and*

*I. The original, dated signatures of the consignor, transporter(s) and facility operator;*

*5. Consignments of PCB material, PCB units or both shall be manifested separately from shipments of hazardous waste even if being conveyed by the same transporter to the same designated facility; and*

*[6.] The owner/operator of a Missouri PCB facility who ships PCB material, PCB units, or both off-site for treatment, storage, or disposal shall comply with the following requirements:*

*[A.]1. The owner/operator of a Missouri PCB facility shall contract with the designated facility to return the completed manifest to the Missouri PCB facility within thirty-five (35) days after the date the waste was accepted by the initial transporter;*

*[B.]2. An owner/operator of a Missouri PCB facility who does not receive a copy of the PCB manifest with a handwritten signature of the owner/operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter shall contact the transporter, the owner/operator of the designated facility, or both, to determine the status of the consignment;*

*[C.]3. An owner/operator of a Missouri PCB facility who has not received the completed manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five (35) days from the date the waste was accepted by the initial transporter shall submit a completed exception report to the department within forty-five (45) days from the date the waste was accepted by the initial transporter; and*

*[D.]4. The exception report shall include the following: the name, address, and telephone number of the Missouri PCB facility; the name, address, and telephone number and Missouri transporter license number for each transporter; the name, address, and telephone number of the designated facility; the manifest document numbers followed by the date of shipment; the waste description and the PCB identification number(s); the total quantity of PCB material, PCB units, or both, and the appropriate abbreviation for units of measure as follows: G—gallons (liquids only); P—pounds; T—tons (2,000 lbs.); Y—cubic yards; L—liters (liquid only); K—kilograms; M—metric tons (1,000 kg); N—cubic meters; the following certification statement, signed and dated by an authorized representative of the Missouri PCB facility: "I have personally examined and am familiar with the information submitted on this form. I hereby certify that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information which include/s/ fine and imprisonment"; a legible copy of the manifest document originated by the Missouri PCB facility and signed by the initial transporter which was retained by the Missouri PCB facility and for which the Missouri PCB facility does not have confirmation of delivery; and a cover letter signed by the facility owner/operator or his/her authorized representative explaining the efforts taken to locate the PCB material, PCB units, or both, and the results of those efforts.*

*AUTHORITY: section[s] 260.370, RSMo Supp. 2007 and sections 260.395 and 260.396, RSMo 2000. Original rule filed Aug. 14, 1986, effective Jan. 1, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 15, 2008.*

*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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO, 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.*

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 16—Universal Waste**

**PROPOSED AMENDMENT**

**10 CSR 25-16.273 Standards for Universal Waste Management.**  
The commission is amending sections (1) and (2).

*PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One (1) of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of Environmental Protection Agency (EPA) is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 263, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.*

(1) The regulations set forth in 40 CFR part 273, July 1, [2004] 2006, and the changes made at 72 FR 35666, June 29, 2007, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) Small and large quantity handlers of universal waste, universal waste transporters, universal waste collection programs, and owners/operators of a universal waste destination facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 273 incorporated in this rule. (Comment: This section has been organized such that Missouri additions or changes to a particular federal subpart are noted in the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 273 subpart A are found in subsection (2)(A) of this rule.)

(A) General. In addition to the requirements in 40 CFR part 273 subpart A, the following regulations also apply:

1. Scope.

A. [In addition to the requirements in 40 CFR 273.1(a), incorporated into this rule, this part establishes requirements for mercury switches as described in subparagraph (2)(A)4.A. of this rule, and mercury-containing thermometers and manometers as described in subparagraph (2)(A)4.B. of this rule.]

[B.] This rule does not apply to an owner/operator for that portion of or process at the facility which is in compliance with all requirements for the universal waste in question and of an R2

Missouri-certified resource recovery facility recycling universal waste as described in 10 CSR 25-9.020(3)(A)3.;

2. Applicability—batteries.

A. The additional state specific requirements described in this rule do not apply to batteries as described in 40 CFR 273.2;

3. Applicability—pesticides.

A. 40 CFR 273.3(a)(2) is modified as follows: Stocks of other unused pesticide products that are collected and managed as part of a universal waste pesticide collection program, as defined in paragraph (2)(A)9. of this rule.

(I) 40 CFR 273.3(c) is not incorporated in this rule, and this subparagraph describes when pesticides become wastes:

(a) A pesticide becomes a waste on the date the generator of a recalled pesticide agrees to participate in the recall;

(b) A pesticide becomes a waste on the date the person conducting a recall decides to discard the pesticide; and

(c) An unused pesticide product as described in 40 CFR 273.3(a)(2) becomes a waste on the date the generator permanently removes it from service.

B. The words “or reclamation” in 40 CFR 273.3(d)(1)(ii) are not incorporated in this rule;

4. (Reserved) [Applicability—mercury switches, mercury-containing thermometers and manometers.

A. Mercury switches.

(I) The requirements of this rule apply to persons managing mercury switches, defined as a device used to open, close or divert an electrical circuit that contains metallic mercury in an ampule and mercury-containing ampules that have been removed from these devices, except those listed in part A.(II) of this paragraph.

(II) The requirements of this rule do not apply to persons managing the following mercury switches:

(a) Mercury switches that are not yet wastes under 10 CSR 25-4.261. Part A.(III) of this paragraph describes when mercury switches become wastes;

(b) Mercury switches that are not hazardous waste. A mercury switch is a hazardous waste if it exhibits one (1) or more of the characteristics identified in 10 CSR 25-4.261.

(III) Generation of waste mercury switches.

(a) A used mercury switch becomes a waste on the date it is discarded or permanently removed from service.

(b) An unused mercury switch becomes a waste on the date the handler discards it or permanently removes it from service;

B. Mercury-containing thermometers and manometers.

(I) The requirements of this rule apply to persons managing mercury-containing thermometers and manometers, defined as instruments used to measure temperature or pressure that contain metallic mercury in glass tubes with sealed, capillary bores and the mercury-containing tubes that have been removed from these devices, except those listed in part B.(II) of this paragraph.

