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SALUS POPULI SUPREMA LEX ESTO

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



JASON KANDER
SECRETARY OF STATE

MISSOURI
REGISTER

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IN THIS ISSUE:

PROPOSED RULES

Department of Conservation
 Conservation Commission581

Department of Transportation
 Traffic and Highway Safety Division586

Department of Natural Resources
 Air Conservation Commission593

Boards of Police Commissioners
 Kansas City Board of Police Commissioners604

Department of Health and Senior Services
 Division of Community and Public Health635
 Division of Regulation and Licensure643

Department of Insurance, Financial Institutions and Professional Registration
 Board of Cosmetology and Barber Examiners643
 Missouri Dental Board647
 State Board of Nursing653

Department of Natural Resources
 Air Conservation Commission658

Department of Public Safety
 Missouri Gaming Commission660

CONTRACTOR DEBARMENT LIST668

DISSOLUTIONS669

SOURCE GUIDES

RULE CHANGES SINCE UPDATE672
EMERGENCY RULES IN EFFECT676
EXECUTIVE ORDERS677
REGISTER INDEX678

ORDERS OF RULEMAKING

Office of Administration
 Commissioner of Administration657

Department of Conservation
 Conservation Commission657

Department of Economic Development
 Public Service Commission657

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
December 3, 2012 December 17, 2012	January 2, 2013 January 15, 2013	January 29, 2013 January 29, 2013	February 28, 2013 February 28, 2013
January 2, 2013 January 15, 2013	February 1, 2013 February 15, 2013	February 28, 2013 February 28, 2013	March 30, 2013 March 30, 2013
February 1, 2013 February 15, 2013	March 1, 2013 March 15, 2013	March 31, 2013 March 31, 2013	April 30, 2013 April 30, 2013
March 1, 2013 March 15, 2013	April 1, 2013 April 15, 2013	April 30, 2013 April 30, 2013	May 30, 2013 May 30, 2013
April 1, 2013 April 15, 2013	May 1, 2013 May 15, 2013	May 31, 2013 May 31, 2013	June 30, 2013 June 30, 2013
May 1, 2013 May 15, 2013	June 3, 2013 June 17, 2013	June 30, 2013 June 30, 2013	July 30, 2013 July 30, 2013
June 3, 2013 June 17, 2013	July 1, 2013 July 15, 2013	July 31, 2013 July 31, 2013	August 30, 2013 August 30, 2013
July 1, 2013 July 15, 2013	August 1, 2013 August 15, 2013	August 31, 2013 August 31, 2013	September 30, 2013 September 30, 2013
August 1, 2013 August 15, 2013	September 3, 2013 September 16, 2013	September 30, 2013 September 30, 2013	October 30, 2013 October 30, 2013
September 3, 2013 September 16, 2013	October 1, 2013 October 15, 2013	October 31, 2013 October 31, 2013	November 30, 2013 November 30, 2013

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.

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 proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

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

PROPOSED AMENDMENT

3 CSR 10-10.705 Commercialization. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies an individual's right to due process before the suspension, revocation, or denial of a permit or privilege if they are found to be out of compliance with this Code.

Wildlife may be bought, sold, offered for sale, exchanged, transported, or delivered only under the conditions of the prescribed permit, or as otherwise provided in this chapter. No affidavit, receipt, or other document may be issued or used in lieu of the required per-

mit. Any permit issued or obtained by false statement or through fraud, or while permits are revoked or denied by the commission, shall be invalid. *[Renewal of permits is conditioned on compliance with provisions of this Code.]* **As provided in rule 3 CSR 10-5.216, the commission may suspend, revoke, or deny a permit or privilege for cause, but not until an opportunity has been afforded for a hearing before the commission or its authorized representative. Hearings under this section shall be non-contested cases unless the permittee is entitled by law to a contested case hearing.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

3 CSR 10-10.722 Resident Roe Fish Commercial Harvest Permit. The commission proposes to amend this rule.

PURPOSE: This amendment removes shovelnose sturgeon as a species available for roe harvest from the Missouri River to align Missouri's regulations with the U.S. Fish and Wildlife Service's similarity of appearance ruling.

