

Volume 36, Number 20

Pages 2151-2216

October 17, 2011

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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The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

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ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
PO Box 1767
Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://www.sos.mo.gov/adrules/moreg/moreg.asp> and the CSR is <http://www.sos.mo.gov/adrules/csr/csr.asp>. These websites contain rulemakings and regulations as they appear in the Registers and CSR. These websites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo Supp. 2010. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

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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.



**Statement of Ownership, Management, and Circulation
(All Periodicals Publications Except Requester Publications)**

1. Publication Title Missouri Register		2. Publication Number 0 1 4 9 - 2 9 4 2				3. Filing Date October 1, 2011
4. Issue Frequency semi-monthly		5. Number of Issues Published Annually 24				6. Annual Subscription Price \$56.00
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4®) James C. Kirkpatrick State Information Center, Administrative Rules Division 600 West Main, Room 168, Jefferson City, MO Cole County, Missouri 65101					Contact Person Waylene Hiles Telephone (Include area code) (573) 751-4015	
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) James C. Kirkpatrick State Information Center, Administrative Rules Division 600 West Main, Room 168, Jefferson City, MO Cole County, Missouri 65101						
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank) Publisher (Name and complete mailing address) Secretary of State PO Box 1767, Jefferson City, MO 65101 Editor (Name and complete mailing address) Curtis W. Treat PO Box 1767, Jefferson City, MO 65101 Managing Editor (Name and complete mailing address) Waylene Hiles PO Box 1767, Jefferson City, MO 65101						
10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)						
Full Name		Complete Mailing Address				
N/A						
11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box <input checked="" type="checkbox"/> None						
Full Name		Complete Mailing Address				
N/A						
2. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one) The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes: <input type="checkbox"/> Has Not Changed During Preceding 12 Months <input checked="" type="checkbox"/> Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)						

13. Publication Title Missouri Register		14. Issue Date for Circulation Data Below October 2010–September 2011	
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		236	225
b. Paid Circulation (By Mail and Outside the Mail)	(1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	103	96
	(2) Mailed In-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	54	50
	(3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®	31	30
	(4) Paid Distribution by Other Classes of Mail Through the USPS (e.g. First-Class Mail®)	N/A	N/A
c. Total Paid Distribution (Sum of 15b (1), (2), (3), and (4))		188	176
d. Free or Nominal Rate Distribution (By Mail and Outside the Mail)	(1) Free or Nominal Rate Outside-County Copies Included on PS Form 3541	24	24
	(2) Free or Nominal Rate In-County Copies Included on PS Form 3541	N/A	N/A
	(3) Free or Nominal Rate Copies Mailed at Other Classes Through the USPS (e.g. First-Class Mail)	N/A	N/A
	(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)	7	7
e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3) and (4))		31	31
f. Total Distribution (Sum of 15c and 15e)		219	207
g. Copies not Distributed (See Instructions to Publishers #4 (page #3))		10	10
h. Total (Sum of 15f and g)		229	217
Percent Paid (15c divided by 15f times 100)		86%	85%

16. Publication of Statement of Ownership
 If the publication is a general publication, publication of this statement is required. Will be printed in the October 17, 2011 issue of this publication. Publication not required.

7. Signature and Title of Editor, Publisher, Business Manager, or Owner
Stephanie Hines, Director Administrative Rules Division Date 9/7/11

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2010.

EXECUTIVE ORDER 11-23

WHEREAS, a State of Emergency was declared on April 22, 2011 pursuant to Executive Order 11-06 and extended by Executive Order 11-09 and Executive Order 11-19; and

WHEREAS, the State of Emergency will expire on September 15, 2011; and

WHEREAS, the tornadoes, floods and severe storms that have impacted the State caused catastrophic damage and significant loss of life and continue to cause distress and hazards to citizens and communities across the state; and

WHEREAS, the magnitude of the ongoing recovery efforts exceeds the capabilities of local jurisdictions and other established agencies and will necessitate the continued assistance of state emergency resources, including the Missouri National Guard; and

WHEREAS, the Missouri National Guard continues to coordinate demolition and debris removal efforts in Joplin and to assist communities affected by flooding; and

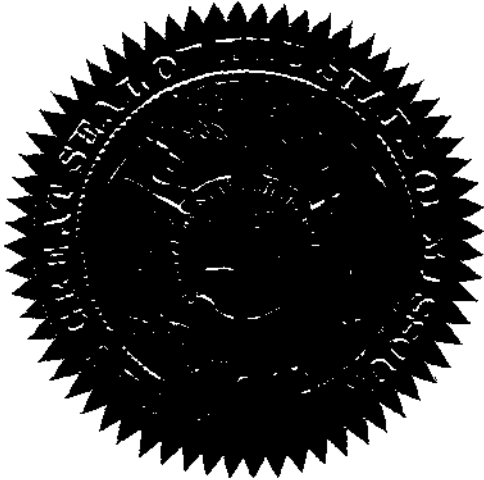
WHEREAS, there is still a need for replacement driver licenses, nondriver licenses, vehicle titles, license plates, tabs and other documents lost or destroyed during the devastating tornado; and

WHEREAS, as cleanup efforts from the various natural disasters continue, it remains necessary for the Department of Natural Resources to be authorized to temporarily waive or suspend certain administrative or statutory rules or regulations to assist in the recovery effort; and

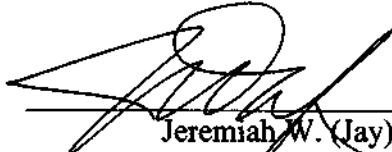
WHEREAS, several executive orders have been issued pursuant to the emergency powers contained in Chapter 44, RSMo, to aid in the response to these disasters and relieve the distress and hardship experienced by the affected citizens and communities.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by the power vested in me by the Constitution and laws of the State of Missouri, including Chapter 44, RSMo, do hereby extend the declaration of emergency contained in Executive Order 11-06 (and extended by Executive Order 11-09 and Executive Order 11-19) until December 15, 2011 unless extended in whole or in part by subsequent order.

It is further ordered that Executive Order 11-20 be extended until October 15, 2011, and Executive Order 11-07, Executive Order 11-08, Executive Order 11-11, Executive Order 11-14, and Executive Order 11-18 be extended until December 15, 2011 unless extended in whole or in part by subsequent order.




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 13th day of September, 2011.



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.

5. Johnson grass (*Sorghum halepense* L.);
6. Kudzu (*Pueraria montana* [Lour.] Merr.);
7. Marijuana (*Cannabis sativa* L.);
8. Multiflora rose (*Rosa multiflora* Thunb. ex Murr.);
9. Musk thistle (*Carduus nutans* L.);
10. Purple loosestrife (*Lythrum salicaria* L. and any hybrids thereof);
11. Scotch thistle (*Onopordum acanthium* L.); and
12. Spotted knapweed (*Centaurea stoebe* L., including all subspecies).

(B) The director will establish an advisory group to provide input on other plant species to consider for designation as noxious weeds that can directly or indirectly injure or cause injury to crops (including agricultural and horticultural), livestock, poultry, or other interests of agriculture. The advisory group may include representation from those entities responsible for noxious weed management on their lands or rights-of-way including, but not be limited to, federal, state, county, municipal, university, horticulture, and agriculture groups or agencies.

(C) The department will maintain a list of noxious weeds and make it available to the public.

AUTHORITY: section 263.190, SB 356, First Regular Session, Ninety-sixth General Assembly, 2011. Emergency rule filed Aug. 18, 2011, effective Aug. 28, 2011, expires Feb. 23, 2012. Original rule filed Sept. 12, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Plant Industries Division, 1616 Missouri Boulevard, Jefferson City, Missouri. 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 5—Wildlife Code: Permits

PROPOSED AMENDMENT

3 CSR 10-5.205 Permits Required; Exceptions. The commission proposes to amend subsection (1)(P) of this rule.

PURPOSE: This amendment extends the exemption allowed to include members of the U.S. military currently assigned as a patient to a Warrior Transition Brigade, Warrior Transition Unit, or a military medical center and identifies the documentation requirements for this exemption.

(1) Any person who chases, pursues, takes, transports, ships, buys, sells, possesses, or uses wildlife in any manner must first obtain the prescribed hunting, fishing, trapping, or other permit, or be exempted under 3 CSR 10-9.110, with the following exceptions:

(P) Any honorably discharged military veteran having a service-related disability of sixty percent (60%) or greater, or who was a prisoner of war during military service, or **any member of the U.S. military currently assigned as a patient to a Warrior Transition Brigade, Warrior Transition Unit, or a military medical center,**

Proposed Amendment Text Reminder:
Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 45—Noxious Weed Rules

PROPOSED RULE

2 CSR 70-45.005 Noxious Weed List

PURPOSE: This rule specifies the plants considered to be noxious weeds.

(1) The director of the Department of Agriculture has the authority to designate, or remove, a weed species identified as a noxious weed.

(A) The noxious weed list includes the following plants:

1. Canada thistle (*Cirsium arvense* L. Scop.);
2. Common teasel (*Dipsacus fullonum* L.);
3. Cutleaf teasel (*Dipsacus laciniatus* L.);
4. Field bindweed (*Convolvulus arvensis* L.);

may take fish, live bait, clams, mussels, turtles, and frogs as provided in Chapter 6 without permit (except trout permit or daily tag in areas where prescribed), and may take wildlife as provided in Chapter 7 without permit (except deer and turkey hunting permits, Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed); provided, while hunting or fishing, s/he carries a certified statement of eligibility from the U.S. Department of Veterans Affairs, or orders showing assignment to a Warrior Transition Unit or admissions verification to a military medical center;

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.220 Resident and Nonresident Permits. The commission proposes to amend section (4) of this rule.

PURPOSE: This amendment extends the exemption allowed to include members of the U.S. military currently assigned as a patient to a Warrior Transition Brigade, Warrior Transition Unit, or a military medical center and identifies the documentation requirements for this exemption.

(4) Any honorably discharged military veteran having a service-related disability of sixty percent (60%) or greater, or who was a prisoner of war during military service, or any member of the U.S. military currently assigned as a patient to a Warrior Transition Brigade, Warrior Transition Unit, or a military medical center, may purchase resident permits; provided, while purchasing and exercising permit privileges such person must carry a certified statement of eligibility from the U.S. Department of Veterans Affairs, or orders showing assignment to a Warrior Transition Unit or admissions verification to a military medical center.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 18, 1971, effective Dec. 31, 1971. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.415 Restricted Zones. The commission proposes to add section (6) to this rule.

PURPOSE: This amendment prohibits the use of porous soled waders or footwear incorporating or having attached a porous sole of felted, matted, or woven fibrous material in specified trout waters.

(6) The use of shoes, boots, or waders with porous soles incorporating or having felt, matted, or woven fibrous materials is prohibited on the following department areas:

- (A) Barren Fork Creek in Shannon County;
- (B) Blue Springs Creek in Crawford County;
- (C) Capps Creek in Barry and Newton counties;
- (D) Crane Creek in Stone and Lawrence counties;
- (E) Current River in Dent, Texas, and Shannon counties;
- (F) Dry Fork Creek in Crawford and Phelps counties;
- (G) Eleven Point River in Oregon County;
- (H) Hickory Creek in Newton County;
- (I) Lake Taneycomo in Taney County;
- (J) Little Piney Creek in Phelps County;
- (K) Meramec River in Crawford and Phelps counties;
- (L) Mill Creek in Phelps County;
- (M) North Fork of White River in Ozark County;
- (N) Niangua River in Dallas and Laclede counties;
- (O) Roaring River in Barry County;
- (P) Roubidoux Creek in Pulaski County;
- (Q) Spring Creek in Phelps County; and
- (R) Stone Mill Spring Branch in Pulaski County.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.410 Hunting Methods. The commission proposes to amend subsections (1)(I) and (1)(J) of this rule.

PURPOSE: This amendment removes the atlatl exception as a method to take turkey as referenced in 3 CSR 10-7.455.

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

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

(J) Slingshot [and Atlatl]. Slingshots may be used to take wildlife (except deer and turkey) during the prescribed hunting seasons. [and atlatls may be used to take wildlife (except turkeys) during the prescribed hunting seasons. Darts containing any drug, poison, chemical, or explosive are prohibited.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.431 Deer Hunting Seasons: General Provisions. The commission proposes to amend subsection (5)(A) of this rule.

PURPOSE: This amendment allows the use of the atlatl during the archery deer season.

(5) Deer Hunting Methods.

(A) Archery: longbows, recurve bows, [and] compound bows, and atlatl.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.433 Deer: Firearms Hunting Seasons. The commission proposes to amend subsection (1)(D) of this rule.

PURPOSE: This amendment allows a more diverse array of methods during the muzzleloader portion of the fall firearms deer season. Changes to methods will be effective for the 2012 firearms deer hunting season.

(1) The firearms deer hunting season is comprised of six (6) portions.

(D) Muzzleloader portion: December 17 through 27, 2011; use muzzleloader and archery methods, crossbows, atlatl, handguns, and air-powered guns as defined in 3 CSR 10-7.431 to take deer statewide.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits. The commission proposes to amend subsection (1)(C) of this rule.

PURPOSE: This amendment allows the use of atlatl during the archery turkey season.