(II) The requirements of this rule do not apply to persons managing the following mercury-containing thermometers and manometers:

(a) Mercury-containing thermometers and manometers that are not yet wastes under 10 CSR 25-4.261. Part B.(III) of this paragraph describes when mercury-containing thermometers and manometers become wastes;

(b) Mercury-containing thermometers and manometers that are not hazardous waste. A mercury-containing thermometer and manometer is a hazardous waste if it exhibits one (1) or more of the characteristics identified in 10 CSR 25-4.261.

(III) *Generation of waste mercury-containing thermometers and manometers.*

(a) *A used mercury-containing thermometer or manometer becomes waste on the date it is discarded or permanently removed from service.*

(b) *An unused mercury-containing thermometer or manometer becomes a waste on the date the handler discards it or permanently removes it from service;*

5. (Reserved)

6. (Reserved)

7. (Reserved)

8. *Applicability—household and conditionally exempt small quantity generator waste.*

A. In addition to the requirements of 40 CFR 273.8(a)(1) incorporated in this rule, household hazardous wastes which are of the same type as universal wastes defined at 40 CFR 273.9 as amended by **paragraph (2)(A)9.** of this rule, and which are segregated from the solid waste stream must either be managed in compliance with this rule or 10 CSR 25-4.261(2)(A)/9./10.;

9. *Definitions.*

A. *Universal waste—In lieu of the definition of “Universal waste” in 40 CFR 273.9, the following definition shall apply: “Universal waste” means batteries as described in 40 CFR 273.2, pesticides as described in 40 CFR 273.3 as modified by paragraph (2)(A)3. of this rule, mercury-containing equipment [switches] as described in [subparagraph (2)(A)4.A. of this rule, thermostats as described in 40 CFR 273.4, as incorporated in this rule, mercury-containing thermometers and manometers as described in subparagraph (2)(A)4.B. of this rule.] 40 CFR 273.4, and lamps as described in 40 CFR 273.5.*

B. *Universal Waste Pesticide Collection Program—*a Missouri universal waste pesticide collection program is any site where stocks of unused pesticide products are collected and managed. The collection program may accept unused pesticide products from both small and large quantity handlers of universal waste pesticides, universal waste transporters, and other universal waste pesticide collection programs. The collection program must operate in compliance with the Department of Natural Resources’ Standard Procedures for Pesticide Collection Programs in Missouri and submit a Letter of Intent to the director of the Hazardous Waste Program at least fourteen (14) days prior to accepting unused pesticide products. The Letter of Intent shall contain all of the following:

(I) The name of the organization/agency sponsoring the collection program;

(II) Name, telephone number, and address of a contact person responsible for operating the collection program;

(III) Location of the collection program; **and**

(IV) Date and time of the collection.

(B) *Standards for Small Quantity Handlers of Universal Wastes.* In addition to the requirements in 40 CFR part 273 subpart B, the following regulations also apply except that additional state specific requirements do not apply to batteries as described in 40 CFR 273.2, as incorporated in this rule:

1. In addition to the requirements of 40 CFR 273.11, a small quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving small quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

[2. *The requirements of 40 CFR 273.13(c) for small quantity handlers of universal waste thermostats, as incorporated in this rule, shall also apply to small quantity handlers of universal waste mercury switches and universal waste mercury-containing thermometers and manometers. Throughout 40 CFR 273.13(c), as incorporated in this rule, the word “thermostat” or “thermostats” shall be replaced with the phrase “thermostat, mercury switch, or thermometers and manometers,” as appropriate;*

3. *In addition to the requirements of 40 CFR 273.14, as incorporated in this rule, universal waste mercury switches (i.e., each switch, or a container in which the switches are contained) must be labeled or marked clearly with any one (1) of the following phrases: “Universal Waste—Mercury Switch(es),” or “Waste Mercury Switch(es),” or “Used Mercury Switch(es);”*

4. *In addition to the requirements of 40 CFR 273.14, as incorporated in this rule, universal waste thermometers or manometers (i.e., each item, or a container in which the items are contained) must be labeled or marked clearly with any one (1) of the following phrases as is applicable to the waste: “Universal Waste—Mercury-Containing Thermometer(s) or Manometer(s),” or “Waste Mercury-Containing Thermometer(s) or Manometer(s),” or “Used Mercury-Containing Thermometer(s) or Manometer(s);”*

[5./2. The phrase “or received from another handler” in 40 CFR 273.15(a) in regards to universal waste pesticides is not incorporated in this rule;

[6./3. In 40 CFR 273.18(a), with respect to universal waste pesticides, remove the phrase “another universal waste handler” and replace it with “a Missouri-certified resource recovery facility, a universal waste pesticide collection program”;

[7./4. In addition to the requirements of 40 CFR 273.18(a) through (c) as modified in paragraphs (2)(B)/5./2. through (2)(B)/7./4. and incorporated in this rule, in regards to universal waste pesticides, if a shipment of universal waste pesticides is rejected by the Missouri-certified resource recovery facility or destination facility, the originating handler must either:

A. Receive the waste back when notified that the shipment has been rejected; or

B. Send the pesticides to another Missouri-certified resource recovery facility or to a destination facility which agrees to take the waste;

[8./5. 40 CFR 273.18(d) through (g) is not incorporated in this rule in regards to universal waste pesticides;

[9./6. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.20, as incorporated in this rule. The state may not assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(C) *Standards for Large Quantity Handlers of Universal Wastes.* In addition to the requirements in 40 CFR part 273 subpart C, the following regulations also apply:

1. In addition to the requirements of 40 CFR 273.31, a large quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving large quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in 40 CFR 273.3(a)(1) as modified by 10 CSR 25-16.273(2)(A)3. and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify EPA for those recalled universal waste pesticides under this section;

[3. *The requirements of 40 CFR 273.33(c) for large quantity handlers of universal waste thermostats, as incorporated in this rule, shall also apply to large quantity handlers of universal waste mercury switches and mercury-containing thermometers and manometers. Throughout 40 CFR 273.33(c), as incorporated in this rule, the word “thermostat” or “thermostats” shall be replaced with the phrase “thermostat, mercury switch, thermometer and manometer,”*



or “thermostats, mercury switches, thermometers and manometers,” as appropriate;]

[4.]3. In addition to the requirements in 40 CFR 273.33, a large quantity handler of universal waste must manage universal waste [thermostats, mercury switches, thermometers, manometers and mercury-containing lamps] **mercury-containing equipment** in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury contaminated residue resulting from breakage, spills, or leaks into a container that meets the requirements of 40 CFR 262.34;