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

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Dec. 30, 2003, effective July 1, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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 10-10.725 Commercial Fishing: Seasons, Methods. The commission proposes to amend subsection (1)(B), delete subsection (1)(C), amend section (3), delete sections (4) and (5), renumber subsequent sections, amend new section (6), amend new subsection (6)(C), add subsection (6)(D), re-letter subsequent subsection, amend new sections (7) and (8), add section (9), renumber subsequent sections, amend new sections (10) and (11), and add section (12) of this rule.

PURPOSE: This amendment removes references to shovelnose sturgeon harvest on the Missouri River and Mississippi River below Melvin Price Locks and Dam to align Missouri's regulations with U.S. Fish and Wildlife Service's similarity of appearance ruling, hoop net leads are further defined, and the harvest of Asian carp which jump into watercraft used by commercial fishermen is allowed.

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

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

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

(3) On the Missouri River *[upstream from U.S. Highway 169 and downstream from Carl R. Noren Access to Chamois Access]* or banks thereof, game fish (including channel, blue, and flathead catfish~~/.;~~; paddlefish; and shovelnose sturgeon) may not be possessed or transported while fishing by commercial methods or while possessing commercial fishing gear and shall be returned to the water unharmed immediately after being caught.

[(4) From May 16 through October 31 on the Missouri River downstream from U.S. Highway 169 to Carl R. Noren Access and downstream from Chamois Access to its confluence with the Mississippi River or banks thereof, game fish (including channel, blue and flathead catfish, paddlefish and shovelnose sturgeon) may not be possessed or transported while fishing by commercial methods or while pos-

sessing commercial fishing gear and shall be returned to the water unharmed immediately after being caught.]

[(5) From November 1 through May 15 on the Missouri River downstream from U.S. Highway 169 to Carl R. Noren Access and downstream from Chamois Access to its confluence with the Mississippi River or banks thereof, the following may not be possessed or transported while fishing by commercial methods or while possessing commercial fishing gear and shall be returned to the water unharmed immediately after being caught:

(A) Game fish (including channel, blue and flathead catfish and paddlefish).

(B) Shovelnose sturgeon less than twenty-four inches (24") or more than thirty inches (30") in length (measured from tip of snout to fork of tail).]

[(6)](4) On that part of the St. Francis River which forms the boundary between the states of Arkansas and Missouri, the following may not be possessed or transported while fishing by commercial methods or while possessing commercial fishing gear and shall be returned to the water unharmed immediately after being caught:

(A) Channel, blue, and flathead catfish less than fifteen inches (15") in total length~~/.;~~; and

(B) Other game fish (including paddlefish and shovelnose sturgeon).

[(7)](5) From May 16 through October 14 on the portions of the Mississippi River defined as commercial waters, the following may not be possessed or transported while fishing by commercial methods or while possessing commercial fishing gear and shall be returned to the water unharmed immediately after being caught:

(A) Channel, blue, and flathead catfish less than fifteen inches (15") in total length~~/.;~~

(B) Paddlefish less than twenty-four inches (24") in length (measured from eye to fork of tail)~~/.;~~

(C) Shovelnose sturgeon~~/.;~~; and

(D) Other game fish.

*[(8)](6) From October 15 through May 15 on the portions of the Mississippi River defined as commercial waters **unless further restricted**, the following may not be possessed or transported while fishing by commercial methods or while possessing commercial fishing gear and shall be returned to the water unharmed immediately after being caught:*

(A) Channel, blue, and flathead catfish less than fifteen inches (15") in total length~~/.;~~

(B) Paddlefish less than twenty-four inches (24") in length (measured from eye to fork of tail)~~/.;~~

*(C) Shovelnose sturgeon **upstream from Melvin Price Locks and Dam** less than twenty-four inches (24") or more than thirty-two inches (32") in length (measured from tip of snout to fork of tail)~~/.;~~*

*(D) **Shovelnose sturgeon downstream from Melvin Price Locks and Dam;** and*

[(D)](E) Other game fish.

