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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (3).

PURPOSE: This amendment provides for a change in MO HealthNet reimbursement of Medicare Part A and Medicare Advantage/Part C inpatient skilled nursing facility benefit crossover claims effective for dates of service beginning April 1, 2010.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division finds that this emergency amendment is necessary to generate program savings in order to sustain the current per diem reimbursement rates paid to MO HealthNet nursing facilities. The MO HealthNet Division also finds an immediate danger to public health, safety, and/or welfare which require emergency actions if the program savings are not generated. If this emergency amendment is not enacted, there would be per diem rate reductions which would cause significant cash flow shortages causing a financial strain on Missouri nursing facilities which service approximately twenty-four thousand (24,000) individuals eligible for the MO HealthNet nursing facility program. This financial strain, in turn, would result in an adverse impact on the health and welfare of MO HealthNet participants in need of nursing facility services. The MO HealthNet Division expects program savings to be generated by no longer

automatically reimbursing the coinsurance amount determined by Medicare for inpatient nursing facility services. MO HealthNet will now determine the Medicaid amount allowable for those services which is limited to the fee-for-service amount that would be paid by MO HealthNet. If the fee-for-service amount that would be paid by MO HealthNet is equal to or less than the Medicare reimbursement for the coinsurance days services, no coinsurance will be paid. The MO HealthNet Division expects the cost to the nursing facility for nonpayment of the coinsurance amount for Medicare Part A to be recovered through Medicare reimbursement. The bad debts associated with nonpayment of the coinsurance amount for Medicare Part C are not eligible for reimbursement from Medicare; however, the Medicare Part C crossover claims only represent eleven one-hundredth percent (0.11%) of the total crossover claims. Nursing facilities will be responsible for properly reporting the allowable bad debt relating to the coinsurance amount for Medicare Part A not paid by the MO HealthNet Division on their Medicare cost report to receive Medicare reimbursement. During the initial year of implementation, nursing facilities may experience a delay of approximately eighteen (18) months in receiving the reimbursement from Medicare for the allowable bad debt, depending on cost reporting deadlines and the facility's fiscal year end. After the first year of implementation, the Medicare Administrative Contractor may make bi-weekly interim payments for allowable Medicare bad debts in accordance with 42 CFR 413.355. If the nursing facilities properly report the allowable bad debt for Medicare Part A associated with this proposed regulation on their Medicare cost report, the impact could be zero dollars (\$) because allowable bad debt related to dual eligible individuals will be reimbursed by Medicare at one hundred percent (100%) of allowable bad debt in accordance with 42 CFR 413.89. However, if they do not properly report the allowable bad debt on the Medicare cost report, the nursing facilities may not receive reimbursement from Medicare. The impact for the bad debts associated with nonpayment of the coinsurance amount for Medicare Part C is expected to be minimal since only eleven one-hundredth percent (0.11%) of the total crossover claims relate to Medicare Part C. A proposed amendment which covers the same material will be published in the *Missouri Register*. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances and has discussed the proposed change with nursing facility industry associations and industry leaders. This emergency amendment was filed March 11, 2010, becomes effective April 1, 2010, and expires September 27, 2010.

(3) General Principles.

(U) Effective for dates of service beginning April 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part A and Medicare Advantage/Part C inpatient skilled nursing facility benefits shall be as follows:

1. Crossover claims for Medicare Part A inpatient skilled nursing facility benefits in which Medicare was the primary payer and the MO HealthNet Division is the payer of last resort for the coinsurance must meet the following criteria to be eligible for MO HealthNet reimbursement:

A. The crossover claim must be related to Medicare Part A inpatient skilled nursing facility benefits that were provided to MO HealthNet participants also having Medicare coverage; and

B. The crossover claim must contain approved coinsurance days. The amount indicated by Medicare to be the coinsurance due on the Medicare allowed amount is the crossover amount eligible for MO HealthNet reimbursement. The coinsurance amount is based on the days for which Medicare is not the sole payer. These days are referred to as coinsurance days and are days twenty-one (21) through one hundred (100) of each Medicare benefit period; and

C. The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MO HealthNet for payment. Providers submitting crossover claims for Medicare Part A inpatient skilled nursing facility benefits to the MO HealthNet program must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Part A plan's remittance advice. Any amounts paid by MO HealthNet that are determined to be based on inaccurate data will be subject to recoupment; and

D. The nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days exceeds the amount paid by Medicare for the same approved coinsurance days;

2. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) inpatient skilled nursing facility benefits in which a Medicare Advantage plan was the primary payer and the MO HealthNet Division is the payer of last resort for the copay (coinsurance) must meet the following criteria to be eligible for MO HealthNet reimbursement:

A. The crossover claim must be related to Medicare Advantage inpatient skilled nursing facility benefits that were provided to MO HealthNet participants who also are either a Qualified Medicare Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

B. The crossover claim must be submitted as a Medicare UB-04 Part C Institutional Crossover claim through the division's online Internet billing system; and

C. The crossover claim must contain approved coinsurance days. The amount indicated by the Medicare Advantage plan to be the coinsurance due on the Medicare Advantage plan allowed amount is the crossover amount eligible for MO HealthNet reimbursement. The coinsurance amount is based on the days for which the Medicare Advantage plan is not the sole payer. These days are referred to as coinsurance days and are established by each Medicare Advantage plan; and

D. The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MO HealthNet for payment. Providers submitting crossover claims for Medicare Advantage inpatient skilled nursing facility benefits to the MO HealthNet program must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MO HealthNet that are determined to be based on inaccurate data will be subject to recoupment; and

E. The nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days exceeds the amount paid by the Medicare Advantage plan for the same approved coinsurance days;

3. MO HealthNet reimbursement will be the lower of—

A. The difference between the nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days and the amount paid by either Medicare or the Medicare Advantage plan for those same coinsurance days; or

B. The coinsurance amount; and

4. Nursing facility providers may not submit a MO HealthNet fee-for-service nursing facility claim for the same dates of service on the crossover claim for Medicare Part A and Medicare Advantage inpatient skilled nursing facility benefits. If it is determined that a MO HealthNet fee-for-service nursing facility claim is submitted and payment is made, it will be subject to recoupment.