B. Ensure that the area in which containers are stored is ventilated;

**4. In addition to the requirements in 40 CFR 273.33, a large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:**

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury-contaminated residue resulting from breakage, spills, or leaks into a container that meets the requirements of 40 CFR 262.34;

B. Ensure that the area in which containers are stored is ventilated; and

C. Ensure that employees handling universal waste lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of spillage or released material into appropriate containers;

[5. In addition to the requirements of 40 CFR 273.34, as incorporated in this rule, universal waste mercury switches (i.e., each switch, or a container in which the switches are contained) must be labeled or marked clearly with any one (1) of the following phrases: “Universal Waste—Mercury Switch(es),” or “Waste Mercury Switch(es),” or “Used Mercury Switch(es)”;

6. In addition to the requirements of 40 CFR 273.34, as incorporated in this rule, universal waste thermometers and manometers (i.e., each item, or a container in which the items are contained) must be labeled or marked clearly with any one (1) of the following phrases as is applicable to the waste: “Universal Waste—Mercury-Containing Thermometer(s) or Manometer(s),” or “Waste Mercury-Containing Thermometer(s) or Manometer(s),” or “Used Mercury-Containing Thermometer(s) or Manometer(s).”]

[7.]5. In 40 CFR 273.35(a) and (b), the phrase/s/ “or received from another handler” [are] is not incorporated in this rule in regards to universal waste pesticides;

[8.]6. In 40 CFR 273.35(c)(1) through (c)(6), the phrases “or is received” and “or was received” are not incorporated in this rule in regards to universal waste pesticides;

[9.]7. In 40 CFR 273.38(a), with respect to pesticide, remove the phrase “another universal waste handler” and replace it with “a Missouri-certified resource recovery facility, a universal waste pesticide collection program”;

[10.]8. In addition to the requirements of 40 CFR 273.38(a) through (c) incorporated by reference and modified by this section, if a shipment of universal waste pesticides from a large quantity generator is rejected by the Missouri-certified resource recovery facility or destination facility, the original handler must either:

A. Receive waste back when notified that the shipment has been rejected; or

B. Send the waste to another Missouri-certified resource recovery facility or to a destination facility which agrees to take the waste;

[11.]9. 40 CFR 273.38(d) through (f) is not incorporated in this rule with regards to universal waste pesticides;

[12.]10. 40 CFR 273.39(c)(1) is not incorporated in this rule in regards to universal waste pesticides;

[13.]11. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.40, as incorporated in this rule. The state may not assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

*AUTHORITY:* section 260.370, RSMo Supp. [2005] 2007. Original rule filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008.

*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:* The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on December 18, 2008, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on December 26, 2008. Faxed or emailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

### PROPOSED AMENDMENT

**12 CSR 10-23.100 [Personalized] Special License Plates.** The director proposes to amend the title, purpose, and sections (1) through (20), to renumber accordingly and to delete the forms which follow this rule in the *Code of State Regulations*.

*PURPOSE:* This proposed amendment streamlines and clarifies existing language, revises the definition of special license plates, and changes the expiration month of certain special license plates.

*PURPOSE:* This rule establishes categories of special[ized personalized] license plates as well as the procedure for application for and issuance of the [personalized] special license plates.

*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) For the purpose of this rule, "special license plates" shall include **all** personalized, **military**, collegiate, helping schools, and *[other]* special organizational license plates/.

*(2) Special license plates are Missouri license plates containing that contain letters and/or numbers [in the format requested by the applicant. The combination of letters and/or numbers] and may include one apostrophe ('), one space, or one dash (—).*

*[(3)](2) All special [personalized] license plates are available in the following plate categories[:]—*

- (A) Passenger;*
- (B) Recreational Vehicle (RV);*
- (C) Local 6;*
- (D) Local 12;*
- (E) Beyond Local 6;*
- (F) Beyond Local 12;*
- (G) Motorcycle/Motortricycle;*
- (H) Local and Beyond Local 18[—Professional Sports Team license plates only];*
- (I) Shuttle Bus—regular personalized plates only;*
- (J) Van Pool—regular personalized plates only; and*
- (K) Historic—regular personalized plates only.*

*[(4)](3) No special license plate will be issued which will conflict with any license number used or to be used in the regular license plate numbering system.*

*[(5) No two (2) owners shall be issued identical plates; and no plates shall be issued containing or suggesting any profane or obscene word or phrase.*

*(6) No refunds will be made on the unused portion of any license plates surrendered for special license plates.]*

*[(7)](4) Special license plates are not assigned to a particular vehicle until the plates are actually issued to the owner of that vehicle by the Department of Revenue.*

*[(8)](5) Special license plates shall not be transferred from one (1) owner to another **unless provided by law**, except that the holder of a special plate may follow the procedures established by the director in order to display his/her special plate on a vehicle leased by the holder after approval by the director; and they shall not be transferred from one (1) vehicle category to another. This includes any request for transfer by gift, trust, will, or judicial proceeding.*

*[(9)](6) The director of revenue shall reserve the right to approve or disapprove any request for special license plates or the transfer of license plates from one (1) vehicle to another in the same category.*

*[(10)](7) The month of expiration on all special license plates for motorcycles and motortricycles will be April of each year. Special license plates issued to **members of** the United States Congress, Missouri State Senate, **and** Missouri House of Representatives; **honorary consulars**; and the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general, which are issued in accordance with section 301.144, RSMo, will expire in January of each year. The month of expiration on all other special license plates **issued or renewed prior to January 1, 2009**, shall be staggered. **Special license plates issued or renewed on or after January 1, 2009**, shall expire as detailed in the chart below. Registrations for special license plates will be issued for a minimum of six (6) months except as other-*

**wise determined by the director. Applicants who purchase a biennial registration will extend the registration another year with the total registration not to exceed thirty (30) months.**

SPECIAL LICENSE PLATE CATEGORY	EXPIRATION MONTH
Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, United States Congress, Missouri State Senate, Missouri House of Representatives, and Honorary Consulars	January
Passenger, RV, 6,000 and 12,000 lb. Commercial Motor Vehicle (CMV), Shuttle Bus, Van Pool, Personalized Historic	July
Motorcycle/tricycle	April
18,000 lb. and above CMV	December

[[11)] Any person wanting to obtain special license plates must make original application for the plates on a form approved by the director of revenue and shall pay a fee of fifteen dollars (\$15) in addition to the regular registration fees. If at the time of registration the applicant applies for a biennial registration, s/he must submit a second special/personalized license plate fee. Application forms will be available to the public at all branch offices, fee agent offices and the Central Office of the department.]