[(9)](7) While on waters of the state and adjacent banks, the head and tail must remain attached to all fish, bowfin, and shovelnose sturgeon must remain whole and intact, and the ovaries of paddlefish must remain intact and accompany the fish from which they were removed.

*[(10)](8) Commercial fishing gear may not be used or set within three hundred (300) yards of any spillway, lock, dam, or the mouth of any tributary stream or ditch, or in waters existing temporarily through overflow outside the banks of the specified rivers except as *[provided in section (7) of this rule]* specified in 3 CSR 10-20.805(14), and may not be used to take fish underneath or through the ice. *[Seines, gill nets, and trammel nets having a mesh smaller than two**

inches (2") bar measure, measured when wet, may not be used. Hoop nets, including wings and leads, having a mesh smaller than one and one-half inches (1 1/2") bar measure, measured when wet, may not be used. Hoop net wings and leads must be a single panel and not more than six feet (6') in depth. Hooks attached to trotlines or throwlines shall be staged not less than two feet (2') apart. While in use, all commercial fishing gear shall be labeled with tags furnished by the department and placed as indicated on the tags. Portions of trotlines and jug or block lines, throwlines, bank lines, and limb lines must have the commercial tag number under which they are being fished attached to each line. Commercial fishing gear may not be possessed on waters of the state or adjacent banks that are not open to commercial fishing, except during transportation by boat from the nearest access location to commercial fishing waters as determined by the department.]

(9) Commercial gear must meet the following requirements:

(A) Seines, gill nets, and trammel nets having a mesh smaller than two inches (2") bar measure, measured when wet, may not be used;

(B) Hoop nets having a mesh smaller than one and one-half inches (1 1/2") bar measure, measured when wet, may not be used. Hoop net wings and leads must be a single panel, not more than six feet (6') in depth, mesh size one and one half inches (1 1/2") bar measure, measured when wet, and made of twine not less than three sixty-fourths of an inch (3/64") in diameter;

(C) Hooks attached to trotlines or throwlines shall be staged not less than two feet (2') apart;

(D) While in use, all commercial fishing gear shall be labeled with tags furnished by the department and placed as indicated on the tags. Portions of trotlines and jug or block lines, throwlines, bank lines, and limb lines must have the commercial tag number under which they are being fished attached to each line; and

(E) Commercial fishing gear may not be possessed on waters of the state or adjacent banks that are not open to commercial fishing, except during transportation by boat from the nearest access location to commercial fishing waters as determined by the department.

[[11]](10) The possession of game fish **except as defined as commercial fish in 3 CSR 10-20.805(13)** while in the act of using commercial fishing gear or aboard a boat transporting fish taken by commercial fishing gear is prohibited.

[[12]](11) The possession of extracted eggs of any fish species, except as provided in section [(9)](7) of this rule, is prohibited while on waters of the state and adjacent banks.

(12) Bighead carp, common carp, grass carp, and silver carp that jump from the water on or into a watercraft, or onto land, may be taken and possessed in any number.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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 ten thousand one hundred twelve dollars and twenty cents (\$10,112.20) in the aggregate. This information is based on 28 commercial fisherman x 6.2 hoop nets each = 173.6 hoop net leads. Approximately 173.6 hoop net leads will be replaced at \$58.25 each = \$10,112.20 aggregate costs (one- (1-) time).

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 COST**

- I. Department Title: 3 - Department of Conservation
Division Title: 10 - Conservation Commission
Chapter Title: 10 - Wildlife Code: Commercial Permits: Seasons, Methods, Limits**

Rule Number and Title:	3 CSR 10-10.725 Commercial Fishing: Seasons, Methods
Type of Rulemaking:	Proposed amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Estimated hoop net lead replacement costs	28 Commercial Fishers	\$10,112.20

III. WORKSHEET

**28 commercial fisherman x 6.2 hoop nets each = 173.6 hoop net leads.
Approximately 173.6 hoop net leads will be replaced at \$58.25 each = \$10,112.20 aggregate costs (one-time).**