21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed March 11, 2010, effective April 1, 2010, expires Sept. 27, 2010. A proposed amendment covering this same material appears in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2009.

EXECUTIVE ORDER 10-19

WHEREAS, in March 2009, by Executive Order 09-17, I created the Transform Missouri Project; and

WHEREAS, the functions of the Project are to ensure that the State of Missouri dedicates the resources and expertise necessary to maximize Missouri's access to and results from the American Recovery and Reinvestment Act of 2009, and to ensure that the compliance requirements of the Act are met; and

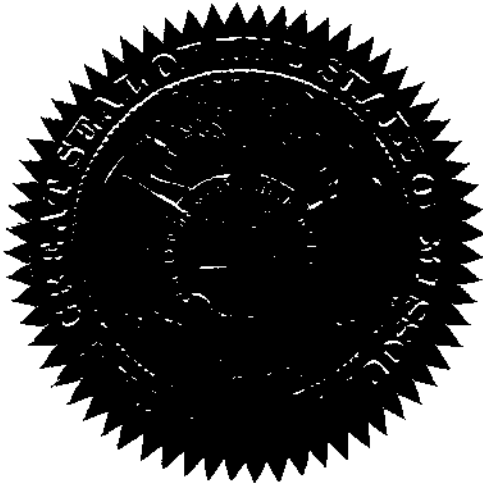
WHEREAS, the Project continues to perform these valuable and necessary functions; and

WHEREAS, it is necessary to amend Executive Order 09-17 as it pertains to supervisory authority over the Project.


NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by the virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby amend Executive Order 09-17 as follows:

The Commissioner of the Office of Administration has supervisory authority over all aspects of the operations of the Transform Missouri Project and the units within it, including the authority to request that the directors of the executive branch departments assign additional personnel to the Project as the Commissioner deems necessary.

The provisions of Executive Order 09-17 not amended herein shall continue in effect.




IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 2nd day of March, 2010.



Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Robin Carnahan
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

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

PROPOSED RESCISSION

3 CSR 10-7.417 Ruffed Grouse: Seasons, Limits. The commission proposes to rescind this rule. This rule established a season, with daily and possession limits, for the taking of ruffed grouse by hunting methods in parts of four (4) counties.

PURPOSE: This rescission closes the ruffed grouse season in Missouri.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Nov. 29, 1982, effective March 11, 1983. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 12, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 10-8.505 Trapping. The commission proposes to amend this rule.

PURPOSE: This amendment removes reference to a rescinded section and refers only to the rule.

Any person, to exercise the privilege of trapping, shall obtain and have on his/her person the prescribed permit or temporary permit authorization number(s), unless exempt under provisions of 3 CSR 10-5.205. The temporary permit authorization number(s) and picture identification must be carried at all times while trapping until the actual permit(s) is received. Furbearers may be purchased and sold only under provisions of Chapter 10, 3 CSR 10-4.135, and this rule. No person shall accept payment for furbearers taken by another. Furbearers may not be held alive under trapping permits, except as provided in 3 CSR 10-8.515[(7)].

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

3 CSR 10-8.515 Furbearers: Trapping Seasons. The commission proposes to amend section (5) and delete section (6) of this rule.

PURPOSE: This amendment clarifies that only live red fox, gray fox, and coyotes may be taken with cable restraints from February 1 through the end of the month and allows cable restraints to be used during the entire furbearer trapping season.

(5) Red fox, gray fox, and coyotes may be taken alive during *[established]* the furbearer trapping season/s/ by prescribed methods and by cable restraint from November 15 through the last day of February 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 March 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. Records shall be made available for inspection by an authorized agent of the department at any reasonable time.

[(6) Furbearers may be taken by trapping through the use of cable restraint devices from December 15 through the last day of February, by persons who have successfully completed a cable restraint training course, validated by a certified instructor. Cable restraint devices must be used according to 3 CSR 10-8.510.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 23, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 subsection (11)(A) of this rule.

PURPOSE: This amendment corrects a typographical error.

(11) All black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves and wolf-hybrids defined as Class II wildlife in 3 CSR 10-9.240 and introduced into a Class II wildlife

breeder operation and/or currently held under such permit are subject to the following requirements:

(A) Within sixty (60) days of birth or acquisition, animals shall be permanently tagged or marked with an identification number via a subcutaneous microchip Passive Integrated *[Transportation]* Transponder tag (PIT tag) provided by the department implanted along the animal's back between the shoulder blades, which uniquely identifies each individual animal.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 Roe Fish Commercial Harvest Permit. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies that the Resident Roe Fish Commercial Harvest Permit is required to take, possess, and sell shovelnose sturgeon and their eggs from the Missouri River and bowfin, paddlefish, and shovelnose sturgeon and their eggs from the Mississippi River.

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Dec. 30, 2003, effective July 1, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 Roe Fish Commercial Harvest Permit. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies that the Nonresident Mississippi River Roe Fish Commercial Harvest Permit is required to take, possess, and sell bowfin, paddlefish, and shovelnose sturgeon and their eggs from the Mississippi River and removes reference to a shovelnose sturgeon harvest permit in Tennessee.

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule Sept. 14, 2005, effective Feb. 28, 2006. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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; Commercial Waters. The commission proposes to amend section (1) and delete section (6) of this rule.

PURPOSE: This amendment adds reference to permit requirements for harvesting bowfin and paddlefish and removes reference to reciprocal harvest privileges for shovelnose sturgeon that are no longer available in Tennessee.