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

(C) Fall Archery Season. A person possessing the prescribed archer's hunting permit may take two (2) turkeys of either sex from September 15 through January 15, excluding the dates of the November portion of the firearms deer season. Turkeys may be taken only by bows **and atlatl**; without the use of dogs, bait, electronic calls, or live decoys; from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. An archer, while in the act of pursuing or hunting turkey on an archer's permit, shall not have a firearm on his/her person with the following exceptions (Firearms possessed under these exceptions may not be used to take wildlife while hunting with a bow. Proof of this exception must be carried while hunting.):

1. Any person who has been issued a concealed carry endorsement on a driver license or non-driver license and such endorsement or license has not been suspended, revoked, canceled, or denied may carry concealed firearms on or about his/her person while hunting; and

2. Any qualified law enforcement officer or qualified retired law enforcement officer as defined in the Federal Law Enforcement Officers Safety Act (18 USC 926B or 18 USC 926C) may carry concealed firearms on or about his/her person while hunting. Possession of electronic calls is prohibited while hunting turkeys.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 10-9.110 General Prohibition; Applications. The commission proposes to add subsection (3)(D), re-letter subsequent subsections, and amend new subsection (3)(E), paragraph (3)(E)3., and subparagraph (3)(E)3.C. of this rule.

PURPOSE: This amendment establishes that live crayfish may be imported, purchased, or sold only for human consumption or for research on, or as food for, confined animals kept by approved entities.

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

(D) Live crayfish may be imported, bought, or sold only for—

1. Human consumption; or

2. Scientific research conducted by, or food for confined animals held by, an authorized representative of a university, college, school, incorporated city, state, or federal agency, publicly-owned

zoo or wildlife or research organization, or other qualified individual;

[(D)](E) That the privileges of this section do not apply to taking or possession in, on, or from waters of the state, waters stocked by the state, or waters subject to movements of fishes into and from waters of the state, except:—

1. Animals defined as live bait and possessed under provisions of this section may be possessed on the waters of the state for use as live bait except that bighead carp and silver carp may not be used as live bait but may be used as dead or cut bait;

2. Fish cultured by a commercial fish producer that remain in a man-made impoundment following inundation by flooding from waters of the state as defined in this Code shall be considered the property of the impoundment owner; provided the remaining fish species are the same as were present in the impoundment prior to inundation. Any other fish species in the impoundment shall be considered the property of the state and not available for sale, and shall be returned unharmed immediately to the waters of the state when harvested; and

3. With the written authorization of the director, a privately-owned impoundment that is entirely confined and located completely upon lands owned or leased by a single person or by two (2) or more persons jointly or as tenants in common or by corporate shareholders, and that is designated as waters of the state, may be used for the commercial production of species listed in the Approved Aquatic Species List in 3 CSR 10-9.110(3)*[(F)](G)* that were not stocked by the department, provided that:—

A. The impoundment owner has in his/her possession a dated, written statement showing the number or weight of each species stocked as proof that such animals were legally obtained from other than waters of the state or from a licensed commercial fisherman;

B. The species being produced may be harvested by the methods and under the conditions specified in the director's written authorization. All other species caught during culture activities must be returned unharmed immediately to the water; and

C. Statewide seasons, methods, and limits apply for all other species;

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

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

2. Species frozen or processed for sale as food products*/.*;

3. Species incapable of surviving in fresh water*/.*;

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

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

6. Species or systems that do not meet the conditions of paragraphs 1. through 5. above that have been inspected by a representative of the department and received prior written approval from the director. Only closed systems from which the escape of live organisms (including eggs, parasites, and diseases) is not possible will be approved; and

[(F)](G) Approved Aquatic Species List.

1. Fishes.
 - A. Shovelnose sturgeon (*Scaphirhynchus platyrhynchus*)
 - B. Paddlefish (*Polyodon spathula*)
 - C. Spotted gar (*Lepisosteus oculatus*)
 - D. Longnose gar (*Lepisosteus osseus*)
 - E. Shortnose gar (*Lepisosteus platostomus*)
 - F. Bowfin (*Amia calva*)
 - G. American eel (*Anguilla rostrata*)
 - H. Gizzard shad (*Dorosoma cepedianum*)
 - I. Threadfin shad (*Dorosoma petenense*)
 - J. Rainbow trout (*Oncorhynchus mykiss*)
 - K. Golden trout (*Oncorhynchus aquabonita*)
 - L. Cutthroat trout (*Oncorhynchus clarkii*)
 - M. Brown trout (*Salmo trutta*)
 - N. Brook trout (*Salvelinus fontinalis*)
 - O. Coho salmon (*Oncorhynchus kisutch*)
 - P. Atlantic Salmon (*Salmo salar*)
 - Q. Northern pike (*Esox lucius*)
 - R. Muskellunge (*Esox masquinongy*)
 - S. Goldfish (*Carassius auratus*)
 - T. Grass carp (*Ctenopharyngodon idella*)
 - U. Common carp (*Cyprinus carpio*)
 - V. Bighead carp (*Hypophthalmichthys nobilis*)
 - W. Golden shiner (*Notemigonus crysoleucas*)
 - X. Bluntnose minnow (*Pimephales notatus*)
 - Y. Fathead minnow (*Pimephales promelas*)
 - Z. River carpsucker (*Carpionodes carpio*)
 - AA. Quillback (*Carpionodes cyprinus*)
 - BB. White sucker (*Catostomus commersoni*)
 - CC. Blue sucker (*Cycleptus elongatus*)
 - DD. Bigmouth buffalo (*Ictiobus cyprinellus*)
 - EE. Black bullhead (*Ameiurus melas*)
 - FF. Yellow bullhead (*Ameiurus natalis*)
 - GG. Brown bullhead (*Ameiurus nebulosus*)
 - HH. Blue catfish (*Ictalurus furcatus*)
 - II. Channel catfish (*Ictalurus punctatus*)
 - JJ. Flathead catfish (*Pylodictis olivaris*)
 - KK. Mosquitofish (*Gambusia affinis*)
 - LL. White bass (*Morone chrysops*)
 - MM. Striped bass (*Morone saxatilis*)
 - NN. Green sunfish (*Lepomis cyanellus*)
 - OO. Pumpkinseed (*Lepomis gibbosus*)
 - PP. Warmouth (*Lepomis gulosus*)
 - QQ. Orangespotted sunfish (*Lepomis humilis*)
 - RR. Bluegill (*Lepomis macrochirus*)
 - SS. Longear sunfish (*Lepomis megalotis*)
 - TT. Redear sunfish (*Lepomis microlophus*)
 - UU. Smallmouth bass (*Micropterus dolomieu*)
 - VV. Spotted bass (*Micropterus punctulatus*)
 - WW. Largemouth bass (*Micropterus salmoides*)
 - XX. White crappie (*Pomoxis annularis*)
 - YY. Black crappie (*Pomoxis nigromaculatus*)
 - ZZ. Yellow perch (*Perca flavescens*)
 - AAA. Sauger (*Sander canadensis*)
 - BBB. Walleye (*Sander vitreus*)
 - CCC. Freshwater drum (*Aplodinotus grunniens*)
2. Crustaceans.
 - A. Freshwater prawn (*Macrabrachi um rosenbergii*)
 - B. Pacific white shrimp (*Litopenaeus vannamei*)
 - C. Northern crayfish (*Orconectes virilis*)
 - D. White river crayfish (*Procambarus acutus*)
 - E. Red swamp crayfish (*Procambarus clarkii*)
 - F. Papershell crayfish (*Orconectes immunis*)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.110(5), (6), and (10). Original rule filed June 26, 1975, effective

July 7, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 12, 2011.

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 10-10.744 Commercial Deer Processing: Permit, Privileges, Requirements. The commission proposes to amend section (2) of this rule.

PURPOSE: This amendment stipulates that permit holders must meet certain requirements of the Department of Agriculture to ensure sanitary conditions in their operations.

(2) **To commercially process and store legally acquired deer taken from the wild stock of the state, applicants for a Commercial Deer Processing Permit must qualify by being approved by the Missouri Department of Agriculture as a Custom Exempt Operation (Refer to Missouri Department of Agriculture for applicable rules and regulations pertaining to Custom Exempt Operation).** The commercial processor shall post a notice and inform patrons of the provisions of this rule[,] and shall keep accurate records of all deer processed and stored. These records shall be retained for twelve (12) months. Future permits shall be conditioned on compliance with this rule. All records and stored deer shall be made available for inspection by an authorized agent of the department at any reasonable time.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed April 28, 1992, effective Dec. 3, 1992. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 12, 2011.

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

PRIVATE COST: This proposed amendment will cost private entities approximately thirty-seven thousand five hundred dollars (\$37,500) total in the five (5)-year aggregate. This information is based on three hundred (300) permit holders (approximate number of deer processing operations) × twenty-five percent (25%) (anticipated number of permit holders that would require upgrade to their facilities to meet Missouri Department of Agriculture requirements to be a Custom Exempt Operation) × five hundred dollars (\$500) (one (1)-time cost to upgrade those facilities) = thirty-seven thousand five hundred dollars (\$37,500).

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.

**FISCAL NOTE
 PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 5 Permits
Type of Rulemaking: Proposed amendment
Rule Number and Name: 3 CSR 10-10.744 Commercial Deer Processing: Permit, Privileges, Requirements.

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by 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:
Approximately 300 Deer processing operations	Custom exempt meat processing operations	\$37,500

III. WORKSHEET

300 permit holders X 25% X \$500 = \$37,500

IV. ASSUMPTIONS

The amendment is intended to ensure that all deer processing operations meet the minimum meat inspection requirement for Custom Exempt Establishments under MO Department of Agriculture rules. There should be no additional costs incurred for deer processing facilities, unless they need to upgrade their work areas to meet minimum food safety and sanitation inspection standards. We estimate that approximately 25% of current deer processing permit holders may need to make some improvements to meet these standards, at an estimated average cost of \$500 per location.

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

PROPOSED AMENDMENT

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

PURPOSE: This amendment prohibits persons from planting seeds on department lands to reduce the risk of introducing exotic plants.

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.115 Closings. The commission proposes to amend subsection (4)(B) of this rule.

PURPOSE: This amendment would remove the reference to the Cairo, Illinois, gage and replace it with the New Madrid gage.

(4) The following department areas are closed during high waters:
(B) On Seven Island Conservation Area, all public use is prohibited, except fishing and waterfowl hunting by boat, when the Mississippi River water level is at or above *[forty-three feet (43') on the Cairo, Illinois gaging station]* **thirty feet (30') on the New Madrid gage.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section

252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.125 Field Trials. The commission proposes to amend subsections (1)(H), (1)(P), and (1)(V) of this rule.

PURPOSE: This amendment corrects improper references to Eagle Bluffs, Rocky Fork Lakes, and Wilhelmina conservation areas.

(1) Field trials are only permitted on the department areas listed below. A field trial special use permit issued by the area manager is required. Unless otherwise provided on the field trial special use permit, field trials are permitted from September 1 through the Monday closest to March 31. Field trial types and locations may be further restricted on each designated area:

- (H) Eagle Bluffs Conservation Area
- (P) Rocky Fork **Lakes** Conservation Area
- (V) Wilhelmina Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed May 9, 2002, effective Oct. 30, 2002. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.130 Vehicles, Bicycles, Horses, and Horseback Riding. The commission proposes to amend paragraph (5)(C)6., remove paragraph (6)(B)5., add paragraph (6)(C)22., and renumber subsequent paragraphs.

PURPOSE: This amendment would increase bicycling opportunity on Sever (Henry) Lake Conservation Area by allowing bicycling on the existing multi-use trail and corrects an improper reference to the James A. Reed Memorial Wildlife Area.

(5) Designated multi-use trails are open for use year-round as specified on the following department areas:

(C) Areas with multi-use trails open to bicycling and equestrian use—

1. Bicentennial Conservation Area
2. Big Buffalo Creek Conservation Area
3. Busiek State Forest and Wildlife Area
4. Flag Spring Conservation Area
5. Huckleberry Ridge Conservation Area
6. **James A. Reed** [*James A.*] Memorial Wildlife Area
7. Rockwoods Range
8. Stockton Lake Management Lands
9. Wappapello Lake Management Lands
10. Wire Road Conservation Area

(6) Designated multi-use trails are open for use as specified except during all portions of the firearms deer hunting season and the spring turkey hunting seasons on the following department areas:

(B) Areas with multi-use trails open to equestrian use—

1. Angeline Conservation Area
2. Bushwhacker Lake Conservation Area
3. Long Ridge Conservation Area
4. Scrivner Road Conservation Area
5. *Sever (Henry) Lake Conservation Area*

(C) Areas with multi-use trails open to bicycling and equestrian use—

1. Apple Creek Conservation Area
2. Bennitt (Rudolf) Conservation Area
3. Bonanza Conservation Area
4. Bunch Hollow Conservation Area
5. Canaan Conservation Area
6. Caney Mountain Conservation Area
7. Castor River Conservation Area
8. Compton Hollow Conservation Area
9. Daniel Boone Conservation Area
10. Deer Ridge Conservation Area
11. Fort Crowder Conservation Area
12. Heath (Charlie) Memorial Conservation Area
13. Holly Ridge Conservation Area
14. Honey Creek Conservation Area
15. Lead Mine Conservation Area
16. Little Indian Creek Conservation Area
17. Little Lost Creek Conservation Area
18. Meramec Conservation Area
19. Pleasant Hope Conservation Area
20. Poosey Conservation Area (other than Green Hills Trail)
21. Riverbreaks Conservation Area
22. **Sever (Henry) Lake Conservation Area**
[22.]23. Sugar Creek Conservation Area
- 23.]24. Talbot (Robert E.) Conservation Area
- 24.]25. Three Creeks Conservation Area
- 25.]26. University Forest Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.140 Camping. The commission proposes to amend paragraph (1)(B)20. of this rule.