IV. ASSUMPTIONS

- Numbers based on current and historic permit sales. Additional information obtained during a series of public meetings held across the state was also used.
- There was a total of 388 commercial fisherman licensed during the last complete permit year.
- Seventy-nine and nine tenths percent of all commercial fishermen will fish hoop nets. (One hundred fifty-one of 210 commercial permit buyers (71.9%) purchased hoop net gear tags.) (Seventy-nine and nine tenths percent of 388 commercial fisherman = 279 who fish hoop nets.)
- Twenty percent of recent public meeting participants indicated they used leads with their hoop net sets. (Twenty percent of 279 commercial fishermen = 56 commercial fishermen use hoop nets with leads.)
- Half of those commercial fisherman using leads are already in compliance. (Twenty-eight commercial fisherman will have to replace their leads in order to comply.)
- In current year sales to date, 151 commercial permit holders purchased a total of 935 hoop net gear tags (Average 6.2 hoop nets per licensed commercial angler.)
- Each replacement lead will cost \$58.25 to replace.
- Summary - 28 commercial fishermen with 6.2 nets at \$58.25 = \$10,112.20 (one-time cost).

**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 delete subsection (1)(G) and re-letter subsequent subsections of this rule.

PURPOSE: This amendment removes a reference to a lake no longer managed by the department.

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

- [(G)](G) Green City Lake*
- [(H)](G) Kirksville (Hazel Creek Lake, Spur Pond)*
- [(I)](H) Lancaster (City Lake, Paul Bloch Memorial Pond)*
- [(J)](I) LaPlata City Lake*
- [(K)](J) Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)*
- [(L)](K) Macon County (Fairgrounds Lake)*
- [(M)](L) Marceline (Marceline City Lake, Old Marceline City Reservoir)*
- [(N)](M) Memphis (Lake Showme)*
- [(O)](N) Milan (Elmwood Lake)*
- [(P)](O) Monroe City (Route J Reservoir)*
- [(Q)](P) Palmyra (Akerson Access)*
- [(R)](Q) Pemiscot County (Triangle Boat Club Access)*
- [(S)](R) Rockaway Beach Access*
- [(T)](S) Sedalia Water Department (Spring Fork Lake)*
- [(U)](T) Springfield City Utilities (Fellows Lake, Lake Springfield, Tailwaters Access)*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 1, 2001, effective Oct. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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 delete subsection (6)(F) and re-letter subsequent subsections of this rule.

PURPOSE: This amendment removes a reference to a lake no longer managed by the department.

- (6) Outboard motors in excess of ten (10) horsepower may be used but must be operated at slow, no-wake speed on the following areas:
 - [(F)](F) Green City Lake;*
 - [(G)](F) Little River Drainage District (Headwaters Diversion Channel);*
 - [(H)](G) Higginsville City Lake;*
 - [(I)](H) Holden City Lake;*
 - [(J)](I) Iron Mountain City Lake;*
 - [(K)](J) La Plata City Lake;*
 - [(L)](K) Macon City Lake;*
 - [(M)](L) Marceline (Marceline City Lake, Old Marceline City Reservoir);*
 - [(N)](M) Mark Twain National Forest (Council Bluff Lake, Palmer Lake);*
 - [(O)](N) Maysville (Willow Brook Lake);*
 - [(P)](O) Memphis (Lake Showme);*
 - [(Q)](P) Milan (Elmwood Lake);*
 - [(R)](Q) Moberly (Rothwell Park Lake, Sugar Creek Lake, and Water Works Lake);*
 - [(S)](R) Monroe City (Route J Reservoir);*
 - [(T)](S) Unionville (Lake Mahoney);*
 - [(U)](T) Wakonda State Park (Agate Lake and Wakonda Lake);*
 - and
 - [(V)](U) Watkins Woolen Mill State Park and Historic Site (Williams Creek Lake);*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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 delete subsection (4)(E) and re-letter subsequent subsections of this rule.

PURPOSE: This amendment removes a reference to a lake no longer managed by the department.