(1) Any person possessing a valid commercial fishing license issued by the state of Illinois, Tennessee, Arkansas, Kansas, or Nebraska, or who is legally exempted from the license requirement without fur-

ther permit or license, may fish as permitted by this Code in commercial waters within the boundary of Missouri and adjacent to the state where the fisherman is licensed. **Bowfin, paddlefish, and /S/shovelnose sturgeon** may not be harvested except as permitted in 3 CSR 10-10.722, 3 CSR 10-10.724, and 3 CSR 10-10.725 [and section (6) of this rule].

[(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 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. and section 252.240, RSMo 2000. Original rule filed March 14, 1973, effective March 24, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 10-10.743 Commercial Establishments. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies that fish eggs may be sold only at retail by resident commercial establishments.

Resident commercial establishments, when possession is accompanied by a valid invoice or bill of sale, may buy, possess, transport, and sell legally purchased and plainly marked dressed or processed pheasants, exotic partridges, quail, game bird eggs, bear, deer except white-tailed and mule deer, elk, moose, caribou, wild boar, live bait and frogs, and fish. Skinned furbearer carcasses and fish eggs may be sold at retail only.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180,

Jefferson City, MO 65102-0180. 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 10-12.109 Closed Hours. The commission proposes to add subsection (1)(F) and re-letter subsequent subsections of this rule.

PURPOSE: This amendment establishes closed hours at Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8).

(1) Closed Hours. The following areas are closed to public use from 10:00 p.m. to 4:00 a.m. daily; however, hunting, fishing, trapping, dog training, camping, launching boats, and landing boats are permitted at any time on areas where these activities are authorized, except as further restricted in this chapter.

(F) Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

/(F)/(G) Green City Lake
/(G)/(H) Higbee (City Waterworks Lake)
/(H)/(I) Kirksville (Hazel Creek Lake, Spur Pond)
/(I)/(J) Lancaster (New City Lake, Paul Bloch Memorial Pond)
/(J)/(K) LaPlata City Lake
/(K)/(L) Macon County (Fairground Lake)
/(L)/(M) Marceline (Marceline City Lake, Old Marceline City Reservoir)
/(M)/(N) Memphis (Lake Showme)
/(N)/(O) Milan (Elmwood Lake)
/(O)/(P) Monroe City (Route J Reservoir)
/(P)/(Q) Palmyra (Akerson Access)
/(Q)/(R) Pemiscot County (Triangle Boat Club Access)
/(R)/(S) Rockaway Beach Access
/(S)/(T) Sedalia Water Department (Spring Fork Lake)
/(T)/(U) Springfield City Utilities (Fellows Lake, Lake Springfield, Tailwaters Access)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 1, 2001, effective Oct. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 add subsection (2)(Q), re-letter subsequent subsections, and amend re-lettered subsection (2)(AA) of this rule.

PURPOSE: This amendment establishes regulations for the use of boats and motors at Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8) and St Louis County (Jarville Lake) and removes reference to St. Louis County (Queeny Park Lake).

(2) Boats are prohibited on the following areas:

(Q) Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

/(Q)/(R) Macon County (Fairgrounds Lake)
/(R)/(S) Mexico (Kiwaniis Lake)
/(S)/(T) Mineral Area College (Quarry Pond)
/(T)/(U) Mount Vernon (Williams Creek Park Lake)
/(U)/(V) Overland (Wild Acres Park Lake)
/(V)/(W) Potosi (Roger Bilderback Lake)
/(W)/(X) Rolla (Schuman Park Lake)
/(X)/(Y) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
/(Y)/(Z) St. Louis County (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)
/(Z)/(AA) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, [Queeny Park Lake,] Jarville Lake, Suson Park Lakes Nos. #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)
/(AA)/(BB) Sedalia (Clover Dell Park Lake, Liberty Park Pond)
/(BB)/(CC) Taos (Taos Countryside Park Lake)
/(CC)/(DD) Tipton (Tipton Park Lake)
/(DD)/(EE) University of Missouri (South Farm R-1 Lake)
/(EE)/(FF) Watershed Committee of the Ozarks (Valley Water Mill Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 add paragraph (1)(B)8., renumber subsequent paragraphs, and amend renumbered paragraph (1)(B)15. of this rule.

PURPOSE: This amendment establishes regulations for taking bullfrogs and green frogs at Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8) and St. Louis County (Jarville Lake) and removes reference to St. Louis County (Queeny Park Lake).

(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.

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

1. Ballwin (New Ballwin Park Lake, Vlasis Park Lake)
2. Butler City Lake
3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
4. Ferguson (January-Wabash Park Lake)
5. Jennings (Koeneman Park Lake)
6. Kirksville (Spur Pond)
7. Kirkwood (Walker Lake)
8. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

[8.]9. Macon County (Fairground Lake)

[9.]10. Mineral Area College (Quarry Pond)

[10.]11. Overland (Wild Acres Park Lake)

[11.]12. Potosi (Roger Bilderback Lake)

[12.]13. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)

[13.]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)

[14.]15. St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, [Queeny Park Lake,] Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. [1], [2], and [3], Tilles Park Lake, Veterans Memorial Park Lake)

[15.]16. Sedalia (Clover Dell Park Lake, Liberty Park Pond)

[16.]17. Sedalia Water Department (Spring Fork Lake)

[17.]18. Warrensburg (Lion's Lake)

[18.]19. Watershed Committee of the Ozarks (Valley Water Mill Lake)

[19.]20. Wentzville (Community Club Lake)

[20.]21. Windsor (Farrington Park Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 10-12.130 Fishing, General Provisions and Seasons. The commission proposes to add section (4) and renumber subsequent sections of this rule.