PURPOSE: This amendment corrects an improper reference to H.F. Thurnau Conservation Area.

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

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

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

18. Smoky Waters Conservation Area
19. Tate Island Conservation Area
20. H.F. Thurnau Conservation Area
21. Weldon Spring Conservation Area
22. Wolf Creek Bend Conservation Area
23. Worthwine Island Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.160 Use of Boats and Motors. The commission proposes to amend paragraph (1)(A)1. of this rule.

PURPOSE: This amendment allows the use of personal-owned boats and float tubes to fish Lake Paho Conservation Area.

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

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

1. On August A. Busch Memorial Conservation Area, Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, [Lake Paho Conservation Area,] and James A. Reed Memorial Wildlife Area, only department-owned boats may be used and only electric motors are permitted. Use of float tubes is specifically prohibited.

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

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

4. On Bellefontaine Conservation Area, boats are prohibited.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.165 Bullfrogs and Green Frogs. The commission proposes to amend section (1) and remove subsection (1)(A) of this rule.

PURPOSE: This amendment adds specified hunting methods for taking bullfrogs and green frogs on department areas and removes the prohibition of taking frogs with a bow at the Louis H. Bangert Memorial Wildlife Area, Bellefontaine Conservation Area, August A. Busch Memorial Conservation Area, and Northeast Regional Office.

(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, a **twenty-two (.22) caliber or smaller rim-fire rifle or pistol, pellet gun, or crossbow**, only on waters and within dates and hours those waters are open to fishing or hunting, except as further restricted in this chapter. **An artificial light may be used.** [Firearms may not be used to take bullfrogs and green frogs.]

[(A) On Louis H. Bangert Memorial Wildlife Area, Bellefontaine Conservation Area, August A. Busch Memorial Conservation Area, and Northeast Regional Office bows are prohibited for taking frogs.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.180 Hunting, General Provisions and Seasons. The commission proposes to amend sections (1), (3), and (4); add subsections (5)(S), (5)(VV), and (5)(EEE), re-letter subsequent subsections, and amend new subsection (5)(FFF); remove subsection (10)(B), re-letter subsequent subsections, and amend paragraph (10)(D)1.; amend subsections (11)(A) and (11)(B), remove subsection (11)(C), re-letter and amend new subsection (11)(C); remove sections (12), (13), (14), and (16), and renumber subsequent sections; remove new subsection (12)(A), re-letter subsequent subsections, and amend new subsection (12)(B); and amend new section (21) of this rule.

PURPOSE: This amendment corrects improper references to the *Spring Turkey Hunting Regulations and Information* booklet and the area daily hunting tag, removes invalid text, and removes dove-specific regulations to allow for consolidation under the proposed dove-specific rule 3 CSR 10-11.185 Dove Hunting. This amendment also prohibits the use of firearms firing single projectiles on Edmonson Access, Swift Ditch Access, and Wade and June Shelton Memorial Conservation Area; simplifies the Code by combining subsections (11)(A) and (C); requires crow hunters to obtain a valid area daily hunting tag (which is consistent with the existing requirements for persons pursuing rabbits, squirrels, and doves); and clarifies furbearer hunting regulations on the James A. Reed Memorial Wildlife Area.

(1) Hunting is permitted on department areas, except as further restricted by signs, area brochures, or this chapter. Unless otherwise provided in this chapter, statewide permits, seasons, methods, and limits apply. A/n] **valid** area daily hunting [permit] **tag** may be required in addition to statewide permits.

(3) Hunting is prohibited on public fishing access areas less than forty (40) acres in size except for deer hunting as authorized in the current *Fall Deer & Turkey Hunting Regulations and Information* booklet published in August and the current *Spring Turkey Hunting Regulations and Information* booklet published in March, which are hereby incorporated in this Code by reference. A printed copy of these booklets can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and are also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.

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

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

- (S) Edmonson Access**
[(S)](T) Ferguson-Herold Conservation Area
[(T)](U) Fort Leonard Wood Towersite
[(U)](V) Larry R. Gale Access
[(V)](W) Grand Bluffs Conservation Area
[(W)](X) Horse Creek Prairie Conservation Area

- [(X)](Y) LaBarque Creek Conservation Area
[(Y)](Z) Liberty Bend Conservation Area
[(Z)](AA) Little Bean Marsh Conservation Area
[(AA)](BB) Little Dixie Lake Conservation Area
[(BB)](CC) Little Prairie Conservation Area
[(CC)](DD) Little River Conservation Area
[(DD)](EE) Caroline Sheridan Logan Memorial Wildlife Area
[(EE)](FF) Lone Jack Lake Conservation Area
[(FF)](GG) Lost Valley Fish Hatchery
[(GG)](HH) William Lowe Conservation Area
[(HH)](II) Alice Ahart Mansfield Memorial Conservation Area
[(II)](JJ) Marais Temps Clair Conservation Area
[(JJ)](KK) Mo-No-I Prairie Conservation Area
[(KK)](LL) Mon-Shon Prairie Conservation Area
[(LL)](MM) Pacific Palisades Conservation Area
[(MM)](NN) Parma Woods Range and Training Center (north portion)
[(NN)](OO) Pelican Island Natural Area
[(OO)](PP) James A. Reed Memorial Wildlife Area
[(PP)](QQ) Reform Conservation Area
[(QQ)](RR) Rocky Barrens Conservation Area
[(RR)](SS) Saint Stanislaus Conservation Area
[(SS)](TT) Dr. O. E. and Eloise Sloan Conservation Area
[(TT)](UU) Sunbridge Hills Conservation Area
(VV) Swift Ditch Access
[(UU)](WW) Tipton Ford Access
[(VV)](XX) Treaty Line Prairie Conservation Area
[(WW)](YY) Tri-City Community Lake
[(XX)](ZZ) Valley View Glades Natural Area
[(YY)](AAA) Vandalia Community Lake Conservation Area
[(ZZ)](BBB) Archie and Gracie VanDerhoef Memorial State Forest
[(AAA)](CCC) Victoria Glades Conservation Area
[(BBB)](DDD) Vonaventure Memorial Forest and Wildlife Area
(EEE) Wade and June Shelton Memorial Conservation Area
[(CCC)](FFF) Wigwam [Wam] School Access
[(DDD)](GGG) Young Conservation Area

- (10) On August A. Busch Memorial Conservation Area:/—
(A) Rabbits may be hunted only with shotgun from January 1 through February 15, except on designated portions where special management restrictions apply. The daily limit is four (4) rabbits./;
[(B)] *Doves may be hunted only from one-half (1/2) hour before sunrise to 1:00 p.m. during the statewide season.*
[(C)](B) Squirrels may be hunted only with shotgun from the fourth Saturday in May through October 15 and from January 1 through February 15./;
[(D)](C) Groundhogs may be hunted only with shotgun from the day following the prescribed spring turkey hunting season through October 15./; **and**
[(E)](D) Furbearers treed with the aid of dogs may be taken using any prescribed method during the prescribed furbearer season, except that:/—
1. Coyotes may be taken only by shotgun from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from the fourth Saturday in May through September 30 and from December 15 through March 31./;
2. Furbearers other than coyotes not treed with the aid of dogs may be taken only by shotgun from December 15 through the end of the prescribed furbearer season./; **and**
3. All furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.

(11) On James A. Reed Memorial Wildlife Area:/—

(A) Rabbits, **squirrels, and crows** may be taken between sunrise and sunset from December 1 through the end of the statewide season by holders of a valid area daily hunting *[permit.] tag*;

(B) Doves may be taken only in designated areas from noon to sunset each Monday through Friday, except Labor Day, during the statewide season by holders of a valid area daily hunting *[permit.] tag*; and

[(C) Squirrels may be taken between sunrise and sunset from December 1 through the end of the statewide season by holders of a valid area daily hunting permit.]

[(D)](C) Furbearer [and quail hunting are prohibited except during managed hunts] hunting may be authorized by special use permit, except furbearers may be taken during managed deer hunts that coincide with the prescribed furbearer season using methods allowed for deer by participants holding a valid managed deer hunting permit and the prescribed permit for taking furbearers.

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

[(13) On Lake Paho Conservation Area, doves may be hunted only from one-half (1/2) hour before sunrise to 1:00 p.m. during the statewide season.]

[(14) On Eagle Bluffs Conservation Area, William R. Logan Conservation Area, and William G. and Erma Parke White Memorial Wildlife Area, doves may be hunted only in assigned areas from an assigned shooting station on designated days from 1:00 p.m. to sunset during the September portion of the statewide season by holders of a valid area daily hunting permit.]

[(15)](12) On Marais Temps Clair Conservation Area[:]-

[(A) Dove hunting is permitted only until 1:00 p.m. daily.]

[(B)](A) Rabbit, pheasant, woodcock, squirrel, groundhog, furbearer, turkey, and crow hunting is prohibited[.]; and

*[(C)](B) All hunters must possess a valid **area** daily hunting *[permit] tag*.*

[(16) On Robert E Talbot Conservation Area, quail may be taken only by holders of a valid area daily hunting permit.]

[(17)](13) On Columbia Bottom Conservation Area, hunting is permitted only during managed hunts or by holders of a valid area daily hunting tag.

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

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

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

- (A) Bob Brown Conservation Area
- (B) Columbia Bottom Conservation Area
- (C) Coon Island Conservation Area
- (D) Duck Creek Conservation Area
- (E) Eagle Bluffs Conservation Area
- (F) Fountain Grove Conservation Area
- (G) Grand Pass Conservation Area

(H) Marais Temps Clair Conservation Area

(I) Montrose Conservation Area

(J) Nodaway Valley Conservation Area

(K) Otter Slough Conservation Area

(L) Schell-Osage Conservation Area

(M) Ted Shanks Conservation Area

(N) Ten Mile Pond Conservation Area

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

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

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

[(24)](20) Firearms firing single projectiles larger than twenty-two (.22) caliber rimfire are prohibited on the following areas:

- (A) Anthony and Beatrice Kendzora Conservation Area
- (B) Montrose Conservation Area
- (C) Guy B. Park Conservation Area
- (D) Platte Falls Conservation Area

*[(25)](21) On Saint Stanislaus Conservation Area, hunting is permitted only during managed hunts or by holders of a valid area daily hunting *[permit] tag*, except that persons pursuing deer by archery methods are not required to possess a valid area daily hunting *[permit] tag*.*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED RULE

3 CSR 10-11.185 Dove Hunting

PURPOSE: This rule incorporates deleted portions of 3 CSR 10-11.180 into a single dove-specific rule to clarify and simplify the

Wildlife Code. It also clarifies that dove hunters must possess and submit a valid area daily hunting tag on specified areas.

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

(2) On the following areas, during the month of September, dove hunters must possess a valid area daily hunting tag while hunting and must accurately report their harvest immediately upon completing their hunting trip:

(A) Dove hunting is permitted during legal shooting hours in accordance with statewide regulations:

1. August A. Busch Memorial Conservation Area
2. Bois D'Arc Conservation Area
3. William R. Logan Conservation Area
4. Pony Express Conservation Area
5. Robert E. Talbot Conservation Area
6. William G. and Erma Park White Memorial Wildlife Area

(B) Dove hunting is permitted by managed hunt during the first seven (7) days and during legal shooting hours for the entire dove hunting season:

1. Eagle Bluffs Conservation Area
2. Marais Temp Clair Conservation Area
3. Otter Slough Conservation Area
4. Ten Mile Pond Conservation Area

(C) On Columbia Bottom Conservation Area, dove hunting is permitted only by managed hunt after 1:00 p.m. during the first seven (7) days of the dove hunting season and during legal shooting hours for the remainder of the season.

(D) On James A. Reed Memorial Wildlife Area, dove hunting is permitted only by managed hunt during the first seven (7) days of the dove hunting season, except that dove hunting is prohibited on Labor Day and the weekend immediately preceding. Shooting hours are from 1:00 p.m. to sunset for the entire season.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Material covered in this rule previously filed as 3 CSR 10-11.180. Original rule filed Sept. 12, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with 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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.186 Waterfowl Hunting. The commission proposes to remove subsection (2)(A), re-letter subsequent subsections, and amend sections (10) and (11) of this rule.

PURPOSE: This amendment removes the hunting prohibition on Cooley Lake Conservation Area, authorizes managed waterfowl

hunts on that area, and includes Little Bean Marsh Conservation Area as an area where waterfowl may only be hunted in designated areas. This change will clarify and solidify a longstanding requirement on this area.

(2) Waterfowl hunting is prohibited on the following department areas:

- [(A)] *Cooley Lake Conservation Area*
- [(B)](A) Lake Girardeau Conservation Area
- [(C)](B) Lake Paho Conservation Area

(10) On August A. Busch Memorial Conservation Area, [and] Charles W. Green Conservation Area, **and Cooley Lake Conservation Area**, waterfowl may be hunted only during managed waterfowl hunts.