- (4) Carp, buffalo, suckers, and gar may be taken by atlatl, gig, bow, or crossbow during statewide seasons on the following lakes:
 - [(E)](E) Green City Lake*
 - [(F)](E) Hamilton City Lake*

[(G)](F) Harrison County Lake
[(H)](G) Jackson County (Lake Jacomo, north of Colbern Road)
[(I)](H) Kirksville (Hazel Creek Lake)
[(J)](I) Maryville (Mozingo Lake)
[(K)](J) Macon City Lake
[(L)](K) Marceline (Marceline City Lake, Old Marceline City Reservoir)
[(M)](L) Maysville (Willow Brook Lake)
[(N)](M) Memphis (Lake Showme)
[(O)](N) Moberly (Sugar Creek Lake)
[(P)](O) St. Louis County (Sunfish Lake)
[(Q)](P) Thousand Hills State Park (Forest Lake)
[(R)](Q) Unionville (Lake Mahoney)
[(S)](R) Wakonda State Park lakes

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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 20—Wildlife Code: Definitions

PROPOSED AMENDMENT

3 CSR 10-20.805 Definitions. The commission proposes to amend section (13) of this rule.

PURPOSE: The amendment aligns the Wildlife Code with current federal regulations for shovelnose sturgeon.

(13) Commercial fish: All fish except endangered species as listed in 3 CSR 10-4.111(3) and game fish as defined in this rule. Includes those species for which sale is permitted when legally obtained. For purposes of this Code, packaged salt water species or freshwater species not found in waters of this state, when the processed fish are truly labeled as to content, point of origin, and name and address of the processor, are exempt from restrictions applicable to native commercial fish. Commercial fish include common snapping and soft-shelled turtles and crayfish taken from waters open to commercial fishing. In the Mississippi River and that part of the St. Francis River which forms the boundary between the states of Arkansas and Missouri, commercial fish also include channel, blue, and flathead catfish at least fifteen inches (15") in total length. In the Mississippi River only, commercial fish also include paddlefish at least twenty-four inches (24") in length (measured from eye to fork of tail) and shovelnose sturgeon twenty-four inches to thirty-two inches (24"-32") in length (measured from tip of snout to fork of tail) **upstream from Melvin Price Locks and Dam. [In the Missouri River downstream from U.S. Highway 169 to Carl R. Noren Access and downstream from Chamois Access to its con-**

fluence with the Mississippi River, commercial fish also include shovelnose sturgeon twenty-four inches to thirty inches (24"-30") in length (measured from tip of snout to fork of tail).]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-11.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 12, 2013.

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 7—DEPARTMENT OF TRANSPORTATION Division 60—Traffic and Highway Safety Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

PROPOSED AMENDMENT

7 CSR 60-2.010 Definitions. The Missouri Highways and Transportation Commission is amending subsection (1)(A).

PURPOSE: This proposed amendment defines the terms used in the breath alcohol ignition interlock device certification and operational requirements.

(1) Definitions.

(A) The following words and terms as used in these requirements shall have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set *[to lock the ignition]* for the rolling retests;

2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device is set to lock the ignition. The alcohol setpoint is the nominal lock point at which the ignition interlock device is set at the time of calibration;

3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;

4. Authorized service provider—A person, company, or authorized franchise who is certified by the state of Missouri to provide breath alcohol ignition interlock devices under sections 577.600-577.614, RSMo;

5. Bogus breath sample—Any gas sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;

6. Breath alcohol concentration (BAC)—The number of grams of alcohol (% weight/volume) per two hundred ten (210) liters of breath;

7. Breath alcohol ignition interlock device (BAIID)—A mechanical unit that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine **and will provide a warning message.** If

the unit detects a BAC test result at or above the alcohol setpoint, the vehicle will be prohibited from starting;

8. **Breath sample**—Expired human breath containing primarily alveolar air;

9. **Calibration**—The process which ensures an accurate alcohol concentration reading on a device;

10. **Circumvention**—An unauthorized, intentional, or overt act or attempt to start, drive, or operate a vehicle equipped with a breath alcohol ignition interlock device without the driver of the vehicle providing a pure breath sample;