PURPOSE: This amendment restricts fishing at Liberty (Fountain Bluff Park Pond No. 8) to persons age fifteen (15) and younger.

(4) Fishing is restricted to persons fifteen (15) years of age or younger on the following areas or individually named lakes:

(A) Liberty (Fountain Bluff Park Pond No. 8)

[(4)](5) Fishing is prohibited on Mark Twain National Forest (Carmen Spring Management Area).

[(5)](6) On Mingo National Wildlife Refuge, fishing is permitted on all waters from March 15 through September 30. From October 1 through March 14, fishing is permitted on designated waters only.

[(6)](7) All fishing on Smithville Lake Waterfowl Refuge is closed from October 15 through January 31 in units designated by posting.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 subsection (3)(F), re-letter subsequent subsections, and amend re-lettered subsection (3)(I) of this rule.

PURPOSE: This amendment establishes methods for taking gizzard shad at Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8) and St. Louis County (Jarville Lake) and removes reference to St. Louis County (Queeny Park Lake).

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

(F) Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

[(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, [Queeney Park Lake,] Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. [#]1, [#]2, and [#]3, Tilles Park Lake, Veteran's Memorial Park Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 amend sections (2), (5), (8), and (9) of this rule.

PURPOSE: This amendment establishes daily limits on black bass and bluegill at Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8), on black bass, crappie, and other species at St Louis County (Jarville Lake), corrects a reference within section (9), and removes reference to St. Louis County (Queeney Park Lake).

- (2) The daily limit for black bass is two (2) on the following lakes:
- ~~(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, [Queeney Park Lake,] Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
 - ~~(Y)~~ **(Z)** University of Missouri (South Farm R-1 Lake)
 - ~~(Z)~~ **(AA)** Warrensburg (Lion's Lake)
 - ~~(AA)~~ **(BB)** Watkins Mill State Park Lake
 - ~~(BB)~~ **(CC)** Wentzville (Community Club Lake)
 - ~~(CC)~~ **(DD)** Windsor (Farrington Park Lake)

(5) The daily limit for crappie is fifteen (15) on the following lakes:

(F) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, [Queeney Park Lake,] Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

(8) The daily limit for bluegill is ten (10) on Columbia (Stephens Lake) and Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8).

(9) 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 sections ~~[(9)](7)~~ and ~~[(10)](8)~~ of this rule:

(K) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, [Queeney Park Lake,] Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 add paragraph (2)(A)23., renumber subsequent paragraphs, and amend paragraphs (2)(A)31. and (2)(B)11. of this rule.

PURPOSE: This rule establishes a fifteen-inch (15") minimum length limit on black bass at Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8) and an eighteen-inch (18") minimum length limit on black bass at St. Louis County (Jarville Lake) and removes reference to St. Louis County (Queeney Park Lake).

(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:

(A) 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 Nos. 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. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)
 - /23./24. Maysville (Willow Brook Lake)
 - /24./25. Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake)
 - /25./26. Mineral Area College (Quarry Pond)
 - /26./27. Odessa (Lake Venita)
 - /27./28. Pershing State Park ponds
 - /28./29. Potosi (Roger Bilderback Lake)
 - /29./30. Unionville (Lake Mahoney)
 - /30./31. University of Missouri (Dairy Farm Lake No. 1, McCredie Lake)
 - /31./32. Warrensburg (Lion's Lake)
 - /32./33. Watkins Mill State Park Lake
 - /33./34. Windsor (Farrington Park Lake)
- (B) 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. Columbia (Twin Lake)
 3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
 4. Ferguson (January-Wabash Lake)
 5. Jennings (Koeneman Park Lake)
 6. Kirkwood (Walker Lake)
 7. Overland (Wild Acres Park Lake)
 8. Sedalia Water Department (Spring Fork Lake)
 9. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
 10. 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)
 11. St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, *[Queeney Park Lake,] Jarville Lake*, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
 12. University of Missouri (South Farm R-1 Lake)
 13. Wentzville (Community Club Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 March 12, 2010.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance
Abuse Programs**

PROPOSED AMENDMENT

9 CSR 10-7.090 Governing Authority and Program Administration. The Department of Mental Health is amending this rule by adding a new section (5) and renumbering the subsequent sections.

PURPOSE: This amendment sets forth requirements for each agency to develop and maintain corporate compliance plans.

(5) Each agency shall develop a corporate compliance plan designed to prevent, detect, and report health care fraud and abuse.

(A) An individual shall be identified as a corporate compliance officer who shall have responsibility for coordinating, implementing, and monitoring the plan.

(B) The corporate compliance plan shall include education and training of staff and specific oversight activities to monitor and detect potential fraud and abuse.

[(5)](6) Accountability. The organization establishes a formal, accountable relationship with any contractor or affiliate who provides direct service but who is not an employee of the organization.

[(6)](7) Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulatory Compliance. The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220.

AUTHORITY: section[s] 630.050, RSMo Supp. 2009 and section 630.055, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Emergency amendment filed April 1, 2003, effective April 14, 2003, expired Oct. 14, 2003. Amended: Filed April 1, 2003, effective Oct. 30, 2003. Amended: Filed March 15, 2010.

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 Julie Carel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health, 1706 E. Elm Street, Jefferson City, Missouri 65101. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.035 Client Records of a Community Psychiatric Rehabilitation Program. The Department of Mental Health is adding new subsections (8)(A) and (8)(B), renumbering current subsections (8)(A) and (8)(B), and deleting section (19).

PURPOSE: This amendment sets a specific timeline for completing documentation in the client record. This rule prescribes the content requirements of a clinical record maintained by a community psychiatric rehabilitation program. This amendment also removes form number MO 650-3190 as the form is no longer required.

(8) Each client's record shall document services, activities, or sessions that involve the client.

(A) Client records shall be legible and made contemporaneously with the delivery of the service or within seventy-two (72) hours of the time the service was provided.