(11) On Blind Pony Lake Conservation Area **and Little Bean Marsh Conservation Area**, waterfowl may be hunted only in designated areas and only during the regular waterfowl hunting seasons.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.200 Fishing, General Provisions and Seasons. The commission proposes to remove subsection (2)(H) and re-letter subsequent subsections of this rule.

PURPOSE: This amendment increases fishing opportunities by removing the existing fishing prohibition on Mon-Shon Prairie Conservation Area.

(2) Fishing is prohibited on the following department areas or individually-named lakes:

- [(H)] *Mon-Shon Prairie Conservation Area*
- [(I)](H) Mount Vernon Prairie
- [(J)](I) Niawathe Prairie Conservation Area
- [(K)](J) Pawhuska Prairie
- [(L)](K) Powder Valley Conservation Nature Center
- [(M)](L) Springfield Conservation Nature Center
- [(N)](M) Wah-Kon-Tah Prairie (portion south of Highway 82)
- [(O)](N) Wah-Sha-She Prairie
- [(P)](O) Henry Jackson Waters and C.B. Moss Memorial Wildlife Area

~~[(Q)]~~(P) Mark Youngdahl Urban Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.205 Fishing, Methods and Hours. The commission proposes to amend paragraph (1)(B)37. and section (15) of this rule.

PURPOSE: This amendment corrects an improper reference to the Sever (Henry) Lake Conservation Area and allows anglers to transport bait held in containers at Lake Paho Conservation Area.

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

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

1. Atlanta Conservation Area
2. Bismarck Conservation Area
3. Blackjack Access
4. Bob Brown Conservation Area
5. Columbia Bottom Conservation Area
6. Cooley Lake Conservation Area
7. Deer Ridge Conservation Area
8. Deroin Bend Conservation Area
9. Duck Creek Conservation Area
10. Eagle Bluffs Conservation Area
11. Femme Osage Slough (Weldon Spring Conservation Area)
12. Connor O. Fewel Conservation Area
13. Fountain Grove Conservation Area
14. Four Rivers Conservation Area (August A. Busch, Jr. Memorial Wetlands at)
15. Franklin Island Conservation Area
16. Grand Pass Conservation Area
17. Hunnewell Lake Conservation Area
18. King Lake Conservation Area
19. Kings Prairie Access
20. Lake Paho Conservation Area
21. Lamine River Conservation Area
22. B. K. Leach Memorial Conservation Area
23. Limpp Community Lake
24. Little Compton Lake Conservation Area

25. Locust Creek Conservation Area
26. Manito Lake Conservation Area
27. Marais Temps Clair Conservation Area
28. Nodaway County Community Lake
29. Nodaway Valley Conservation Area
30. Otter Lake (Otter Slough Conservation Area)
31. Peabody Conservation Area
32. Ralph and Martha Perry Memorial Conservation Area
33. Haysler A. Poague Conservation Area
34. Pony Express Lake Conservation Area
35. Rebel's Cove Conservation Area
36. Schell-Osage Conservation Area
37. ~~[Henry]~~ Sever (**Henry**) Lake Conservation Area
38. Settle's Ford Conservation Area
39. Ted Shanks Conservation Area
40. H. F. Thurnau Conservation Area
41. Truman Reservoir Management Lands
42. Worth County Community Lake
43. Worthwine Island Conservation Area

(15) On Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, and Blackwell Lake (Indian Trail Conservation Area), ~~[and Lake Paho Conservation Area,]~~ bait transported or held in containers with water is prohibited.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 11—Wildlife Code: Special Regulations for
Department Areas

PROPOSED AMENDMENT

3 CSR 10-11.215 Fishing, Length Limits. The commission proposes to amend paragraph (2)(A)26. of this rule.

PURPOSE: This amendment corrects an improper reference to Rinquelin Trail Lake Conservation Area.

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

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

1. Amarugia Highlands Conservation Area
2. Apple Creek Conservation Area

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 12, 2011.

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 amend subsections (1)(A) and (1)(J) of this rule.

PURPOSE: This amendment corrects lake names for consistency.

(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 per-

mitted at any time on areas where these activities are authorized, except as further restricted in this chapter.

(A) Bowling Green (West [City] Lake and Jack Floyd Memorial Lake)

(J) Lancaster ([New] City Lake, Paul Bloch Memorial Pond)

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 Sept. 12, 2011.

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 amend subsections (2)(L) and (2)(AA) and section (4) of this rule.

PURPOSE: This amendment corrects lake names for consistency.

(2) Boats are prohibited on the following areas:

(L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road [Lake] Pond, Fleming Pond, Scherer Lake, Wyatt Lake)

(AA) 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)

(4) Only boats without motors may be used on Columbia (Stephens Park Lake, Twin 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 Sept. 12, 2011.

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 amend paragraphs (1)(A)2., (1)(A)5., (1)(B)14., (1)(B)15., and (1)(B)18. of this rule.

PURPOSE: This amendment corrects lake names for consistency.

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

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

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

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

1. Ballwin (New Ballwin Park Lake, Vlasik 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);
9. Macon County (Fairgrounds Lake);
10. Mineral Area College (Quarry Pond);
11. Overland (Wild Acres Park Lake);
12. Potosi (Roger Bilderback Lake);
13. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
14. St. Louis [City] (Benton Park Lake, [Carondelet Park-] Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, [Willmore Park-]North Lake, [Willmore Park-]South Lake);
15. St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake);
16. Sedalia (Clover Dell Park Lake, Liberty Park Pond);
17. Sedalia Water Department (Spring Fork Lake);
18. Warrensburg (Lion//s Lake);
19. Watershed Committee of the Ozarks (Valley Water Mill Lake);
20. Wentzville (Community Club Lake); and

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 Sept. 12, 2011.

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 10-12.125 Hunting and Trapping. The commission proposes to amend section (1), paragraphs (1)(B)14., (1)(B)30., and (1)(B)35., subsection (1)(C), and section (2) of this rule.

PURPOSE: This amendment corrects two (2) improper references to the *Spring Turkey Hunting Regulations and Information* booklet and corrects lake names for consistency.

(1) Hunting, under statewide permits, seasons, methods, and limits, is permitted except as further restricted in this chapter and except for deer and turkey hunting as authorized in the annual *Fall Deer & Turkey Hunting Regulations and Information* booklet published in August and annual *Spring Turkey Hunting Regulations and Information* booklet published in March, which are incorporated in this Code by reference. A printed copy of these booklets can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and are also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.

(B) Hunting is prohibited on the following areas:

1. Thomas S. Baskett Wildlife Research and Education Center;
2. Bethany (Old Bethany City Reservoir);
3. Buchanan County (Gasper Landing);
4. California (Proctor Park Lake);
5. Carthage (Kellogg Lake);
6. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake);
7. Dexter City Lake;
8. Farmington (Giessing Lake, Hager Lake, Thomas Lake);
9. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake);
10. Fulton (Morningside Lake, Truman Lake, Veterans Park Lake);
11. Hamilton City Lake;
12. Harrisonville (North Lake);
13. Jackson (Rotary Lake);
14. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road [Lake] Pond, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake);
15. James Foundation (Scioto Lake);

16. Jamesport City Lake;
17. Kirksville (Spur Pond);
18. Lawson City Lake;
19. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);
20. Macon County (Fairgrounds Lake);
21. Mexico (Lakeview Lake, Kiwanis Lake);
22. Mineral Area College (Quarry Pond);
23. Moberly (Rothwell Park Lake, Water Works Lake);
24. Mount Vernon (Williams Creek Park Lake);
25. Odessa (Lake Venita);
26. Overland (Wild Acres Park Lake);
27. Potosi (Roger Bilderback Lake);
28. Rolla (Schuman Park Lake);
29. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
30. St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake);
31. Savannah City Lake;
32. Sedalia (Clover Dell Park Lake);
33. Sedalia Water Department (Spring Fork Lake);
34. Springfield City Utilities (Lake Springfield);
35. Warrensburg (Lion/'s Lake);
36. Watershed Committee of the Ozarks (Valley Water Mill Lake); and
37. Windsor (Farrington Park Lake).

(C) Firearms hunting is prohibited on Cameron (Reservoir/s/ Nos. 1, 2, and 3, Grindstone Reservoir) and Maysville (Willow Brook Lake), except waterfowl hunting is permitted under statewide regulations on Cameron (Grindstone Reservoir) and Maysville (Willow Brook Lake).

(2) Deer and turkey may be hunted on any area managed by the department under cooperative agreement and as authorized in the current *Fall Deer & Turkey Hunting Regulations and Information* booklet and current *Spring Turkey Hunting Regulations and Information* booklet.

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 Sept. 12, 2011.

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 amend subsection (3)(E) of this rule.

PURPOSE: This amendment corrects lake names for consistency.

(3) Fishing is permitted only by reservation by educational groups, and fish must be returned to the water unharmed immediately after being caught except as provided by special use permit on the following areas or individually named lakes:

(E) St. Louis [City] (Forest Park–Bullfrog Lake, Catfish Cove [Lake], Cypress Lake, Fish/t/ Tail 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 Sept. 12, 2011.

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 amend subsections (3)(H), (3)(I), (4)(C), (8)(K), and (9)(G) of this rule.

PURPOSE: This amendment corrects lake names for consistency.

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

(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)

(I) St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake)

(4) Carp, buffalo, suckers, and gar may be taken by atlatl, gig, bow, or crossbow during statewide seasons on the following lakes:

(C) Cameron (Reservoir/s/ Nos. 1, 2, and 3, Grindstone Reservoir)

(8) Only flies, artificial lures, and soft plastic baits (unscented) may be used from November 1 through January 31 on the following lakes:

(K) St. Louis [City] (Jefferson Lake)

(9) From November 1 through January 31, not more than one (1) pole and line may be used by one (1) person at any time and the use of natural or scented baits as chum is prohibited on the following lakes:

(G) St. Louis [City] (Boathouse Lake, Jefferson Lake, O'Fallon 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 Sept. 12, 2011.

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 subsections (2)(F), (2)(L), (2)(X), (2)(Y), (2)(AA), (5)(E), (5)(F), (8)(B), (8)(K), (8)(L), (9)(K), (10)(C), and (12)(D), add subsection (8)(N), and re-letter subsequent subsections.

PURPOSE: This amendment corrects lake names for consistency and reduces the aggregate limit for non-game fish from twenty (20) to ten (10) as part of the Valley Water Mill Lake closure, fish population renovation, and lake reopening process.

- (2) The daily limit for black bass is two (2) on the following lakes:
- (F) Columbia (Stephens **Park** Lake, Twin Lake)
 - (L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road [Lake] **Pond**, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
 - (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)
 - (Y) St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson **Park** Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake)
 - (AA) Warrensburg (Lion/'s Lake)

- (5) The daily limit for crappie is fifteen (15) on the following lakes:
- (E) St. Louis [City] (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, [Willmore Park-]North Lake, [Willmore Park-]South Lake)
 - (F) St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson **Park** Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake)

(8) 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 section (7) of this rule:

- (B) Columbia (Stephens **Park** Lake)
- (K) St. Louis [City] (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, [Willmore Park-]North Lake, [Willmore Park-]South Lake)
- (L) St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson **Park** Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake)
- (N) **Watershed Committee of the Ozarks (Valley Water Mill Lake)**
- [(N)](O) Wentzville (Community Club Lake)

(9) Trout must be returned to the water unharmed immediately after being caught from November 1 through January 31 on the lakes listed below. Trout may not be possessed on these waters during this season.

- (K) St. Louis [City] (Jefferson Lake)
- (10) No person shall continue to fish for any species after having four (4) trout in possession on the following lakes:
 - (C) St. Louis [City] (Boathouse Lake, [and] O'Fallon Park Lake)

- (12) No person shall continue to fish for any species after having four (4) trout in possession, from February 1 through October 31, on the following lakes:
 - (D) St. Louis [City] (Jefferson 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 Sept. 12, 2011.

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 amend paragraphs (2)(A)9., (2)(A)20., (2)(A)33., (2)(B)10., and (2)(B)11. and section (4) of this rule.

PURPOSE: This amendment corrects lake names for consistency.

(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 (Reservoir/s/ Nos. 1, 2, and 3, Grindstone

Reservoir);

8. Carthage (Kellogg Lake);
9. Columbia (Stephens Park Lake);
10. Concordia (Edwin A. Pape Lake);
11. Confederate Memorial State Historic Site lakes;
12. Dexter City Lake;
13. Farminton (Hager Lake, Giessing Lake, Thomas Lake);
14. Hamilton City Lake;
15. Harrison County Lake;
16. Higginsville City Lake;
17. Holden City Lake;
18. Iron Mountain City Lake;
19. Jackson (Litz Park Lake, Rotary Lake);
20. Jackson County (Alex George Lake, Bergan Lake, Bowlin

Road [Lake] Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake);

21. Jefferson City (McKay Park Lake);
22. Keytesville (Maxwell Taylor Park Pond);
23. Kirksville (Hazel Creek Lake);
24. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6,

7, and 8);

25. Maysville (Willow Brook Lake);
26. Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake);
27. Mineral Area College (Quarry Pond);
28. Odessa (Lake Venita);
29. Pershing State Park ponds;
30. Potosi (Roger Bilderback Lake);
31. Unionville (Lake Mahoney);
32. University of Missouri (Dairy Farm Lake No. 1, McCredie

Lake);

33. Warrensburg (Lion/'s Lake);
34. Watkins Mill State Park Lake; and
35. 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 Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake,

Tilles Park Lake);

12. University of Missouri (South Farm R-1 Lake); and
13. Wentzville (Community Club Lake);

(4) Bluegill less than eight inches (8") total length must be returned to the water unharmed immediately after being caught on Columbia (Stephens 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 Sept. 12, 2011.