11. **Committee**—The persons delegated to conduct informal reviews of suspension or revocation of a device by the Missouri Highways and Transportation Commission;

12. **Designated monitoring period**—The period of time indicated by the Department of Revenue for required monitoring of the driver's ignition interlock use by the authorized service provider;

[11.]/13. **Device**—Breath alcohol ignition interlock device (BAIID);

[12.]/14. **Download**—The transfer of information from the interlock device's memory onto disk or other electronic or digital transfer protocol;

[13.]/15. **Emergency service**—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

[14.]/16. **Filtered breath sample**—A breath sample which has been filtered through a substance in an attempt to remove alcohol from the sample;

17. **Global positioning system**—A feature of the device that will log the location (longitude and latitude), date and time of each breath sample including any refusal, any circumvention attempt, and any attempt to tamper with the ignition interlock device;

[15.]/18. **Independent laboratory**—A laboratory which is properly equipped and staffed to conduct laboratory tests on ignition interlock devices;

[16.]/19. **Initial breath test**—A breath test required to start a vehicle to ensure that the driver's BAC is below the alcohol setpoint;

[17.]/20. **Installation**—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by installers;

[18.]/21. **Installer**—A dealer, distributor, supplier, individual, or service center who provides device calibration, installation, and other related activities as required by the authorized service provider;

[19.]/22. **Lockout**—The ability of the device to prevent a vehicle's engine from starting unless it is serviced or recalibrated;

[20.]/23. **NHTSA**—Federal agency known as the National Highway Traffic Safety Administration;

[21.]/24. **Operator**—Any person who operates a vehicle that has a court-ordered or Department of Revenue required breath alcohol ignition interlock device installed;

[22.]/25. **Permanent lockout**—A feature of a device in which a vehicle will not start until the device is reset by a device installer;

26. **Photo ID technology**—A feature of the device that incorporates technology that will photograph the person who is providing the breath test;

27. **Refusal**—The failure of a driver to provide a breath sample and complete the breath test when prompted by the ignition interlock device;

[23.]/28. **Pure breath sample**—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

[24.]/29. **Reinstallation**—Replacing a breath alcohol ignition interlock device in a vehicle by an installer after it has been removed for service;

[25.]/30. **Retest**—Two (2) additional chances to provide a breath

sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the rolling retest;

31. **Revocation**—A revocation is a removal of a device from the approved list and requires reapplication under 7 CSR 60-2.020. After revocation, an authorized service provider must wait at least one (1) year or longer, if determined by Traffic and Highway Safety Division or the committee, before reapplication;

[26.]/32. **Rolling retest**—A subsequent breath test that must be conducted five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-)/- minute time period thereafter while the vehicle is in operation;

[27.]/33. **Service lockout**—A feature of the breath alcohol ignition interlock device which will not allow a breath test and will not allow the vehicle to start until the device is serviced and recalibrated as required;

34. **Suspension**—The period after a finding by the Missouri Department of Transportation, Traffic and Highway Safety Division or the committee designated by the Missouri Highways and Transportation Commission to conduct informal review of a device that is to be or has been removed from the list of approved devices. A suspension is temporary and may not require the manufacturer to go through the approval procedure although the Traffic and Highway Safety Division or the committee may impose requirements before the suspension is removed;

[28.]/35. **Tampering**—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering measures, so a driver can start the vehicle without taking and passing an initial breath test;

[29.]/36. **Temporary lockout**—A feature of the device which will not allow the vehicle to start for fifteen (15) minutes after three (3) failed attempts to blow a pure breath sample; and

[30.]/37. **Violations reset**—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

A. Two (2) fifteen- (15-)/- minute temporary lockouts within a thirty- (30-)/- day period;

B. Any three (3) refusals to provide a retest sample within a thirty- (30-)/- day period; *or*

C. Any three (3) retest breath samples above the alcohol setpoint within a thirty- (30-)/- day period; *or*

D. Any attempts to circumvent or tamper with a device.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.525, and 577.041, RSMo Supp. 2012, sections 577.600–577.614, RSMo 2000 and RSMo Supp. [2009] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.010. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed March 7, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.020 Approval Procedure. The Missouri Highways and Transportation Commission is amending subsections (1)(B) and (1)(C).