[[12)](8) [Each i]Initial applications for special license plates shall be made on [a form prescribed by the director and] Form 1716, Application For Missouri Personalized And Special License Plates, or Form 4601, Application For Missouri Military Personalized License Plates, respectively. The Application For Missouri Personalized And Special License Plates, revised October 2008 and Application For Missouri Military Personalized License Plates, revised July 2008, both of which are incorporated by reference, are published by and can be obtained from the Missouri Department of Revenue, PO Box 43, Jefferson City, MO 65105-0043 or at <http://dor.mo.gov/mvdl/motorv/forms/>. These applications do not include any amendments or additions to their October 2008 and July 2008 editions respectively. Initial applications must be submitted to the Department of Revenue, P[.]O[.] Box [100] 569, Jefferson City, MO 65105-[0100]0569. [Each a]Applications shall be accompanied by a special license plate fee of fifteen dollars (\$15), and a current emblem-use authorization statement [in the case of collegiate license plates] or proof of military service, if required by law.

[[13)](9) [If the a]Applicants who [applies] apply for a biennial registration at the time [s/he] they pick[s] up [his/her] or renew their special license plates[, the applicant] must submit a second fifteen-dollar (\$15) fee and emblem-use authorization statement indicating the minimum donation or the original emblem-use authorization statement indicating twice the annual minimum donation, if applicable.

[[14)] An applicant may receive his/her special license plates by surrendering his/her regular registration plates and paying any additional fees due on a prorated basis or by not surrendering his/her plates and paying the full registration fee.

[[15)] Once an owner obtains special license plates s/he shall have first priority on those plates for each of the following years that s/he makes timely and appropriate reapplication (renewal) for those plates and pays the annual special plate fee of fifteen dollars (\$15) or thirty dollars (\$30) for a biennial registration and any personalized plate fee required by law, in addition to the regular registration fees. Applicants who renew collegiate license plates, helping schools and special organizational license plates must also submit a new emblem-use authorization statement. At the time of renewal, if the applicant elects a biennial registration, s/he must present an emblem-use statement that reflects at least twice the amount of the annual donation.]

[[16)](10) Special license plates for which the Department of Revenue has not received a reapplication (renewal) will be held for at least sixty (60) days from the date of expiration before being issued to a new applicant.

[[17)] Original applications for special license plates for motorcycles and motortricycles filed prior to January 1 of any calendar year shall be treated as applications for special license plates with an expiration month of the coming April. Original applications for special license plates for motorcycles and motortricycles filed after December 31 of any calendar year will be treated as applications for special license plates to be issued in the coming April with an expiration month of the next succeeding April.

(A) Example One: Original application filed on December 31, 1999, will result in special license plates, which expire in April of 2000.

(B) Example Two: Original application filed on January 1, 2000, will result in special license plates issued in April of 2000 with an expiration month of April 2001.

[[18)] Original applications for special license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives, and for the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general, in accordance with section 301.144, RSMo, filed prior to October 1 of any calendar year shall be

*treated as applications for special license plates with an expiration month of the coming January, while applications filed after the last day of September of any calendar year will be treated as application for special license plates to be issued in the coming January with an expiration month of the next succeeding January.*

*(A) Example One: Original applications filed on September 30, 2000, will result in special personalized license plates which expire in January 2001.*

*(B) Example Two: Original applications filed on October 1, 2000, will result in special license plates issued in January of 2001 with an expiration of January 2002.]*

*[(19)](11) Reapplications (renewals) for special license plates shall be filed with the Department of Revenue prior to the last day of the month in which they expire.*

*[(20)](12) The director of revenue may recall any special license plate erroneously issued under this rule.*

*AUTHORITY: sections 301.144[,] and 301.451, RSMo Supp. [1999] 2007 and section 301.449, RSMo 2000. Original rule filed Aug. 14, 1978, effective Nov. 13, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 8, 2008.*

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

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

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

**Title 12—DEPARTMENT OF REVENUE  
Division 30—State Tax Commission**

**Chapter 3—Local Assessment of Property and Appeals  
From Local Boards of Equalization**

**PROPOSED AMENDMENT**

**12 CSR 30-3.010 Appeals From the Local Board of Equalization.**

The commission is amending subsection (1)(B).

*PURPOSE: This amendment changes the date for filing appeals, making it the same for all counties.*

(1) Every owner of real property or tangible personal property shall have the right to appeal from the decision of the local board of equalization, upon compliance with the following rules:

(B) A complaint appealing a property assessment *[in counties of the first class, counties of charter government and the City of St. Louis shall be filed not later than August 15 or within thirty (30) days of the decision of the board of equalization, whichever is later. In all other counties, the complaint]* shall be filed not later than September 30 or within thirty (30) days of the decision of the board of equalization, whichever is later.

1. In any county or the City of St. Louis where the assessor fails to notify the owner of the property, or the predecessor in title or interest, of an initial assessment or an increase in assessment from the previous year, prior to the deadline for filing an appeal to the

board of equalization, the owner may appeal directly to the State Tax Commission. Appeals under this paragraph shall be filed within thirty (30) days after a county official mailed a tax statement or otherwise first communicated the assessment or the amount of taxes to the owner or on or before December 31 of the tax year in question, whichever is later. Proof of late notice shall be attached to, or set forth in, the complaint.