(B) Services shall be documented in the client record prior to submitting for payment.

[(A)](C) For psychosocial rehabilitation, the clinical record shall include:

1. A weekly note that summarizes specific services rendered, client response to the services, and pertinent information reported by family members or significant others regarding a change in the client's condition, or an unusual/unexpected occurrence in the client's life, or both; and

2. Daily attendance records or logs that include actual attendance times, as well as activity or session attended. These program attendance records/logs must be available for audit and monitoring purposes, however integration into each clinical record is not required.

[(B)](D) For all other community psychiatric rehabilitation program services, the client record shall include documentation of each session or episode that involves the client.

1. The specific services rendered.
 2. The date and actual time the service was rendered.
 3. Who rendered the service.
 4. The setting in which the services were rendered.
 5. The amount of time it took to deliver the services.
 6. The relationship of the services to the treatment regimen described in the treatment plan.

7. Updates describing the client's response to prescribed care and treatment.

[(19) Form number MO 650-3190 is included herein.]

AUTHORITY: section 630.655, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed March 15, 2010.

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 Julie Carel, Division of Comprehensive Psychiatric Services, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after pub-

lication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health, 1706 E. Elm Street, Jefferson City, Missouri 65101. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.042 Admission Criteria. The Department of Mental Health is adding paragraph (4)(B)12.

PURPOSE: This amendment adds a qualifying diagnosis for the community psychiatric rehabilitation program for persons aged sixty (60) and over. This rule establishes criteria and procedures for admission of eligible individuals to a community psychiatric rehabilitation program.

(4) The criteria for admission to community psychiatric rehabilitation program services shall include:

(B) Diagnosis. A physician or licensed psychologist shall certify a primary *Diagnostic and Statistical Manual (DSM)* diagnosis as defined in 9 CSR 10-7.140(2)(OO) or *International Classification of Diseases, Ninth Revision with Clinical Modification (ICD-9-CM)*, using the current edition of the manual. This diagnosis may coexist with other psychiatric diagnoses in Axis I or other areas.

1. Schizophrenia.
 - A. Disorganized.
 - (I) DSM IV code: 295.1X
 - (II) ICD-9-CM code: 295.1X
 - B. Catatonic.
 - (I) DSM IV code: 295.2X
 - (II) ICD-9-CM code: 295.2X
 - C. Paranoid.
 - (I) DSM IV code: 295.3X
 - (II) ICD-9-CM code: 295.3X
 - D. Schizophreniform.
 - (I) DSM IV code: 295.4X
 - (II) ICD-9-CM code: 295.4X
 - E. Residual.
 - (I) DSM IV code: 295.6X
 - (II) ICD-9-CM code: 295.6X
 - F. Schizoaffective.
 - (I) DSM IV code: 295.7X
 - (II) ICD-9-CM code: 295.7X
 - G. Undifferentiated.
 - (I) DSM IV code: 295.9X
 - (II) ICD-9-CM code: 295.9X
2. Delusional disorder.
 - A. DSM IV code: 297.1X
 - B. ICD-9-CM code: 297.1X
3. Bipolar I disorders.
 - A. Single manic episode.
 - (I) DSM IV code: 296.0X
 - (II) ICD-9-CM code: 296.0X
 - B. Most recent episode manic.
 - (I) DSM IV code: 296.4X
 - (II) ICD-9-CM code: 296.4X
 - C. Most recent episode depressed.
 - (I) DSM IV code: 296.5X
 - (II) ICD-9-CM code: 296.5X
 - D. Most recent episode mixed.
 - (I) DSM IV code: 296.6X
 - (II) ICD-9-CM code: 296.6X
4. Bipolar II disorders.

- A. DSM IV code: 296.89
- B. ICD-9-CM code: 296.89
- 5. Psychotic disorders NOS.
 - A. DSM IV code: 298.9
 - B. ICD-9-CM code: 298.9
- 6. Major depressive disorder-recur.
 - A. DSM IV code: 296.3X
 - B. ICD-9-CM code: 296.3X
- 7. Obsessive-Compulsive Disorder.
 - A. DSM IV code: 300.30
 - B. ICD-9-CM code: 300.3
- 8. Post Traumatic Stress Disorder.
 - A. DSM IV code: 309.81
 - B. ICD-9-CM code: 309.81
- 9. Borderline Personality Disorder.
 - A. DSM IV code: 301.83
 - B. ICD-9-CM code: 301.83
- 10. Anxiety Disorders.
 - A. Generalized Anxiety Disorder.
 - (I) DSM IV code: 300.02
 - (II) ICD-9-CM code: 300.02
 - B. Panic Disorder with Agoraphobia.
 - (I) DSM IV code: 300.21
 - (II) ICD-9-CM code: 300.21
 - C. Panic Disorder without Agoraphobia.
 - (I) DSM IV code: 300.01
 - (II) ICD-9-CM code: 300.01
 - D. Agoraphobia without Panic Disorder.
 - (I) DSM IV code: 300.22
 - (II) ICD-9-CM code: 300.22
 - E. Social Phobia.
 - (I) DSM IV code: 300.23
 - (II) ICD-9-CM code: 300.23
- 11. For children and youth only.
 - A. Major depressive disorder, single episode.
 - (I) DSM IV code: 296.2X
 - (II) ICD-9-DM code: 296.2
 - B. Bipolar disorder, not otherwise specified.
 - (I) DSM IV code: 296.80
 - (II) ICD-9-CM code: 296.7
 - C. Reactive attachment disorder of infancy or early childhood.
 - (I) DSM IV code: 313.89
 - (II) ICD-9-CM code: 313.89
- 12. For adults aged sixty (60) years and over.
 - A. Major depressive disorder, single episode.
 - (I) DSM IV code: 296.2X
 - (II) ICD-9-DM code: 296.2

AUTHORITY: section[s] 630.050, RSMo Supp. 2009 and sections 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed March 15, 2010.