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 10-12.150 Fishing, Trout Parks. The commission proposes to add subsection (1)(F) to this rule.

PURPOSE: This amendment prohibits the use of porous soled waders or footwear incorporating or having attached a porous sole of felted, matted, or woven fibrous material when fishing in the trout parks.

(1) On Maramec Spring Park, Bennett Spring State Park, Montauk State Park, and Roaring River State Park[;]—

(F) The use of shoes, boots, or waders with porous soles incorporating or having felt, matted, or woven fibrous materials is prohibited.

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 Sept. 12, 2011.

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 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 1—Definitions and Organizational Structure**

PROPOSED AMENDMENT

10 CSR 23-1.050 Qualifications. The division is amending sections (1), (2), (3), (7), (9), and (14), adding a new section (15), and renumbering subsequent sections.

PURPOSE: This amendment establishes the criteria and procedures used in permitting a well installation, heat pump installation, monitoring well installation, or pump installation by an employee or drilling supervisor contractor in Missouri.

(1) All applicants for a nonrestricted water well installation, heat pump installation, monitoring well installation, monitoring test-hole installation, and pump installation contractor permits shall meet the following requirements:

(C) After passing the general test, applicant must submit an apprenticeship application, supplied by the division. The apprenticeship application must be accompanied by the appropriate permit fee[,] and must be signed by the nonrestricted permittee who will be responsible for the apprenticeship and apprentice's work. **Permittees who have had major enforcement actions taken against them (includes but is not limited to, settlement agreements, orders, consent judgments, suspension, or revocation) may not serve as an apprentice's responsible party for a period of one (1) year from the date of the division or court's signature on the final enforcement documents;**

(F) During the two (2)-year apprenticeship, the apprentice must perform the type of work for the permit type being applied for and sign and submit the appropriate certification or registration form on at least:/—

1. Twenty-five (25) different water well installations; **however, if apprentice performs installations and submits the appropriate certification form on ten (10) community wells, he/she may submit proof of financial responsibility for the remainder of the apprenticeship and perform work as stated in 10 CSR 23-1.050 (15);**

2. Twenty-five (25) different pump installations; **however, if apprentice performs installations and submits the appropriate certification form on ten (10) community wells, he/she may submit proof of financial responsibility for the remainder of the apprenticeship and perform work as stated in 10 CSR 23-1.050 (15);**

3. Ten (10) different heat pump system installations; *[and/or]*

4. Twenty (20) different monitoring well **or twenty (20) different temporary monitoring well sites; and/or**

5. The plugging of abandoned wells may be counted for up to ten percent (10%) of all the required number of installations;

(H) Applications submitted from work performed by an apprentice in other states will be considered as long as the corresponding state has construction requirements similar to the requirements of the state of Missouri, **as determined by the division;**

(J) At the end of the two (2)-year apprenticeship, the apprentice must submit a testing application and the appropriate testing fee for the specific (closed book) test;

(K) If, at the end of the two (2)-year period, the apprentice has not completed the required number of installations, the apprentice may apply to extend the apprenticeship on a year-by-year basis;/;. **If apprentice does not re-apply, within thirty (30) days of their renewal date, the apprenticeship will be cancelled; and**

(2) The apprentice may transfer to another company; however, a non-restricted permittee must sign as the responsible party for the apprentice. The apprentice may apply to transfer to another company by submitting a new apprenticeship application to the division. **If an apprentice requests to be permitted under more than one (1) company, the apprentice must submit the appropriate application and fee for each company. Apprentice will be issued separate permit numbers for each company under which he/she serves as an apprentice. A nonrestricted permittee, from each company, must sign the application as the responsible party for each company.**

(3) **Applicants for a nonrestricted permit, who were previously permitted with the state, as evidenced by a department-issued permit number, which was in good standing, as determined by the department, are exempt from the requirements of 10 CSR 23-1.050(1)(C) through 10 CSR 23-1.050(1)(L) and provision 10 CSR 23-1.050(3)(C) below. These applicants may only apply for the same type of permit as held previously without being subject to the requirements of 10 CSR 23-1.050(1)(C) through 10 CSR 23-1.050(1)(L) or 10 CSR 23-1.050(3)(C). Applicant must also have submitted the required certification and/or registration forms for the required number of installations, listed in 10 CSR 23-1.050(1)(F), to be exempt. If appropriate number of certification and/or registration forms have not been submitted, applicant must submit proof of financial responsibility as stated in 10 CSR 23-1.050(3)(C). Applicants who were previously permitted but are applying for a different type of permit must adhere to 10 CSR 23-1.050(3)(A)–10 CSR 23-1.050(3)(C). Applicants for [the] a nonrestricted permit who [hold a valid permit that is in good standing in another state, with requirements similar to the state of Missouri's requirements, as determined by the division, or who is] currently [permitted with the state of Missouri,] hold a different type of contractor permit with the state of Missouri, as evidenced by a department-issued permit number, which is in good standing, as determined by the division, and wish to be exempt from the requirements of 10 CSR 23-1.050(1)(C) through 10 CSR 23-1.050(1)(L), must submit the testing application, appropriate testing fee, and proof of the valid permit to be scheduled for the test. After passing the general (open book) and specific (closed book) tests with a minimum score of seventy percent (70%) on each test, the applicant must [submit each of the following] adhere to 10 CSR 23-1.050(3)(A)–10 CSR 23-1.050(3)(C) and submit required information to the division within thirty (30) days;/—**

(B) Vehicle application, supplied by the division, for each drilling rig, pump truck, or service rig which will be used by the permittee and appropriate fee, **unless the vehicle is already permitted under another company contractor;**

(C) Proof of financial responsibility in the form of a surety bond, certificate of deposit (CD), or irrevocable letter of credit in the amount of twenty-five thousand dollars (\$25,000). The bond, CD, or letter of credit shall be **subject to the following:**

1. **It must be [P/]placed on file with the division;**

2. **It must be [M/]made payable to the Department of Natural Resources;**

3. **It must be [I/]issued by an institution authorized to issue such bonds in this state;**

4. A [C/]certificate of deposit (CD) must be automatically renewable for time frame covering the apprenticeship; *[and]*

5. Any interest on the certificates of deposit shall be made payable to the permittee./;

6. **If the bond, CD, or letter of credit is cancelled by the issuing agent, permittee must submit new proof of financial responsibility within thirty (30) days of cancellation, or permit will be cancelled;**

[/D)]7. The requirement for proof of financial responsibility shall cease after two (2) consecutive years of permitted activity if the

contractor does not have any outstanding notices of violation against their permit. If the contractor does not have any outstanding violations at the end of the two (2)-year period, the bond, CD, or letter of credit will be returned to the contractor within thirty (30) days of the end of the two (2)-year period;

[(E)]8. If, at the end of those two (2) years, the division has found that the contractor has failed to meet the construction standards set forth in the Missouri Well Construction Rules, the division shall notify the contractor, within sixty (60) days, that the bond, CD, or letter of credit will be forfeited and the moneys placed in the Groundwater Protection Fund for remedial action, if the permittee does not bring the well or wells up to the standards established in the notice of violation(s) within *[the timeframes determined by the division]* **thirty (30) days**. The division may, *upon expiration of the notification period,* then expend whatever portion of the bond, CD, or letter of credit is necessary to hire another contractor to bring the wells or boreholes up to the standards set forth in the notice of violation(s) or to plug the well(s) and construct a new well(s); *lor*

9. Monies forfeited from the proof of financial responsibility and deposited in the Groundwater Protection Fund may be used by the department to remediate the contractor's violations;

[(F)]10. If, at the end of those two (2) years, the division has found that the contractor has outstanding violations against the administrative standards set forth in the Missouri Well Construction Rules, the division shall notify the contractor, within sixty (60) days, that the bond, CD, or letter of credit will continue to be held as a condition of permit renewal for a period of another two (2) years.*]* **if the contractor does not resolve outstanding violations within thirty (30) days. The contractor must renew the bond, CD, or letter of credit for another two (2) years within thirty (30) days of notification or permit will be subject to enforcement action which may include suspension or revocation; and**

11. Applicant must also pre-notify any work performed which is regulated by the Missouri Well Construction Rules. Applicant must notify the division of work to be performed at least twenty-four (24) hours prior to start of regulated work. Notification must include owner name, address, GPS location, type of work to be performed, and date work will begin. The pre-notification requirement will be effective for the first full year from the permit issue date.

(7) A completed application for testing must be received fifteen (15) days prior to the testing date for which the applicant wishes to be scheduled. The division will notify the applicant within ten (10) days from receiving the completed application for testing if the applicant has qualified to take the test applied for and the date of the next available test. The testing fee is due before the test is given. **A separate application and fee must be paid for each attempt to pass a test.**

(9) **If the [A]applicant [may retake all tests on the same day if time allows. All retakes must be accompanied by the testing fee.] fails to pass a test on the initial test date, he/she may retake one (1) time, otherwise the following time frames for retesting shall apply:**

(A) **Third test date shall be no sooner than thirty (30) days after the initial test date;**

(B) **Fourth test date shall be no sooner than sixty (60) days after the second test date; and**

(C) **Fifth and all subsequent test dates shall be no sooner than one hundred eighty (180) days from the previous test date.**

(D) **All retakes must be accompanied by the testing fee at the time of the retake.**

(14) A nonrestricted permitted well installation, heat pump installation, monitoring well installation, monitoring test-hole installation, pump installation contractor, or any combination of these, **from the company responsible for the apprentice,** must be present at all

times during the apprentice's *[initial]* **required** number of installations (see subsection (1)(F) of this rule). The nonrestricted permittee must be on site during the initial installations (see subsection (1)(F) of this rule) while a well is being drilled and completed, a pump is being set, or any combination of these. **The nonrestricted permittee on site must hold the same type of permit as the type of work being performed by the apprentice.**

(15) A nonrestricted permittee must be on site at all times until the required number of installations, in 10 CSR 23-1.050(1)(F), is met by the apprentice.

[(15)](16) Persons who wish only to drill the heat pump hole and grout the closed-loop into the heat pump hole must obtain a permit to do so. The permit will be restricted to the previously mentioned activities and a current nonrestricted water well installation contractor's permit is required as one (1) of the qualification criteria. Those people who wish to apply for this type of heat pump installation contractor's permit that have a valid nonrestricted water well installation contractor permit must take only the general test covering heat pump construction.

[(16)](17) Applicants for contractor permits who do not meet the requirements set out in this rule may petition the board. The board has the authority to rule upon the qualifications of the applicants and may require additional evidence of qualifications.

AUTHORITY: sections 256.606, 256.607, 256.611, 256.613, and 256.626, RSMo 2000. Original rule filed April 2, 1987, effective July 27, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 15, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Geology and Land Survey, Sheri Fry, PO Box 250, Rolla, MO 65402 or via email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by 5:00 p.m., November 30. A public hearing is scheduled for 10:00 a.m. on November 28, 2011, at the Division of Geology and Land Survey, III Fairgrounds Road, Annex Conference Room, Rolla, Missouri.

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

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

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 17—Office of Equal Opportunity**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under sections 34.050 and 37.020, RSMo 2000, the commissioner adopts a rule as follows:

1 CSR 10-17.010 Definitions is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1596-1597). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 17—Office of Equal Opportunity**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under section 37.023, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 10-17.040 Minority/Women's Business Enterprise Certification is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1597-1601). 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 commissioner received one (1) letter of comment on the proposed amendment.

COMMENT #1: Harvey Tettlebaum, on behalf of Husch Blackwell LLP, suggested that section (8) of the amendment incorporate a fourteen (14)-day deadline for the commissioner to issue a written decision on each appeal for denial of certification MBE or WBE status. RESPONSE: The Office of Equal Opportunity is a small division within the Office of Administration with limited staff and legal resources. While the office anticipates that most appeals will be resolved within the suggested fourteen (14)-day window, complex legal issues may arise that require a more detailed analysis than can be conducted in a two (2)-week period. The office believes that the flexibility of the rule as drafted without an arbitrary deadline will permit full and fair consideration of all appeals. The proposed amendment will not be changed in response to this comment.

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 17—Office of Equal Opportunity**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under sections 34.050 and 37.020, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 10-17.050 Minority and Women's Business Enterprise Participation in Procurement Process is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1601-1602). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 5—Minority/Women Business Enterprises**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under section 8.320, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 30-5.010 Minority/Women Business Enterprise and Service Disabled Veteran Business Enterprise Participation in State Construction Contracts is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1602–1604). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under section 34.050, RSMo 2000, and section 34.074, RSMo Supp. 2010, the commissioner amends a rule as follows:

1 CSR 40-1.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1609). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

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

COMMENT #1: Division of Purchasing staff called attention to an incorrect statutory reference in subsection (1)(L) and asked that the reference be changed from 37.074, RSMo, to 34.074, RSMo.

RESPONSE AND EXPLANATION OF CHANGE: The requested change will be made.