2. A property owner who, due to lack of notice, files an appeal directly with the State Tax Commission after tax statements are mailed shall pay his or her taxes under protest pursuant to the requirements of section 139.031.1, RSMo, and the county collector shall upon receiving either the payment under protest or the notice specified in section 140.430, RSMo, impound all portions of taxes which are in dispute. Payment of taxes without a section 139.031.1, RSMo, protest and prior to the time when the State Tax Commission's notice under section 138.430.4, RSMo, is received by the county collector, will result in disbursement of taxes and dismissal of complainant's appeal;

*AUTHORITY: section 138.430, RSMo 2000. This rule was previously filed as 12 CSR 30-2.030. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Rescinded and readopted: Filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996. Rescinded and readopted: Filed June 12, 2002, effective Nov. 30, 2002. Amended: Filed Oct. 7, 2004, effective May 30, 2005. Amended: Filed Dec. 21, 2007, effective June 30, 2008. Amended: Filed Oct. 2, 2008.*

*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 Administrative Secretary, State Tax Commission of Missouri, PO Box 146, Jefferson City, MO 65102-0146. 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 70—[Division of Medical Services]**

**MO HealthNet Division  
Chapter 70—Therapy Program**

**PROPOSED AMENDMENT**

**13 CSR 70-70.010 Therapy Program.** The division is amending the Purpose statement and sections (1)–(7).

*PURPOSE: This amendment changes the name of Missouri's medical assistance program to MO HealthNet, revises the name of the administering agency to MO HealthNet Division, changes program recipients to participants, updates the division's website address and incorporated by reference information, corrects reference to Early and Periodic Screening, Diagnostic, and Treatment program, and clarifies documentation requirements.*

*PURPOSE: This rule establishes the regulatory basis for the administration of the therapy program. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available through the [Medicaid] MO HealthNet program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are*

consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Specific details of provider participation, criteria, and methodology for provider reimbursement, [recipient] participant eligibility, and amount, duration, and scope of services covered are included in the therapy provider program manual, which is available at the website [www.dss.mo.gov/dms] www.dss.mo.gov/mhd.

(1) Administration. The [Missouri Medicaid] MO HealthNet therapy program shall be administered by the Department of Social Services, [Division of Medical Services] MO HealthNet Division. The therapy services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the [Division of Medical Services] MO HealthNet Division and shall be included in the therapy provider manual and bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, [Division of Medical Services] MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at [www.dss.mo.gov/dms, July 1, 2006] www.dss.mo.gov/mhd, November 15, 2008. This rule does not incorporate any subsequent amendments or additions. Therapy services shall include only those which are clearly shown to be medically necessary as determined by the treating physician. The division reserves the right to affect changes in services, limitations, and fees with notification to therapy providers by amending this rule.

(2) Persons Eligible. Medically necessary therapy services as determined by the treating physician are covered for individuals under the age of twenty-one (21). The Healthy Children and Youth (HCY) Program (also known as Early and Periodic Screening, [Diagnosis] Diagnostic, and Treatment (EPSDT)) ensures a comprehensive, preventive health care program for [Medicaid] MO HealthNet eligible children under the age of twenty-one (21) years. The Omnibus Budget Reconciliation Act of 1989 (OBRA-89) mandated that [Medicaid] MO HealthNet covered services be provided, based on medical necessity as identified in a HCY (EPSDT) screening. These services include physical, occupational, and speech/language therapy services. The [recipient] participant must be eligible on the date the service is furnished. [Recipients] Participants may have specific limitations to therapy program services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a [recipient] participant based on their type of assistance as outlined in the therapy provider manual. The provider shall ascertain the patient's [Medicaid/MC+] MO HealthNet status before any service is performed. The [recipient's] participant's eligibility shall be verified in accordance with methodology outlined in the therapy provider program manual.

(3) Provider Participation.

(A) To be eligible for participation in the [Missouri Medicaid] MO HealthNet therapy program, a provider must meet the criteria specified for his or her profession as outlined in the therapy provider program manual and be an enrolled [Medicaid] MO HealthNet provider.

(B) The enrolled [Medicaid] MO HealthNet provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to [recipients] participants; and

2. On request furnish to the [Medicaid] MO HealthNet agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Covered Services. The [recipient] participant shall have a referral for speech therapy services from a [Medicaid] MO HealthNet

enrolled primary care provider. The [recipient] participant shall have a prescription for occupational and physical therapy services from a [Medicaid] MO HealthNet enrolled primary care provider.

(5) Reimbursement. Payment will be made in accordance with the fee per unit of service as defined and determined by the [Division of Medical Services] MO HealthNet Division. Providers must bill their usual and customary charge for therapy services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the [Division of Medical Services] MO HealthNet Division or the provider's billed charges. Physical, occupational, and speech therapy services are only payable to the enrolled, eligible, participating provider. The [Medicaid] MO HealthNet program cannot reimburse for services performed by non-enrolled persons.

(6) Documentation. For physical, occupational, and speech therapy services, the [Division of Medical Services] MO HealthNet Division requires compliance with 13 CSR 70-3.030 and that the following documentation be included in the [recipient's] participant's record:

(A) [Recipient's complete name] First name, last name, and either middle initial or date of birth of the MO HealthNet participant;

(B) Date the service was provided (month/day/year);

(C) [Actual treatment provided] An accurate, complete, and legible description of each service(s) provided for the [recipient] participant (more than "treatment given") on the specific date of service;

(D) Individual or group therapy (the provider must document the type of therapy given);

(E) The [time] actual begin and end time taken to deliver the service [was delivered] must be clearly documented in the client record (e.g., 4:00-4:15 p.m.); providers cannot bill for charting time, only the time they spend doing the therapy;

(F) The signature of the therapist who provided the service; and/

1. Services provided by an individual under the direction or supervision of another are not reimbursed by MO HealthNet; and

2. Services provided by a person not enrolled with MO HealthNet are not reimbursed by MO HealthNet;

(G) The official Individual Education Plan (IEP) or Individual Family Services Plan (IFSP) which must be in the record when billing therapy with a WQ modifier./;

(H) The setting in which the service was rendered; and

(I) The plan of treatment, evaluation(s), test(s), findings, results, and prescription(s) as necessary.

(7) Records Retention. Sanctions may be imposed by the MO HealthNet agency against a provider for failing to make available, and disclosing to the MO HealthNet agency or its authorized agents, all records relating to services provided to MO HealthNet participants or records relating to MO HealthNet payments, whether or not the records are commingled with non-Title XIX (Medicaid) records in compliance with 13 CSR 70-3.030. These records must be retained for five (5) years from the date of service. Fiscal and medical records coincide with and fully document services billed to the [Medicaid] MO HealthNet agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the [Medicaid] MO HealthNet program, as specified above, is a violation of this regulation.