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 Julie Carel, Division of Comprehensive Psychiatric Services, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health,

1706 E. Elm Street, Jefferson City, Missouri 65101. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (3).

PURPOSE: This amendment provides for a change in MO HealthNet reimbursement of Medicare Part A and Medicare Advantage/Part C inpatient skilled nursing facility benefit crossover claims effective for dates of service beginning April 1, 2010.

(3) General Principles.

(U) Effective for dates of service beginning April 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part A and Medicare Advantage/Part C inpatient skilled nursing facility benefits shall be as follows:

1. Crossover claims for Medicare Part A inpatient skilled nursing facility benefits in which Medicare was the primary payer and the MO HealthNet Division is the payer of last resort for the coinsurance must meet the following criteria to be eligible for MO HealthNet reimbursement:

A. The crossover claim must be related to Medicare Part A inpatient skilled nursing facility benefits that were provided to MO HealthNet participants also having Medicare coverage; and

B. The crossover claim must contain approved coinsurance days. The amount indicated by Medicare to be the coinsurance due on the Medicare allowed amount is the crossover amount eligible for MO HealthNet reimbursement. The coinsurance amount is based on the days for which Medicare is not the sole payer. These days are referred to as coinsurance days and are days twenty-one (21) through one hundred (100) of each Medicare benefit period; and

C. The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MO HealthNet for payment. Providers submitting crossover claims for Medicare Part A inpatient skilled nursing facility benefits to the MO HealthNet program must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Part A plan's remittance advice. Any amounts paid by MO HealthNet that are determined to be based on inaccurate data will be subject to recoupment; and

D. The nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days exceeds the amount paid by Medicare for the same approved coinsurance days;

2. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) inpatient skilled nursing facility benefits in which a Medicare Advantage plan was the primary payer and the MO HealthNet Division is the payer of last resort for the copay (coinsurance) must meet the following criteria to be eligible for MO HealthNet reimbursement:

A. The crossover claim must be related to Medicare Advantage inpatient skilled nursing facility benefits that were provided to MO HealthNet participants who also are either a Qualified Medicare Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

B. The crossover claim must be submitted as a Medicare UB-04 Part C Institutional Crossover claim through the division's online Internet billing system; and

C. The crossover claim must contain approved coinsurance days. The amount indicated by the Medicare Advantage

plan to be the coinsurance due on the Medicare Advantage plan allowed amount is the crossover amount eligible for MO HealthNet reimbursement. The coinsurance amount is based on the days for which the Medicare Advantage plan is not the sole payer. These days are referred to as coinsurance days and are established by each Medicare Advantage plan; and

D. The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MO HealthNet for payment. Providers submitting crossover claims for Medicare Advantage inpatient skilled nursing facility benefits to the MO HealthNet program must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MO HealthNet that are determined to be based on inaccurate data will be subject to recoupment; and

E. The nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days exceeds the amount paid by the Medicare Advantage plan for the same approved coinsurance days;

3. MO HealthNet reimbursement will be the lower of—

A. The difference between the nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days and the amount paid by either Medicare or the Medicare Advantage plan for those same coinsurance days; or

B. The coinsurance amount; and

4. Nursing facility providers may not submit a MO HealthNet fee-for-service nursing facility claim for the same dates of service on the crossover claim for Medicare Part A and Medicare Advantage inpatient skilled nursing facility benefits. If it is determined that a MO HealthNet fee-for-service nursing facility claim is submitted and payment is made, it will be subject to recoupment.

AUTHORITY: section 208.159, RSMo 2000 and sections 208.153 and 208.201, RSMo Supp. [2007] 2009. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 11, 2010, effective April 1, 2010, expires Sept. 27, 2010. Amended: Filed March 11, 2010.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate for SFY 2010. However, there is an estimated cost savings in SFY 2010 of \$6.7 million and \$40 million annually thereafter.

PRIVATE COST: The estimated cost to nursing facilities for SFY 2010 is \$6.7 million. However, approximately ninety-nine and eighty-nine-hundredths percent (99.89%) is expected to be recovered through Medicare reimbursement during SFY 11–SFY 12. The estimated cost to nursing facilities annually thereafter is \$40 million. However, approximately ninety-nine and eighty-nine-hundredths percent (99.89%) is expected to be recovered through Medicare reimbursement.

Nursing facilities can report the coinsurance not paid by MO HealthNet for Medicare Part A crossover claims as bad debt on their Medicare cost report and receive reimbursement from Medicare. Based on an analysis of nursing facility crossover claim expenditures for SFY 2009, ninety-nine and eighty-nine-hundredths percent (99.89%) related to Medicare Part A crossover claims which are eligible for Medicare reimbursement. The coinsurance not paid by MO HealthNet for Medicare Part C crossover claims are not eligible for reimbursement by Medicare as an allowable bad debt. Only eleven-

hundredths percent (0.11%) of nursing facility crossover claim expenditures for SFY 2009 related to Medicare Part C.

Nursing facilities will be responsible for properly reporting the bad debt relating to the coinsurance amount not paid by the MO HealthNet Division for Medicare Part A crossover claims on their Medicare cost report to receive Medicare reimbursement. During the initial year of implementation, nursing facilities may experience a delay of approximately eighteen (18) months in receiving the reimbursement from Medicare for the allowable bad debt depending on cost reporting deadlines and the facility's fiscal year end. After the first year of implementation, the Medicare Administrative Contractor may make bi-weekly interim payments for allowable Medicare bad debts in accordance with 42 CFR section 413.355. In accordance with 42 CFR section 413.89, allowable bad debt related to dual eligible individuals will be reimbursed by Medicare at one hundred percent (100%). However, if the nursing facility does not properly report the allowable bad debt for Medicare Part A crossover claims on the Medicare cost report, the nursing facility may not receive reimbursement.