1 CSR 40-1.030 Definitions

(1) As used in this chapter unless the content clearly indicates otherwise, the following terms shall mean:

(L) Service-disabled veteran. The definition contained in section 34.074, RSMo, will be applied;

**Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under section 34.050, RSMo 2000, and section 34.074, RSMo Supp. 2010, the commissioner amends a rule as follows:

1 CSR 40-1.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1609–1614). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner received a total of thirty (30) letters of comment on the proposed amendment, twenty-nine (29) of which were identical to each other.

COMMENTS #1–29: JaNola Rigsby, St. Louis, MO; Craig Lanouette, St. Louis, MO; Scott Kiefer, St. Louis, MO; Michael Whipkey, St. Louis, MO; John J. Howard, St. Louis, MO; Kathy M. Vlasnik; John M. Parsarello; Kristin L. Gregory; Madeline J. McNicholas; Berlan Hamilton; Thomas L. Johnson; Charles McCarty, St. Louis, MO; James G. Eckes, Las Vegas, NV; Rodney D. Hudson, Abington, MD; Paul Jenkins, Chicago, IL; Carlos M. Lopez, Atlanta, GA; Paul A. Polowski, San Diego, CA; R. C. Forrest, San Antonio, TX; Doug Henry, Newark, OH; A. J. Wilson, San Diego, CA; Walter S. Howerton, Richwood, WV; William G. Apostal, Abingdon, MD; Robert F. McMillan, Jr., Oakbrook Terrace, IL; Jill Clough-Johnston, Upton, NY; Tim Sheridan, Wausau, WI; Jerry Crow, MN; Laurie Carlson, Wood Dale, IL; Rick Fryar, Longmont, CO; and Ed Robinson, New Orleans, LA, all sent copies of a letter supporting the proposed amendment as it relates to the Service Disabled Veterans preference, but suggesting that a one hundred (100)-point scale be mandated for all purchasing evaluations. The Office of Administration had eight (8) rules published in the July 1, 2011, *Missouri Register*, four (4) of which implement Service Disabled Veterans' preference legislation. The letter did not specify a proposed amendment by number, but based upon the context, it appears to be directed at 1 CSR 40-1.050.

RESPONSE: There are at least ten (10) separate bonuses and preferences that must be considered when evaluating bids. These preferences are in addition to the evaluation criteria set forth by the purchasing agency, such as price and quality. In some cases, multiple bonuses and preferences have the capacity to overwhelm the criteria that represent the needs and budgetary limitations of the purchasing agency. Especially when a large number of factors must be evaluated, the Office of Administration believes it is in the best interest of the state to permit agencies to set a rating scale to meet its needs and to insure the best value while still affording service-disabled veterans a preference over other vendors. The proposed amendment will not be changed in response to these comments.

COMMENT #30: Harvey Tettlebaum, on behalf of Husch Blackwell LLP, sent a letter of comment suggesting four (4) areas of change to the proposed amendment—

1. Omit the amendment to paragraph (4)(A)7. of the rule defining criteria for "single feasible source" purchasing. The comment stated that "the Commissioner cannot plausibly determine, in advance by rule, that in every single instance the listed topics will be available only from a single source";

2. Extend the time period for filing a protest from ten (10) days to twenty-one (21) days in section (9);

3. Omit sections (14), (15), and (17) and revise subsection (19)(C) dealing with revisions for the purpose of obtaining best and final offers to eliminate any language that is not identical to the statute. The comment stated that these subsections allow for revisions, amendments, or supplementation to the bid/proposal documents or information after the bids/proposals have been submitted in violation of section 34.042, RSMo. The comment stated that section 34.042, RSMo, gives limited latitude to conduct "negotiations" and permits revisions only "for the purpose of obtaining best and final offers." The comment stated that these subsections are overly broad in that they allow for various revisions, including a revision "for any reason," and they present resource issues for the state. Also, the comment stated that these sections are "unnecessary because relevant information should all be in the proposal documents"; and

4. Create a new section in the rule reciting the division's records retention responsibilities.

RESPONSE AND EXPLANATION OF CHANGE:

1. The Office of Administration believes this comment is based on a misreading of the statute and the proposed amendment. The criteria listed would not *require* the commissioner to forego the competitive bidding process, instead they are permissive and merely intended to provide "additional guidelines and examples to determine satisfaction of the criteria" required by section 34.044, RSMo. However,

in order to eliminate confusion to the public, the amendments to subsection (4)(A) will not be made as proposed, and the language of this subsection will remain as it reads in the current rule.

2. The time period for filing a protest is in the existing rule, and is not altered by the proposed amendment. A relatively short time frame for the filing of a protest advances the state's interest in finality, while preserving a bidder/offeror's ability to point out any significant errors that it believes would have changed the outcome of the evaluation process. The Office of Administration believes twenty-one (21) days is too long a period to hold open the award of a contract after the evaluation is complete. The point is well taken, however, that ten (10) calendar days, with weekends and holidays included, might hinder a bidder/offeror's ability to present the issues fully and fairly. The rule will therefore be amended to set the deadline for filing a protest at ten (10) *business days*.

3. Section 34.042.3, RSMo, gives the state the statutory authority to set forth evaluation criteria in a request for proposal (RFP) and through subsequent negotiations. The statute contemplates that changes to an RFP may occur through the bid process, as is frequently the case, and the state may require vendors to clarify their responses. It is not uncommon for the state to recognize, once all responses have been submitted, that changes to the RFP are required to clarify contractual terms, loosen standards to achieve lower costs, or allow vendors to correct errors in their responses. Frequently, vendors fail to fully comply with an RFP. Without the ability to negotiate and revise the RFP, the state would have to restart the process by issuing a new RFP. This is not practical due to resource and time constraints. Furthermore, it is not contemplated by the statute.

Section (14) allows the state to seek clarification of clerical errors in a bid response. Section (15) allows the state to waive minor technicalities or irregularities in the bid/proposal process. Section (17) allows the state to consider relevant information and facts, whether gained from a bid/proposal response, from a bidder/offeror or their references, or from any other source. Finally, subsection (19)(C) allows the state to make changes to the RFP that are in the best interest of the state. All sections and the subsection are supported by sections 34.042.3 and 34.040.3, RSMo. Moreover, the statutes do not prohibit the state from stating in a rule or bid/proposal that it will consider all relevant information.

The Office of Administration believes that the flexibility of these sections and subsection is supported by sections 34.042.3 and 34.040.3, RSMo, and is necessary for efficient and effective purchasing operations. The proposed amendment will not be changed in response to this portion of the comment letter.

4. Chapter 109, RSMo, creates the State Records Commission and gives it the responsibility for determining schedules for the disposition of state agency records. The Division of Purchasing has an approved schedule on file with the Office of the Secretary of State detailing its responsibilities for records retention. Use of the administrative rulemaking process for describing records retention responsibilities is potentially inconsistent with the statutory framework of Chapter 109, RSMo. The proposed amendment will not be changed in response to this portion of the comment letter.

1 CSR 40-1.050 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts

(4) When the supplies meet the criteria delineated in section 34.044, RSMo, the division may elect to utilize the Single Feasible Source procurement method. The following delineates additional guidelines and examples to determine satisfaction of the criteria:

(A) The following guidelines may be utilized to determine if supplies may be purchased as a single feasible source due to being proprietary:

1. The parts are required to maintain validity of a warranty;
2. Additions to a system must be compatible with original equipment;
3. Only one (1) type of computer software exists for a specific

application; *for*

4. Factory authorized maintenance must be utilized in order to maintain validity of a warranty;

5. The materials are copyrighted and are only available from the publisher or a single distributor; and

6. The services of a particular provider are unique, e.g., entertainers, authors, etc.;

(9) A bid or proposal award protest must be submitted in writing to the director or designee and must be received by the division within ten (10) business days after the date of award. If the tenth day falls on a Saturday, Sunday, or state holiday, the period shall extend to the next state business day. A protest submitted after the ten (10) business-day period shall not be considered. The written protest should include the following information:

Title 1—OFFICE OF ADMINISTRATION Division 40—Purchasing and Materials Management Chapter 1—Procurement

ORDER OF RULEMAKING

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

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

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1614-1615). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES Division 30—Division of Regulation and Licensure Chapter 1—Controlled Substances

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 195.030 and 195.195, RSMo 2000, the department amends a rule as follows:

19 CSR 30-1.015 Registrations and Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2011 (36 MoReg 1451-1454). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received four (4) comments on the proposed amendment.

COMMENT #1: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the department's rulemaking authority is found in section 195.030.1, RSMo, and requires public

notice and a hearing. The department is not following the requirements of section 195.030.1, RSMo, and the proposed amendments should be withdrawn until public hearings can be held.

RESPONSE: Chapter 195, RSMo, grants the department authority to promulgate rules in sections 195.015, 195.017, 195.030, 195.041, 195.050, and 195.195, RSMo. Section 195.015, RSMo, provides authority for the department to add, reschedule, and delete controlled substances to the schedules after public notice and hearing. The department is to consider specific factors listed in section 195.015, RSMo, make findings, and issue a decision prior to modifying the controlled substance schedules. The hearing in section 195.030.1, RSMo, refers to the hearing required for the scheduling of controlled substances as supported by the exclusion of the hearing requirement in the grant of rulemaking authority for waiving registration requirements and for record-keeping and inventory requirements. This operates to prevent the department from promulgating rules relating to the scheduling of controlled substances without following the more specific provisions of section 195.015, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #2: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that going from the current three (3)-year registration cycle back to an annual registration will be burdensome for practitioners.

RESPONSE: Prior to 2000, the department issued registrations that were valid for a one (1)-year period. Since the department moved to a three (3)-year registration cycle in 2000, there have been an increasing number of practitioners moving without notifying the department, leading to registrations being terminated and practitioners prescribing controlled substances without current and valid controlled-substance registration. Other agencies have had similar issues of not being able to track licensees and maintain current licenses when they converted from one (1) year to two (2) year licenses. Those agencies have converted back to annual licenses. Returning to an annual registration will allow for a more accurate database, prevent disciplinary actions, and reduce the number of practitioners having to reapply for new registrations. No changes have been made to the rule as a result of this comment.

COMMENT #3: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the fiscal note estimate that individual practitioners will be able to complete the application in fifteen (15) minutes is highly optimistic. The fiscal note also does not address the paperwork cost of providing lengthy collaborative practice agreements. For those reasons, the fiscal note does not appear to satisfy the requirements of section 536.205.1(3), RSMo, and a new fiscal note and affidavit is required.

RESPONSE: The department believes it will not take longer than fifteen (15) minutes to complete the application. The fiscal note is based on this estimate. No changes have been made to the rule as a result of this comment.

COMMENT #4: The department received five (5) letters in support of this proposed amendment from the Missouri Nurses Association, Sharon Giboney, Carl Joseph Giboney, Desma R. Reno, and GeorgAnn Greissing.

RESPONSE: No changes have been made to the rule as a result of these comments.

By the authority vested in the Department of Health and Senior Services under section 195.195, RSMo 2000, the director amends a rule as follows:

19 CSR 30-1.017 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2011 (36 MoReg 1455-1462). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received fifteen (15) comments on the proposed amendment.

COMMENT #1: The Missouri Academy of Physician Assistants commented that the rule uses the term "physicians assistant." The proper title of the profession according to section 334.735, RSMo, is "physician assistant."

RESPONSE AND EXPLANATION OF CHANGE: The department agrees, and the term has been changed to physician assistant throughout the rule.

COMMENT #2: The Missouri Academy of Physician Assistants commented that the department should use the more precise terms "physician assistant" and "nurse practitioner" rather than "mid-level practitioner."

RESPONSE: Physician assistants must be registered by the department before they can obtain a federal registration from the United States Drug Enforcement Administration (DEA). The DEA registration category for physician assistants is "mid-level practitioner." The term "mid-level practitioner" is used to comply with and be consistent with federal law and is defined in 21 CFR 1300.01(28). These rules and forms will not only be used for the two (2) mid-level practitioner types currently authorized in Missouri, but also to cover additional types of mid-level practitioners the state may authorize in future years. The DEA will only issue the same type of registration with information that matches exactly. No changes have been made to the rule as a result of this comment.

COMMENT #3: The Missouri Academy of Physician Assistants commented that in subsection (8)(C) the application asks for a federal Drug Enforcement Administration registration number (DEA number) if the applicant has one. Since a state Bureau of Narcotics and Dangerous Drugs (BNDD) registration is required to obtain a federal DEA registration, one person suggested that this question about the DEA registration be eliminated.

RESPONSE: Asking for an existing DEA number allows the department to better identify and verify the applicant and ensure the applicant's Missouri registration information matches the federal registration information. Applicants moving to Missouri from other states and applicants who have been registered with the department before will have an existing DEA number. No changes have been made to the rule as a result of this comment.

COMMENT #4: The Missouri Academy of Physician Assistants commented that in subsection (8)(G) the department should not ask physician assistants to provide board certifications since they already provide that information to the Missouri Board of Registration for the Healing Arts. Physician assistants practice within the scope of practice of their supervising physicians. Given the flexibility of the profession, a physician assistant may practice within multiple specialties throughout the course of their professional career. Physician assistants are required by Missouri law to maintain certification from the National Commission on Certification of Physician Assistants (NCCPA) as a condition of licensure. Also, there are no nationally-recognized specialty board certifications, outside of the NCCPA, for

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physician assistants. Subsection (8)(G) should be eliminated.