*AUTHORITY: sections 208.153 and 208.201, RSMo [2000] Supp. 2007. Original rule filed Nov. 1, 2002, effective May 30, 2003. Amended: Filed June 1, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008.*

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

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

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

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 200—Financial Examination  
Chapter 12—Missouri and Extended Missouri Mutual  
Companies**

**PROPOSED AMENDMENT**

**20 CSR 200-12.020 Extended Missouri Mutual Companies' Approved Investments.** The department is amending sections (1)–(4).

*PURPOSE: This amendment clarifies which investments, other than those specified in section 380.471, RSMo, the director permits extended Missouri mutual insurance companies to make without seeking prior approval from the director. In addition, the amendment clarifies that investments not expressly permitted by either the statute or the rule are not allowed, unless the extended Missouri mutual company obtains the prior approval of the director.*

(1) **Approved Investments.** *[The] In addition to the investments expressly permitted under section 380.471, RSMo, the following described investments shall be deemed “approved [investments] by the director” under the provisions of section 380.471, RSMo:*

(A) **Corporate bonds or bonds of any state of the United States other than Missouri or of any county or other political subdivision thereof,** with the following ratings:

1. *[Aa3] A or higher by Moody's Investors Service; [and]*
2. *[AA] A- [minus] or higher by Standard and Poor's Ratings*

**Group; or**

**3. A or higher by Fitch Ratings;**

(B) **Commercial paper with the following ratings:**

1. P-1 by Moody's Investors Service; and
2. A-1 or higher by Standard and Poor's Ratings Group; and

(C) **Home office real estate having an asset value of no more than [fifty] twenty-five percent [(50%)](25%) of the surplus in excess of the guaranty fund(s) required by section 380.271.1, RSMo, but an extended Missouri mutual company may invest in home office real estate having an asset value greater than such [fifty] twenty-five percent [(50%)](25%) with the prior approval of the director[.];**

(D) **Shares of mutual funds, including money market mutual funds, if and to the extent that:**

**1. Such mutual fund appears on the list of approved mutual funds as most recently published by the Securities Valuation Office of the National Association of Insurance Commissioners; or**

**2. The shares of such mutual fund are insured by the Securities Investor Protection Corporation; or**

**3. The shares of such mutual fund are insured by an insurance company authorized to underwrite financial guarantee insurance in this state;**

(E) **Certificates of deposit not insured by the Federal Deposit Insurance Corporation, but only to the extent that the principal and accrued interest of such certificates and money market funds are insured by an insurance company authorized to underwrite financial guarantee insurance in this state; and**

(F) **Repurchase agreements from a United States depository secured by such depository's pledge of securities consisting of bonds qualifying under subsection (1)(A) of this rule or section 380.471, RSMo, with a fair market value of at least one hundred two percent (102%) of the value of the repurchase agreement.**

(2) **Limitations.** The approved investments described in section (1) of this rule shall be subject to the following limitations:

(A) **No more than five percent (5%) of an extended Missouri mutual's assets may be invested in the bonds or commercial paper described in subsections (1)(A) and (B) in any one (1) issuer; [and]**

(B) **No more than twenty percent (20%) of an extended Missouri mutual's assets may be invested in the aggregate in all bonds or commercial paper described in subsections (1)(A) and (B)[.];**

(C) **No more than five percent (5%) of an extended Missouri mutual's assets may be invested in any one (1) mutual fund described in subsection (1)(D); and**

(D) **No more than ten percent (10%) of an extended Missouri mutual's assets may be invested in the aggregate of all mutual funds described in subsection (1)(D).**

(3) *[For purposes of this rule, commercial paper shall mean bills of exchange, promissory notes, bank-checks and other negotiable instruments] If an extended Missouri mutual makes an investment which was deemed approved under section (1) of this rule when made but such investment subsequently no longer qualifies as an approved investment under section (1) of this rule, such investment will be considered disapproved. Notwithstanding the foregoing, such investment may be approved if the investment is specifically approved by the director as provided in section (4) of this rule.*

(4) **All extended Missouri mutual companies shall provide at least sixty (60)-days' prior notice to the director of their intent to invest other than in accordance with the provisions of sections (1) through (3) of this rule or section 380.471, RSMo, and obtain the prior approval of the director prior to so investing.**

*AUTHORITY: sections 374.045, 380.471, and 380.561, RSMo 2000. Original rule filed Oct. 24, 1991, effective March 9, 1992. Amended: Filed June 14, 2001, effective Dec. 30, 2001. Amended: Filed Oct. 15, 2008.*

*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 will be held on this proposed amendment at 10:00 a.m. on January 22, 2009. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on January 29, 2009. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and*

*Professional Registration, PO Box 690, Jefferson City, Missouri 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-2619 at least five (5) working days prior to the hearing.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 500—Property and Casualty  
Chapter 7—Title**

**PROPOSED AMENDMENT**

**20 CSR 500-7.030 General Instructions.** The division is adding a new subsection (1)(G) and renumbering subsequent subsections.

*PURPOSE: This rule is being amended to adopt a form required by proposed rule 20 CSR 500-7.080.*

*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) Filing and Report Forms. The following forms are incorporated by reference and approved for filing with the department. The forms contain no later amendments or additions and are available to the public for inspection and copying at the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) or at the department offices at 301 West High Street, Room 530, Jefferson City, MO 65101.

**(G) The Insurer's On-site Review Report form (Form T-6A and Form T-6B), revised September 9, 2008, or any form which substantially comports with the specified form.**

*/(G)/(H) The Uniform Premium (Risk Rate) Report form (Form T-7), revised January 1, 2008, or any form which substantially comports with the specified form.*

*/(H)/(I) The Seller's Closing Protection Letter form (Form T-8 and Form T-8alt), revised on January 17, 2008, or any form which substantially comports with the specified form.*

*/(I)/(J) The Buyer's or Lender's Closing Protection Letter form (Form T-9 and Form T-9alt), revised on January 17, 2008, or any form which substantially comports with the specified form.*

*/(J)/(K) The Title Plant Registration form (Form T-12), revised on May 21, 2008, or any form which substantially comports with the specified form.*

*AUTHORITY: section 374.045, RSMo 2000 and section 381.042, RSMo Supp. 2007. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Emergency amendment filed Oct. 15, 2008, effective Jan. 1, 2009, expires June 29, 2009. Amended: Filed Oct. 15, 2008.*

*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 will be held on this proposed amendment at 10:00 a.m. on January 22, 2009. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on January 29, 2009. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, Missouri 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-2619 at least five (5) working days prior to the hearing.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 500—Property and Casualty  
Chapter 7—Title**

**PROPOSED RULE**

**20 CSR 500-7.080 Insurer's Annual On-site Review**

*PURPOSE: This regulation prescribes requirements for the minimum threshold level of review, standards of review, and the approved review report to the director for the insurer's annual on-site review of title agencies or title agents. This report to the director is a review report and is not intended to limit the actions of insurers in performing more detailed reviews.*

(1) Annual On-site Review Required Under Certain Circumstances.