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.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	Estimated cost savings for SFY 10 = \$6.7 million Estimated cost savings annually thereafter = \$40 million.

III. WORKSHEET

Cost Savings for SFY 10:

Annual Estimated Cost Savings	\$40,384,274
Divided by 12 to Determine Monthly Amount	<u>12</u>
Monthly Estimated Cost Savings	\$ 3,365,356
Multiplied by 2 Months of savings in SFY 10	<u>2</u>
SFY 10 Estimated Cost Savings	\$ 6,730,712

Cost Savings for SFY 11 forward:

Annual Estimated Cost Savings	\$40,384,274
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IV. ASSUMPTIONS

The annual estimated cost savings was based on an analysis of the claims paid during SFY 09 applying the methodology set forth in the proposed regulation.

To determine the SFY 10 cost savings, an effective date of April 1, 2010 was used. Due to the lag time of claims processing versus payments being made, only two months of SFY 10 would recognize the cost savings.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Chapter 10 – Nursing Home Program

Rule Number and Title:	13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
482	Nursing Facilities	Estimated cost for SFY 10 = \$6.7 million. However, approximately 99.89% is expected to be recovered through Medicare reimbursement during SFY 11 – SFY 12. The estimated cost annually thereafter = \$40 million. However, approximately 99.89% is expected to be recovered through Medicare reimbursement. See Assumptions below.

III. WORKSHEET

Number of Entities (excluding HIV NF):

Total NF enrolled in MO HealthNet	501
Less NF Not Certified to Accept Medicare	<u>19</u>
NF impacted by this proposed rule	482

Cost for SFY 10:

Annual Estimated Cost Savings	\$40,384,274
Divided by 12 to Determine Monthly Amount	<u>12</u>
Monthly Estimated Cost Savings	\$ 3,365,356
Multiplied by 2 Months of savings in SFY 10	<u>2</u>
SFY 10 Estimated Cost Savings	\$ 6,730,712

Cost for SFY 11 forward:

Annual Estimated Cost Savings	\$40,384,274
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IV. ASSUMPTIONS

The MO HealthNet Division expects approximately ninety-nine and eighty-nine one-hundredth percent (99.89%) of the cost to the nursing facilities to be recovered through Medicare reimbursement.

The annual estimated cost was based on an analysis of the claims paid during SFY 09 applying the methodology set forth in the proposed regulation.

To determine the SFY 10 cost, an effective date of April 1, 2010 was used. Due to the lag time of claims processing versus payments being made, only two months of SFY 10 would recognize the cost.

Nursing facilities can report the coinsurance not paid by MO HealthNet for Medicare Part A crossover claims as bad debt on their Medicare cost report and receive reimbursement from Medicare. Based on an analysis of nursing facility crossover claim expenditures for SFY 2009, ninety-nine and eighty-nine one-hundredth percent (99.89%) related to Medicare Part A crossover claims which are eligible for Medicare reimbursement. The coinsurance not paid by MO HealthNet for Medicare Part C crossover claims are not eligible for reimbursement by Medicare as an allowable bad debt. Only eleven one-hundredth percent (0.11%) of nursing facility crossover claim expenditures for SFY 2009 related to Medicare Part C.

Nursing facilities will be responsible for properly reporting the bad debt relating to the coinsurance amount not paid by the MO HealthNet Division for Medicare Part A crossover claims on their Medicare cost report to receive Medicare reimbursement. During the initial year of implementation, nursing facilities may experience a delay of approximately eighteen (18) months in receiving the reimbursement from Medicare for the allowable bad debt depending on cost reporting deadlines and the facility's fiscal year end. After the first year of implementation the Medicare Administrative Contractor may make bi-weekly interim payments for allowable Medicare bad debts in accordance with 42 CFR §413.355. In accordance with 42 CFR §413.89, allowable bad debt related to dual eligible individuals will be reimbursed by Medicare at one-hundred (100) percent. However, if the nursing facility does not properly report the allowable bad debt for Medicare Part A crossover claims on the Medicare cost report, the nursing facility may not receive reimbursement.

The indirect cost associated with compliance is estimated to be minimal. This change falls within the normal scope of Medicare reporting and therefore, no additional staff would be needed.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services. The division is adding subsection (3)(T).

PURPOSE: This amendment provides for a change in MO HealthNet reimbursement of Medicare Part A and Medicare Advantage/Part C inpatient skilled nursing facility benefit crossover claims effective for dates of service beginning April 1, 2010, to HIV nursing facilities.

(3) General Principles.

(T) Effective for dates of service beginning April 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part A and Medicare Advantage/Part C inpatient skilled nursing facility benefits in an HIV nursing facility shall be as follows:

1. Crossover claims for Medicare Part A inpatient skilled nursing facility benefits in which Medicare was the primary payer and the MO HealthNet Division is the payer of last resort for the coinsurance must meet the following criteria to be eligible for MO HealthNet reimbursement:

A. The crossover claim must be related to Medicare Part A inpatient skilled nursing facility benefits that were provided to MO HealthNet participants also having Medicare coverage; and

B. The crossover claim must contain approved coinsurance days. The amount indicated by Medicare to be the coinsurance due on the Medicare allowed amount is the crossover amount eligible for MO HealthNet reimbursement. The coinsurance amount is based on the days for which Medicare is not the sole payer. These days are referred to as coinsurance days and are days twenty-one (21) through one hundred (100) of each Medicare benefit period; and

C. The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MO HealthNet for payment. Providers submitting crossover claims for Medicare Part A inpatient skilled nursing facility benefits to the MO HealthNet program must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Part A plan's remittance advice. Any amounts paid by MO HealthNet that are determined to be based on inaccurate data will be subject to recoupment; and