RESPONSE AND EXPLANATION OF CHANGE: Section (8) and the application form will be amended to clarify that information regarding board certifications are only part of a voluntary census for determining Health Professional Shortage Areas (HPSA).

COMMENT #5: The department received five (5) letters in support of this proposed amendment from the Missouri Nurses Association, Sharon Giboney, Carl Joseph Giboney, Desma R. Reno, and GeorgAnn Greissingner.

RESPONSE: The department is in agreement. No changes have been made to the rule as a result of this comment.

COMMENT #6: Thomas Holloway, with the Missouri State Medical Association, and Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that applications should only have questions relating to controlled substance registrations and issues pertaining to Chapter 195, RSMo. The applications as proposed contain questions that are not germane to controlled substance registrations and those questions should either be voluntary or removed.

RESPONSE AND EXPLANATION OF CHANGE: The rule has been changed to clarify what questions must be answered for controlled substance registrations and what questions are optional and voluntary as part of a voluntary census for determining Health Professional Shortage Areas (HPSA).

COMMENT #7: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the department's rulemaking authority is found in section 195.030.1, RSMo, and requires public notice and a hearing. The department is not following the requirements of section 195.030.1, RSMo, and the proposed amendments should be withdrawn until public hearings can be held.

RESPONSE: Chapter 195, RSMo, grants the department authority to promulgate rules in sections 195.015, 195.017, 195.030, 195.041, 195.050, and 195.195, RSMo. Section 195.015, RSMo, provides authority for the department to add, reschedule, and delete controlled substances to the schedules after public notice and hearing. The department is to consider specific factors listed in section 195.015, RSMo, make findings, and issue a decision prior to modifying the controlled substance schedules. The hearing in section 195.030.1, RSMo, refers to the hearing required for the scheduling of controlled substances as supported by the exclusion of the hearing requirement in the grant of rulemaking authority for waiving registration requirements and for record-keeping and inventory requirements. This operates to prevent the department from promulgating rules relating to the scheduling of controlled substances without following the more specific provisions of section 195.015, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #8: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the purpose of application questions regarding an applicant's race and ethnicity in subsections (5)(A) and (7)(D) is not clear. Such questions are intrusive and serve no rational purpose related to an individual's ability to prescribe or dispense controlled substances and are not authorized by law. The questions should be either voluntary or removed.

RESPONSE: This information allows the department to verify identity and assists in investigations and criminal background screenings since race is part of the identifying information submitted to the National Criminal Intelligence Center (NCIC) to complete a criminal history check. No changes have been made to the rule as a result of this comment.

COMMENT #9: Thomas Vaughn, on behalf of the Missouri Dental

Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the questions on the applications pertaining to drug abuse and previous drug treatment in subsections (5)(K) and (7)(P) require practitioners to make a judgment whether a drug regimen, even with a prescription, constitutes abuse in order to respond. There is no definition for a practitioner to follow to determine whether he or she has abused. It requires disclosure of information which would otherwise be protected by a physician-patient relationship. It requires the disclosure of protected health information and raises a question about how BNDD will protect and deal with the information once it is collected.

RESPONSE AND EXPLANATION OF CHANGE: The department asks this question pertaining to current drug abuse or recent diagnoses within the past year because section 195.040.2, RSMo, prohibits the department from issuing a registration to a person who is abusing controlled substances. The records are stored in a locked and secured manner with limited access, and the records are used strictly for registration and enforcement of Chapter 195, RSMo. The application responses would be closed to the public pursuant to section 195.042, RSMo, and federal law and may only be copied, shared, or released under circumstances allowed by those laws. The department has modified the questions in sections (5), (7), and (8) to define abuse and to make the question similar to questions asked by other state licensing authorities.

COMMENT #10: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the requirement in subsections (5)(T) and (8)(K) for both the physician and the mid-level practitioner to provide a copy of the collaborative practice agreement with their applications creates a substantial paperwork burden and is duplicative and unnecessary.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees. Mid-level practitioners will be submitting copies of any agreements they have entered into pursuant to Chapter 334, RSMo. Therefore the department will not need to collect a second copy from physicians. This requirement will be removed from physicians' applications in section (5).

COMMENT #11: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the fiscal note estimate that individual practitioners will be able to complete the application in fifteen (15) minutes is highly optimistic. The fiscal note also does not address the paperwork cost of providing lengthy collaborative practice agreements. For those reasons, the fiscal note does not appear to satisfy the requirements of section 536.205.1(3), RSMo, and a new fiscal note and affidavit is required.

RESPONSE: The department believes it will not take longer than fifteen (15) minutes to complete the application. The fiscal note is based on this estimate. No changes have been made to the rule as a result of this comment.

COMMENT #12: Thomas Holloway, with the Missouri State Medical Association, and Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the requirement in subsections (5)(Q), (R), (S), and (U) and (7)(E), (G), and (M) for individual practitioners to provide information about which languages the applicant speaks fluently, the applicant's primary specialty and any board certification, the applicant's secondary and tertiary specialties and certifications, information regarding the applicant's practice setting at the address(es) provided, obligations pending at those locations, whether services are provided at a reduced rate, using sliding fees scale, whether Medicaid is accepted, whether new patients are being accepted at the time of the application, the number of hours worked per week for each location for performing direct patient care (non-hospital), administration, research, teaching, inpatient hospital care, and other are completely unrelated to the drug

prescribing activities of the practitioner. Whether or not responses are provided to these questions should not be a basis for denial of an application as incomplete, and responses should not be the basis of licensure action for submitting false information on an application. There is also concern that incorrect responses could result in action against the applicant's professional license by the Missouri Medicaid Audit and Compliance Unit or other regulatory agencies.

RESPONSE AND EXPLANATION OF CHANGE: Census questions have been removed as part of the required application information in the rule. Questions pertaining to controlled substance registrations must be answered fully and truthfully and will be marked as required fields on the application forms with an asterisk as now indicated in the rule. Information regarding hours worked at each practice location will remain as part of the required application information in order for the department to determine the applicant's principle practice location.

COMMENT #13: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that going from the current three (3)-year registration cycle back to an annual registration will be burdensome for practitioners.

RESPONSE: Prior to 2000, the department issued registrations that were valid for a one (1)-year period. Since the department moved to a three (3)-year registration cycle in 2000, there have been an increasing number of practitioners moving without notifying the department, leading to registrations being terminated and practitioners prescribing controlled substances without current and valid controlled substance registration. Other agencies have had similar issues of not being able to track licensees and maintain current licenses when they converted from one (1) year to two (2)-year licenses. Those agencies have converted back to annual licenses. Returning to an annual registration will allow for a more accurate database, prevent disciplinary actions, and reduce the number of practitioners having to reapply for new registrations. No changes have been made to the rule as a result of this comment.

COMMENT #14: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the requirement in subsection (6)(M) that retail businesses are required to provide the department with a "no tax due" letter from the Missouri Department of Revenue is an unnecessary added burden of paperwork. The Missouri Board of Pharmacy requires each retail pharmacy to file a tax clearance letter and there is no need to collect the same information a second time. The BNDD could just obtain this information through a cooperative agreement with the Board of Pharmacy.

RESPONSE: Since 2007, section 144.083.2, RSMo, has required retail businesses to provide a "no tax due statement" from the Missouri Department of Revenue to licensing agencies to verify the applicant has both a retail sale license and that no taxes are due. The only retail businesses registered by the department under Chapter 195, RSMo, are retail pharmacies. Pharmacies have been providing these letters to the department as part of their licensure process since 2007. The addition of the requirement will allow the department to refuse to register retail pharmacies that fail to comply with section 144.083.2, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #15: Rose International commented that the rule includes researchers as individual practitioners and requires that they complete the same application and provide the same information as individual practitioners such as physicians, dentists, and mid-level practitioners. Some institutional practitioners such as hospitals or universities are research facilities and the questions for individual practitioners are not applicable to them.

RESPONSE AND EXPLANATION OF CHANGE: Since hospitals and universities would otherwise be registered as institutional practitioners both with the department and the federal Drug Enforcement

Administration, section (6) has been changed to specifically add researchers.

19 CSR 30-1.017 Registration Process

(1) Database and Survey Process.

(C) Simultaneously with completing an application for a controlled substances registration, practitioners may also complete an annual voluntary census to assist the department in determining practitioner shortages and underserved regions of the state. Required questions and fields for controlled substance registrations are marked with an asterisk (*) in the electronic online system and on paper applications.

(5) Applications for Individual Practitioner Registrations. Applications by physicians, veterinarians, optometrists, podiatrists, and researchers for Missouri Controlled Substance Registrations shall include:

(B) A listing of all addresses and practice locations where controlled substance activities will be taking place. The applicant's street addresses, cities, zip codes, counties, and state. The number of hours worked per week for each location shall be provided for performing direct patient care (non-hospital), administration, research, teaching, in-patient hospital care, and other. The applicant shall also identify his or her primary, principle practice location, where he or she spends the most time. This will be the principle practice address that appears on the controlled substances registration. A physical street address is required and post office box addresses shall not be accepted;

(K) Whether the applicant is abusing or has abused or been treated for or diagnosed with addiction regarding controlled substances during the past year. For purposes of this subsection, "abusing" or "abused" means using or having used a controlled substance in a manner not authorized under Chapter 195, RSMo;

(P) What drug schedules the applicant is requesting authority in; and

(Q) A listing of mid-level practitioners by name and license number with whom applicant has agreements pursuant to Chapter 334, RSMo;

(6) Applications for Pharmacies and Businesses. Applications for retail pharmacies and ambulance services, ambulatory surgery centers, analytical laboratories, correctional centers, distributors, exporters, hospices, hospitals, importers, manufacturers, narcotic treatment programs, long-term care facility E-kits, teaching institutions, researchers, or other applicants not listed in sections (5)-(8), shall include:

(7) Applications for Dentists. Applications for dentists with the degrees of D.D.S. or D.M.D. shall include:

(B) His or her Social Security number and date of birth (MM/DD/YYYY);

(E) The applicant's email address;

(F) The applicant's primary specialty and any board certification;

(G) Whether the applicant is licensed to practice and conduct activities and the applicant's licensure type, license number, and name of licensing agency;

(H) What drug schedules the applicant is requesting to conduct activities in;

(I) The applicant's anticipated drug activities such as administering, prescribing, or dispensing;

(J) The applicant's street addresses, city, zip code, county, and state of their primary, principle practice location, where they spend the most time. This will be the address that appears on the controlled substances registration. Post office box numbers shall not be accepted. Applicants shall also provide any secondary practice locations and the number of chair-side work hours per week at each location. The number of hours worked per week for each location shall be provided for performing direct patient care (non-hospital), administration, research, teaching, in-patient hospital care, and other;

(K) The applicant's business phone number and fax number;

(L) The applicant's criminal history information as it pertains to controlled substance laws. The applicant shall answer yes or no as to whether the applicant or any employees with access to controlled drugs have ever plead guilty, no contest, *nolo contendere*, or ever been convicted of any violation of state or federal law relating to controlled substances;

(M) Information regarding any previous or pending disciplinary actions regarding the applicant's professional license or any controlled substance registration, as to whether the applicant's privileges or authority have been revoked, surrendered, suspended, restricted, or placed on probation, or if any application for a state license or any drug registration has ever been denied;

(N) Whether the applicant is abusing or has abused or been treated for or diagnosed with addiction regarding controlled substances during the past year. For purposes of this subsection, "abusing" or "abused" means using or having used a controlled substance in a manner not authorized under Chapter 195, RSMo;

(O) The application shall be submitted with the required fee and fee information. If claiming an exemption from a fee, the applicant shall identify the name of the government agency that employs him or her;

(P) The applicant shall provide copies and attachments of any guilty pleas, convictions, or disciplinary actions identified in subsections (L) and (M) of this section if the department does not already have them on file; and

(Q) The applicant shall sign and date an application submitted on paper and may use the electronic process if applying online.

(8) Applications for Mid-Level Practitioners. Applications for mid-level practitioners as defined by 21 CFR 1300.01(b)(28) such as advanced practice nurses and physician assistants shall include:

(E) The applicant's email address;

(F) Whether the applicant is licensed to practice and conduct activities and the applicant's licensure type, license number, and name of licensing agency;

(G) What controlled substance schedules (III, IV, or V) the applicant is requesting to conduct activities in;

(H) Which physicians the applicant has collaborative or supervision agreements with;

(I) A copy of the applicant's collaborative or supervision agreements with physicians, and a list of controlled substances from each physician that the mid-level practitioner is authorized to conduct activities with, in that agreement;

(J) The applicant's street address, city, zip code, county, and state of the applicant's primary, principle practice location. This will be the principle address that appears on the controlled substances registration. Post office boxes shall not be accepted. Applicants shall also provide any secondary practice location addresses and the number of hours worked per week for each location for performing direct patient care (non-hospital), administration, research, teaching, inpatient hospital care, and other;

(K) The applicant's business phone number and fax number;

(L) The applicant's criminal history information as it pertains to controlled substance laws. The applicant shall answer yes or no as to whether the applicant or any employee with access to controlled drugs has ever plead guilty, no contest, *nolo contendere*, or ever been convicted of any violation of state or federal law relating to controlled substances;

(M) Information regarding any previous or pending disciplinary actions regarding the applicant's professional license or any controlled substance registration, as to whether the applicant's privileges or authority have been revoked, surrendered, suspended, restricted, or placed on probation, or if any application for a state license or any drug registration has ever been denied;

(N) Whether the applicant has abused or been treated for or diagnosed with addiction regarding controlled substances during the past year. For purposes of this subsection, "abusing" or "abused" means

using or having used a controlled substance in a manner not authorized under Chapter 195, RSMo;

(O) The application shall be submitted with the required fee and fee information. If claiming an exemption from a fee, the applicant shall identify the name of the government agency that employs the applicant;

(P) The applicant shall provide copies and attachments of any guilty pleas, convictions, or disciplinary actions identified in subsections (L) and (M) of this section, if the department does not already have them on file; and

(Q) The applicant shall sign and date an application submitted on paper and may use the electronic process if applying online.