(A) Insurers must conduct in each calendar year, after the initial contract year, an on-site review of agent/agency practices for each agent or agency that is currently appointed as a policy issuing agent. A report of such review shall be made to the director pursuant to subsection (2)(A) of this rule.

(B) The on-site review required under this rule constitutes minimum insurer review levels.

(2) Standards of Annual On-site Review. Insurer shall conduct an annual on-site review of underwriting, claims, and escrow practices of agencies where commitments and/or policies of the insurer have been issued that is reasonably designed to detect violations of Chapter 381, RSMo, compliance with the Issuing Agency Agreement and compliance with the underwriting standards and guidelines as established by the insurer. The insurer annual on-site review shall provide, at a minimum, for the following:

(A) Licensure Review. Each on-site review shall include a review of the title insurance agency license;

(B) Underwriting Practices and Claims. The title insurer shall review the agency's adherence to its established underwriting standards. The title insurer shall review the agency's procedures for notification of claims according to the terms of the Issuing Agency Contract between the title agency or agent and the insurer and the terms contained in the insurer's policies of title insurance;

(C) Insurer Remittances. Each on-site review shall verify that the funds held on behalf of the insurer are reasonably ascertainable from the books of account and records of the title agency or agent and are sufficient to satisfy the obligations of the title agency or agent to the insurer. Each on-site review shall verify that remittances are being paid to the insurer by the policy issuing agent in a timely manner in accordance with section 381.038.3, RSMo;

(D) Insurer-Agency Contract. Each on-site review shall include a

review of the title insurer and title insurance agency/title insurance agent contracts to ensure a) the contract sets forth the responsibilities of each party and, when both parties share the responsibility for a particular function, specifies the division of responsibilities, and b) the contract is up-to-date and properly executed;

(E) Annual Statement. The title insurer shall obtain from the title insurance agent, or from the title insurance agency if the title insurance agent is employed by a title insurance agency, a statement of financial condition of the title insurance agent or title insurance agency as required pursuant to section 381.023.2(2), RSMo, which includes an income statement and balance sheet or federal tax return showing the condition of the title insurance agent/agency affairs as of December 31 of the preceding year, or fiscal year. This statement of financial condition shall be certified by the title insurance agent or the title insurance agency's designated agent as being a true and correct representation of the financial condition. The title insurer shall document its receipt of the title insurance agent's or title insurance agency's statement of financial condition in the title insurer's on-site review report and shall maintain the documentation provided by the agent/agency in support of such statement for a period of at least four (4) years;

(F) Affiliated Business. The title insurer shall review the title insurance agent's affiliated business arrangements for conflicts of interest and regulatory compliance;

(G) Orders. Each on-site review shall reconcile the title agency or agent's orders with commitments, title searches and title policies of the insurer, and collection of premiums on behalf of the insurer;

(H) Commitments. Each on-site review shall include a review of:

1. The title insurance agent's procedure for tracking issued commitments of the insurer;

2. The title insurance agent's practices relating to cancellation of commitments of the insurer on transactions that do not close; and

3. The title insurance agent's procedures for follow-up after closing to track status of outstanding conditions required for timely issuance of policies of the insurer;

(I) Voiding Policies. Each on-site review shall include a review of the title insurance agent's procedure for voiding policies of the insurer according to the terms of the Issuing Agency Contract and other guidelines as may be established from time-to-time by the insurer;

(J) Escrow, Security, and Settlement File Tracking. Each on-site review shall include a review of the title insurance agent's tracking of its open escrow files, security settlement, or closing files where commitments or policies of the insurer have been issued;

(K) Policy Register. Each on-site review shall include a reconciliation of policy jackets provided to the title insurance agent by the insurer, compared to existing outstanding inventory and policies of the insurer issued by the title insurance agent;

(L) Policy Issuance. Each on-site review shall include a review of the title insurance agent's files, where commitments or policies of the insurer have been issued, to determine the average length of time between the issuance of the title policy and either all of the requirements to insure have been met or special circumstances for policy delay as contained in 20 CSR 500-7.090 have been met; and

(M) Escrow Practices and Account Reconciliation. For those agents performing escrow, security settlement, or closing services pursuant to section 381.022, RSMo, the title insurer shall review the title insurance agent's closing procedures and shall include a sample of escrow closing files where commitments or policies of the title insurer have been issued, and based upon the findings of a review of the monthly reconciliations of all of the fiduciary trust accounts, as certified by the title agent or agency to the insurer, prepared by the title agent or agency. The review shall include a determination of compliance with the following: a) use of escrow agreements; b) adherence to the "good funds" requirements; c) deposit practices; d) disbursement of funds in compliance with written instructions; and e) recording of all deeds, releases, and other documents required of the title insurance agent.

(3) Insurer's On-site Review Report (Form T-6A and T-6B).

(A) Insurers conducting an annual on-site review are required under section 381.023.4, RSMo, to report the findings to the director. This report shall be made utilizing the Insurer's On-site Review Report form (Form T-6A) and Title Insurer's On-site Review Sampling Methods (Form T-6B), or any form that substantially comports with the specified form.

(B) Review Reports T-6A and T-6B shall be submitted to the director within one hundred twenty (120) days of the completion of the review, except that findings relating to Section 14, Escrow Practices and Account Reconciliation, of Form T-6A, that do not comply with the escrow standards of the insurer, shall be submitted to the director within ten (10) days of verification of such findings.