D. The nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days exceeds the amount paid by Medicare for the same approved coinsurance days;

2. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) inpatient skilled nursing facility benefits in which a Medicare Advantage plan was the primary payer and the MO HealthNet Division is the payer of last resort for the copay (coinsurance) must meet the following criteria to be eligible for MO HealthNet reimbursement:

A. The crossover claim must be related to Medicare Advantage inpatient skilled nursing facility benefits that were provided to MO HealthNet participants who also are either a Qualified Medicare Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

B. The crossover claim must be submitted as a Medicare UB-04 Part C Institutional Crossover claim through the division's online Internet billing system; and

C. The crossover claim must contain approved coinsurance days. The amount indicated by the Medicare Advantage plan to be the coinsurance due on the Medicare Advantage plan

allowed amount is the crossover amount eligible for MO HealthNet reimbursement. The coinsurance amount is based on the days for which the Medicare Advantage plan is not the sole payer. These days are referred to as coinsurance days and are established by each Medicare Advantage plan; and

D. The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MO HealthNet for payment. Providers submitting crossover claims for Medicare Advantage inpatient skilled nursing facility benefits to the MO HealthNet program must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MO HealthNet that are determined to be based on inaccurate data will be subject to recoupment; and

E. The nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days exceeds the amount paid by the Medicare Advantage plan for the same approved coinsurance days;

3. MO HealthNet reimbursement will be the lower of—

A. The difference between the nursing facility's Medicaid reimbursement rate multiplied by the approved coinsurance days and the amount paid by either Medicare or the Medicare Advantage plan for those same coinsurance days; or

B. The coinsurance amount; and

4. HIV nursing facility providers may not submit a MO HealthNet fee-for-service nursing facility claim for the same dates of service on the crossover claim for Medicare Part A and Medicare Advantage inpatient skilled nursing facility benefits. If it is determined that a MO HealthNet fee-for-service nursing facility claim is submitted and payment is made, it will be subject to recoupment.

AUTHORITY: sections 208.153 and 208.201, RSMo Supp. [2007] 2009. Original rule filed Aug. 1, 1995, effective March 30, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed March 11, 2010.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate for SFY 2010 because the one (1) HIV Nursing Facility enrolled in MO HealthNet is not certified to accept Medicare.

PRIVATE COST: This proposed amendment will not have an impact on private entities more than five hundred dollars (\$500) in the aggregate because the one (1) HIV Nursing Facility enrolled in MO HealthNet is not certified to accept Medicare.

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.

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

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

**Title 2—DEPARTMENT OF AGRICULTURE
Division 100—Missouri Agricultural and Small Business
Development Authority
Chapter 6—Single-Purpose Animal Facilities Loan
Guarantee Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Agricultural and Small Business Development Authority under section 348.432, RSMo Supp. 2009, the authority amends a rule as follows:

2 CSR 100-6.010 Description of Operation, Definitions, Fee Structures, Applicant Requirements, and Procedures for Making and Collecting Loans and Amending the Rules for the Single-Purpose Animal Facilities Loan Guarantee Program
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 4, 2010 (35 MoReg 7). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 31—Reimbursement for Services**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Mental Health under sections 630.050 and 630.210, RSMo Supp. 2009, the department amends a rule as follows:

9 CSR 10-31.011 Standard Means Test **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 4, 2010 (35 MoReg 8-12). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one (1) comment on the proposed amendment.

COMMENT #1: One (1) comment was received providing full support of the changes to the Standard Means Test and stating that the rule should go a step further and establish a ceiling that would make a client ineligible for funding through the Department of Mental Health (DMH). The commenter further provides that the ceiling should be placed at a very high income level and that, in these cases, providers would not have to apply the Standard Means Test and would not consider them DMH clients.

RESPONSE: The purpose of the Standards Means Test rule is to prescribe standards for determining the amount to be charged for services provided or procured by the Department of Mental Health, not to establish eligibility criteria for services. DMH has other statutes, rules, regulations, and policies in place that address eligibility requirements. Therefore, DMH does not believe it is appropriate to include in this rule an upper limit. The department has not revised the proposed amendment as a result of this comment.

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

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

IN ADDITION

Pursuant to section 226.096, RSMo, regarding the Construction Claims Binding Arbitration Cap for the Missouri Department of Transportation, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 226.096, RSMo, the Construction Claims Binding Arbitration Cap for the Missouri Department of Transportation effective January 1, 2010, was established by the following calculation:

Index Based on 2005 Dollars	
Third Quarter 2009 IPD Index	109.51
Third Quarter 2008 IPD Index	110.28

New 2010 Limit = 2009 Limit × (2009 Index/2008 Index)

$$384,090 = 386,791 \times (1.0951/1.1028)$$

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

IN ADDITION

Pursuant to section 105.711, RSMo, regarding the State Legal Expense Fund, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 105.711, RSMo, the State Legal Expense Fund Limit effective January 1, 2010, was established by the following calculation:

Index Based on 2005 Dollars	
Third Quarter 2009 IPD Index	109.51
Third Quarter 2008 IPD Index	110.28

New 2010 Limit = 2009 Limit × (2009 Index/2008 Index)

$$392,903 = 395,666 \times (1.0951/1.1028)$$

STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law and whose Notice of Conviction has been filed with the Secretary of State pursuant to section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works 1) to Michael B. Robin, 2) to any other contractor or subcontractor that is owned, operated, or controlled by Mr. Robin, including Plumbco, Inc., or 3) to any other simulation of Mr. Robin or of Plumbco, Inc., for a period of one (1) year, or until December 17, 2010.

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Michael B. Robin DBA Plumbco, Inc. Case No. 09AO-CR01174		7534 Heron Drive Neosho, MO 64804	12/17/09	12/17/2009-12/17/2010