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ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under section 195.195, RSMo 2000, the director amends a rule as follows:

19 CSR 30-1.019 Registration Location is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2011 (36 MoReg 1463). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received two (2) comments on the proposed amendment.

COMMENT #1: The department received five (5) letters in support of this proposed amendment from the Missouri Nurses Association, Sharon Giboney, Carl Joseph Giboney, Desma R. Reno, and GeorgAnn Greissingner.

RESPONSE: No changes have been made to the rule as a result of these comments.

COMMENT #2: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the department's rulemaking authority is found in section 195.030.1, RSMo, and requires public notice and a hearing. The department is not following the requirements of section 195.030.1, RSMo, and the proposed amendments should be withdrawn until public hearings can be held.

RESPONSE: Chapter 195, RSMo, grants the department authority to promulgate rules in sections 195.015, 195.017, 195.030, 195.041, 195.050, and 195.195, RSMo. Section 195.015, RSMo, provides authority for the department to add, reschedule, and delete controlled substances to the schedules after public notice and hearing. The department is to consider specific factors listed in section 195.015, RSMo, make findings, and issue a decision prior to modifying the controlled substance schedules. The hearing in section 195.030.1, RSMo, refers to the hearing required for the scheduling of controlled substances as supported by the exclusion of the hearing requirement in the grant of rulemaking authority for waiving registration requirements and for record-keeping and inventory requirements. This operates to prevent the department from promulgating rules relating to the scheduling of controlled substances without following the more specific provisions of section 195.015, RSMo. No changes have been made to the rule as a result of this comment.

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ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under section 195.195, RSMo 2000, the director amends a rule as follows:

19 CSR 30-1.023 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2011 (36 MoReg 1463-1464). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received five (5) comments on the proposed amendment.

COMMENT #1: The Missouri Academy of Physician Assistants commented that the department should use the more precise terms “physician assistant” and “nurse practitioner” rather than “mid-level practitioner.”

RESPONSE: Physician assistants must be registered by the department before they can obtain a federal registration from the United States Drug Enforcement Administration (DEA). The DEA registration category for physician assistants is “mid-level practitioner.” The term “mid-level practitioner” is used to comply with and be consistent with federal law and is defined in 21 CFR 1300.01(28). These rules and forms will not only be used for the two (2) mid-level practitioner types currently authorized in Missouri, but this rule will cover additional types of mid-level practitioners the state may authorize in future years. The DEA will only issue the same type of registration with information that matches exactly. No changes have been made to the rule as a result of this comment.

COMMENT #2: The Missouri Nurses Association, Sharon Giboney, Carl Joseph Giboney, Desma R. Reno, and GeorgAnn Greissinger commented that the department should not use the term “collaborating supervision agreements” in subsection (2)(B) of the rule. It should instead refer to collaborating or supervising agreements since physician assistants are “supervised” and advanced practice nurses “collaborate” with physicians.

RESPONSE AND EXPLANATION OF CHANGE: The department attempted to use words to describe the vertical relationship between physicians and mid-level practitioners they have agreements with. Different mid-level practitioners have differing statutes and terms. There is also a possibility in the future that additional mid-level practitioners may have controlled substance authority. To accommodate all of these possibilities in the future, the department is amending subsection (2)(B) to remove the words “collaborating” and “supervising” and instead refer to physicians and mid-level practitioners who have agreements pursuant to Chapter 334, RSMo.

COMMENT #3: The Missouri Academy of Physician Assistants commented that subsection (2)(B) should be eliminated in its entirety. Physician assistants should not be required to submit the name of a supervising physician as that information is no longer submitted to the Missouri Board of Registration for the Healing Arts. A physician assistant’s credentials to practice, including the registration to prescribe controlled medication, are the responsibility of the individual physician assistant. If physician assistants have to surrender their state registration every time they change professional practice situations or supervising physicians, they will not be fully able to participate in patient care until a new state registration is processed.

Additionally, physician assistants are already subject to discipline if they prescribe outside their delegated authority.

RESPONSE: There is no need for mid-level practitioners to reapply when their supervising physician moves, retires, or expires. The proposed amendment states that since the authority comes through the physician, if a physician retires, expires, or closes his/her registration, the mid-level practitioner’s controlled drug authority should cease until his or her collaborating or supervising physician has either obtained a new registration or the mid-level practitioner can submit a new agreement with a new physician. A mid-level practitioner can amend his or her registration and no surrender is required. No changes have been made to the rule as a result of this comment.

COMMENT #4: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the department’s rulemaking authority is found in section 195.030.1, RSMo, and requires public notice and a hearing. The department is not following the requirements of section 195.030.1, RSMo, and the proposed amendments should be withdrawn until public hearings can be held.

RESPONSE: Chapter 195, RSMo, grants the department authority to promulgate rules in sections 195.015, 195.017, 195.030, 195.041, 195.050, and 195.195, RSMo. Section 195.015, RSMo, provides authority for the department to add, reschedule, and delete controlled substances to the schedules after public notice and hearing. The department is to consider specific factors listed in section 195.015, RSMo, make findings, and issue a decision prior to modifying the controlled substance schedules. The hearing in section 195.030.1, RSMo, refers to the hearing required for the scheduling of controlled substances as supported by the exclusion of the hearing requirement in the grant of rulemaking authority for waiving registration requirements and for record-keeping and inventory requirements. This operates to prevent the department from promulgating rules relating to the scheduling of controlled substances without following the more specific provisions of section 195.015, RSMo. No changes have been made to the rule as a result of this comment.

COMMENT #5: The department received five (5) letters in support of this proposed amendment from the Missouri Nurses Association, Sharon Giboney, Carl Joseph Giboney, Desma R. Reno, and GeorgAnn Greissinger.

RESPONSE: No changes have been made to the rule as a result of these comments.

19 CSR 30-1.023 Registration Changes

(2) Termination of Registration.

(B) A mid-level practitioner’s registration shall be contingent upon the physician with whom he or she has entered into an agreement pursuant to Chapter 334, RSMo, having a current and valid registration. When such physician’s registration expires, closes, or is no longer valid, any mid-level practitioner(s) with whom he or she has entered into an agreement shall no longer have controlled substance authority. The mid-level practitioner(s) shall cease controlled drug activities until the physician has obtained a new registration or the mid-level practitioner(s) obtain(s) another agreement with another physician pursuant to Chapter 334, RSMo. Mid-level practitioners and any physician with whom he or she has entered into an agreement pursuant to Chapter 334, RSMo, shall notify the Department of Health and Senior Services of the termination of any such agreement.

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By the authority vested in the Department of Health and Senior Services under section 195.195, RSMo 2000, the director amends a rule as follows:

19 CSR 30-1.066 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2011 (36 MoReg 1464). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received two (2) comments on the proposed amendment.

COMMENT #1: The Missouri Academy of Physician Assistants commented that the department should use the more precise terms “physician assistant” and “nurse practitioner” rather than “mid-level practitioner.” Also, physician assistants do not practice with a collaborative agreement. Physician assistants practice with physician supervision in accordance with a written supervision agreement.

RESPONSE AND EXPLANATION OF CHANGE: Physician assistants and nurse practitioners must be registered by the department before they can obtain a federal registration from the United States Drug Enforcement Administration (DEA). The DEA registration category for physician assistants and nurse practitioners is “mid-level practitioner.” The term “mid-level practitioner” is used to comply with and be consistent with federal law and is defined in 21 CFR 1300.01(28). The DEA will only issue the same type of registration with information that matches exactly. The rule will not only apply to the two (2) mid-level practitioner types currently authorized in Missouri, but is intended to cover additional types of mid-level practitioners the state may authorize in future years. The department is amending section (2) to remove the reference to collaborative practice agreements and instead refer to agreements entered into by a mid-level practitioner and individual practitioner pursuant to Chapter 334, RSMo.

COMMENT #2: Thomas Vaughn, on behalf of the Missouri Dental Association, Missouri State Medical Association, and the Missouri Pharmacy Association, commented that the department’s rulemaking authority is found in section 195.030.1, RSMo, and requires public notice and a hearing. The department is not following the requirements of section 195.030.1, RSMo, and the proposed amendments should be withdrawn until public hearings can be held.

RESPONSE: Chapter 195, RSMo, grants the department authority to promulgate rules in sections 195.015, 195.017, 195.030, 195.041, 195.050, and 195.195, RSMo. Section 195.015, RSMo, provides authority for the department to add, reschedule, and delete controlled substances to the schedules after public notice and hearing. The department is to consider specific factors listed in section 195.015, RSMo, make findings, and issue a decision prior to modifying the controlled substance schedules. The hearing in section 195.030.1, RSMo, refers to the hearing required for the scheduling of controlled substances as supported by the exclusion of the hearing requirement in the grant of rulemaking authority for waiving registration requirements and for record-keeping and inventory requirements. This operates to prevent the department from promulgating rules relating to the scheduling of controlled substances without following the more specific provisions of section 195.015, RSMo. No changes have been made to the rule as a result of this comment.

19 CSR 30-1.066 Dispensing by Individual Practitioners

(2) Mid-level practitioners shall not independently purchase, stock, administer, and dispense controlled substances. Controlled substances may be administered or dispensed from an individual practi-

tioner’s inventory by a mid-level practitioner with whom he or she has entered into an agreement pursuant to Chapter 334, RSMo, when the practitioner is not present at the registered location.

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ORDER OF RULEMAKING

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

19 CSR 30-20.097 Safe Patient Handling and Movement in Hospitals is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2011 (36 MoReg 1464-1468). No changes have been made to the text of the proposed rule so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received two (2) comments on the proposed rule.

COMMENT #1: The department received a comment from Sandra Swan, with BJC Healthcare, suggesting the wording in subsection (2)(A) be changed to avoid the use of the term “elimination.” Potential replacement terms “reduce” or “minimize” were offered as suggestions.

RESPONSE: The intent of the rule is to eliminate manual lifting, transferring, and repositioning of all or most of a patient’s weight. The current language “or most of the patient’s weight” implies that there may be situations when minimal manual lifting efforts would be acceptable. No change is being made to this proposed rule as a result of this comment.

COMMENT #2: The department received a comment from Sandra Swan, with BJC Healthcare, suggesting the word “equipment” be added after the word “movement” in subsection (2)(C), since appropriate equipment selection is a part of the patient lift assessment.

RESPONSE: The intent of the process is to assess each patient’s needs. Adding the term “equipment” could be interpreted to mean that every patient would be required to be moved with the assistance of a piece of equipment. The assessment will determine whether or not a piece of equipment will need to be utilized in order to safely move a patient. No change is being made to this proposed rule as a result of this comment.

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. In addition, this list includes contractor(s) that have agreed to placement on the list maintained by the Secretary of State pursuant to Section 290.330 as a part of the resolution of criminal charges of violating the Missouri Prevailing Wage Law. Under this statute, no public body shall award a contract for public works to any contractor or subcontractor, or simulation thereof, during the time that such contractor or subcontractor's name appears on this state debarment list maintained by the Secretary of State.

Contractors Convicted of Violations of the Missouri Prevailing Wage Law

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Rycoblake Corp. Case No. 0916-CR03145 (Jackson County Cir. Ct.)		4212 SE Saddlebrook Cir Lee's Summit, MO 64082	7/13/11	7/13/11 to 7/13/12

Contractors Agreeing to Placement on the Public Works Debarment List as Part of an Agreement Relating to Criminal Pleas

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Rycoblake Corp.		4212 SE Saddlebrook Cir Lee's Summit, MO 64082		7/13/11 to 12/1/12
Gerald Chevalier		4212 SE Saddlebrook Cir Lee's Summit, MO 64082		7/13/11 to 12/1/12

Dated this 2 day of August 2011.

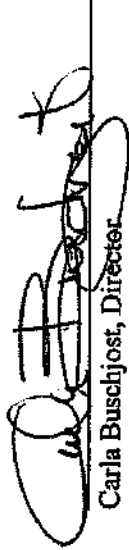

 Carla Buschfest, Director

**ADDITION TO STATUTORY LIST OF CONTRACTORS
BARRED FROM PUBLIC WORKS PROJECTS**

The following is an addition to the 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 Mr. Saxon W. Johnson, (2) to any other contractor or sub-contractor that is owned, operated or controlled by Mr. Saxon W. Johnson including The Tile Doctor or (3) to any other simulation of Mr. Saxon W. Johnson or of The Tile Doctor for a period of one year, or until September 2, 2012.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Saxon W. Johnson DBA The Tile Doctor Case No. 10CA-CR01318 Cass County Cir. Ct.		10724 Haskins Ct Shawnee Mission, KS 66210	9/2/2011	9/2/2011-9/2/2012

Dated this 13 day of September 2011.



Carla Buschjost, Director