(C) The title insurer shall complete Form T-6B for each title insurance agent on-site review report. Form T-6B shall be deemed by the department to be a trade secret as defined by section 417.453(4), RSMo, inasmuch as such data possess economic value by virtue of its confidential status, the same or like information is unavailable through other sources, and insurers have made reasonable efforts to maintain the confidentiality of the data. As such, Form T-6B shall be considered confidential communications and immune from requests made under Chapter 610, RSMo, nor shall such data otherwise be made available to the public or unauthorized individuals except in the manner and form prescribed by this rule.

*AUTHORITY: section 374.045, RSMo 2000 and sections 381.023 and 381.042, RSMo Supp. 2007. Emergency rule filed Oct. 15, 2008, effective Jan. 1, 2009, expires June 29, 2009. Original rule filed Oct. 15, 2009.*

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

*PRIVATE COST: This proposed rule will cost underwriters approximately seventy-two thousand seven hundred fifty-five dollars (\$72,755) initially and seventy-three thousand three hundred thirty-five dollars (\$73,335) annually. This proposed rule will cost title insurance agents approximately three hundred seventeen thousand seven hundred fifty-five dollars (\$317,755) initially and seventy-six thousand two hundred fifty-five dollars (\$76,255) annually.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on January 22, 2009. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on January 29, 2009. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, Missouri 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-2619 at least five (5) working days prior to the hearing.*



FISCAL NOTE  
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	<b>20 CSR 500-7.080</b>
Type of Rulemaking	<b>Insurer's Annual Onsite Review</b>

II. SUMMARY OF FISCAL IMPACT

<b>Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:</b>	<b>Classifications by types of the business entities which would likely be affected:</b>	<b>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</b>
56	Title Underwriters	Initial: \$72,755 Ongoing: \$73,335
483	Title Agents (Small Businesses)	Initial: \$317,755 Ongoing: \$76,255
		Totals Initial: \$390,090 Ongoing: \$148,590

III. ASSUMPTIONS

The department relied upon cost estimates provided by Mr. Buzz Shepard, Vice President and Mid Central Agency Manager, Chicago Title Insurance Company, and Mr. Brent Scheer, CFO, Farmers National Title. The department interpreted and supplemented this information in order to determine statewide estimates. Title agents' costs are also based on estimates provided by Mr. Shepard, who is very familiar with agency audits. While the information provided by Mr. Scheer was reviewed and considered, Farmer's Title is a new company and it is difficult to separate costs due to the rule from costs associated with new business startup.

The estimates set forth in this memo are forecasts of future costs. These estimates depend upon such factors the title insurance company and agency staffing and cost structure, and the amount and cost of additional resources needed for compliance. Costs could vary a great deal from entity to entity.

IV. WORKSHEET

Exhibit 1 shows the calculation of compliance cost estimates for title insurers. Title insurers' costs are based on estimates provided by Chicago Title Insurance Company. Chicago's cost of agency auditing is estimated for a typical Missouri agency before the rule, additional costs due to the rule and costs after the rule. Chicago's audit cost per agency is estimated based on the approximate number of hours of work times the average cost per hour (including travel costs). Chicago's statewide cost is estimated by multiplying the average cost per agent times the number of agencies having contracts with Chicago. Chicago's estimated costs are assumed to be representative of statewide title insurer compliance costs. A title insurer's auditing cost is also assumed to be proportional to the premium written through title insurance agents. Finally, Missouri title insurers auditing costs are estimated by multiplying Chicago's audit cost as a percent of premium by statewide premium.

**Exhibit 1**  
**Estimated Ongoing Cost For Title Insurers**

	<u>Before</u> <u>Rule</u>	<u>Due to</u> <u>Rule</u>	<u>After</u> <u>Rule</u>
1. Hours of preparation	4		
2. Hours on-site	2		
3. Hours post-review	2		
4. Total hours per agency (1)+(2)+(3)	8	4	12
5. Cost per hour (including travel)	115	83	104
6. Cost per agency (4)*(5)	920	330	1,250
7. Number of agencies	56	56	56
8. Chicago cost (6)*(7)	51,520	18,480	70,000
9. Chicago agency premium	16,483,600	16,483,600	16,483,600
10. Percent of agency premium (8)/(9)	0.313%	0.112%	0.425%
11. Statewide agency premium	64,520,312	64,520,312	64,520,312
12. Estimates statewide cost (10)*(11)	201,660	72,335	273,995

Source: Items (1) to (8) from a letter from Buzz Shepard dated 9/30/2008  
 Items (9) and (11) from NAIC

Exhibit 2 shows the estimated compliance costs for Missouri small businesses (Independent title insurance agencies). Additional audit cost per agency is estimated based on the approximate number of hours of work times the average cost per hour. The average personnel cost per hour is based on information from the Bureau of Labor Statistics and is adjusted to reflect a higher average salary and/or overtime (at the 75<sup>th</sup> percentile), payroll taxes, and benefits. The statewide annual cost is estimated by multiplying the average personnel cost per agent times the number of agencies. Computer software costs are an additional initial implementation cost. One in ten agents is assumed to purchase or upgrade software at a cost of \$5,000 per agency. The statewide initial cost is the statewide annual personnel cost plus 10% times \$5,000 times the number of agencies.

**Exhibit 2**  
**Estimated Cost of Rule to Agencies (Small Businesses)**

1. Total hours per agency	5
2. Average wages per hour	17.41
3. Wages at 75th percentile	121%
4. Benefits (percent of wages)	39%
5. Payroll taxes	7.65%
6. Total Compensation (2)*(3)*[1+(4)]*(1+(5))	31.58
7. Personnel cost per agency (1)*(6)	158
8. Software	500
9. Number of agencies	483
10. Initial Cost Estimate [(7)+(8)]*(9)	317,755
11. Ongoing Cost Estimate (7)*(9)	76,255

Notes:

1. From Mr. Shepard.
2. From BLS 2006 Quarterly Census of Employment and Wages Missouri NAICS 541191 (abstracting) & 524127 (direct)
3. From BLS Occupational Employment and Wages, May 2007 13-2099 Financial Specialists, All Other
4. From BLS Employer Costs for Employee Compensation US 2006 Professional and technical services
8. Assumes one in ten agencies will purchase software at \$5,000 each.
9. From BLS 2006 Quarterly Census of Employment and Wages Missouri NAICS 541191 & 524127