PURPOSE: This proposed amendment outlines the necessary steps for manufacturers to get their interlock devices approved and certified in the state of Missouri.

(1) Approval Procedure.

(B) Application.

1. Application to become an authorized service provider must be made by submitting a letter requesting approval of a breath alcohol ignition interlock device to the State of Missouri, Department of Transportation, **Traffic and Highway Safety Division**, PO Box 270, Jefferson City, MO 65102, in the manner described herein. All applicants must certify that their device—

A. Does not impede the safe operation of a vehicle;

B. Minimizes opportunities to circumvent the device; and

C. Prevents an operator from starting a vehicle when the operator has a breath alcohol concentration which exceeds the alcohol setpoint.

2. An application for certification must include all of the following:

A. A written request for certification of a device on the company's letterhead, signed by an authorized representative of the company;

B. The name and business address of the applicant;

C. The name and model number of the device. *A separate application is required for each model of device*;

D. Complete technical specifications describing the device's accuracy, reliability, security, data collection and recording, tamper detection, and environmental features;

E. A quality control plan that outlines the requirements for installation sites, service centers, and technicians who install and/or service ignition interlock devices. The plan must be submitted annually, or when changes occur, and must include, but not be limited to, the following:

(I) Certification that ignition interlock technicians do not have two (2) or more alcohol-related enforcement contacts as defined in section 302.525, RSMo, or a manslaughter, involuntary manslaughter, or any other type of crime or conduct involving moral turpitude that would compromise the program;

(II) Installation sites and service centers are operating as a business meeting all federal, state, and local government regulations;

(III) The process the authorized service provider will use for ongoing supervision of the sites and technicians in the state; and

(IV) Outline suspension and revocation procedures for installation sites, service centers, and technicians for non-compliance of requirements set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 or any policies outlined by the authorized service provider;

E/F. A complete and certified copy of data from an independent laboratory demonstrating that the device meets or exceeds the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772-11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the *Federal Register* by the National Highway Traffic Safety

Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication;

[F./G.] A complete listing of all installers that includes the name, location, phone number, contact name, and hours of operation; *[and]*

[G./H.] The applicant's toll-free customer service/question/complaint hot-line number.*./;* **and**

I. A separate application is required for devices that differ in any operational aspect.

3. The applicant seeking certification shall—

A. Agree to ensure any service performed outside the state of Missouri on a device installed pursuant to Missouri law shall be in compliance with all requirements included herein;

B. Agree to ensure proper record keeping and provide testimony relating to any aspect of the installation, service, repair, removal, interpretation of any report, or information recorded in the data storage system of a device;

C. Advise the Missouri Department of Transportation, Traffic and Highway Safety Division, whether the device for which certification is being sought in Missouri is the subject of any action to disallow, or has ever been, in any way, disallowed for use in another state whether such action occurred before or after approval in Missouri and if or when such action is or has been appealed in the other state and the outcome of the appeal;

D. Upon request of the Missouri Department of Transportation, Traffic and Highway Safety Division, and/or an agent of the state, for each device submitted for certification or certified under this section, agree to install the device with all proposed anti-circumvention features activated in a vehicle provided by the state, and/or an agent of the state; and

E. The state, and/or an agent of the state, may conduct compliance testing on the device submitted for certification and periodically throughout the certification period.

[3./4.] All compliance costs associated with the *[certification and recertification process]* requirements set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 shall be borne by the applicant or authorized service provider.

(C) Approval.

1. The state of Missouri will issue a letter of certification or a letter of refusal to certify within sixty (60) days after receipt of a completed application. No device should be deemed approved, regardless of the time frame, unless the applicant has received written notification from the state of Missouri, Department of Transportation, **Traffic and Highway Safety Division**.

2. The state of Missouri will notify applicants for certification if their application is incomplete and, if the application is incomplete, will specify what information or documents are needed to complete the application.

3. The state of Missouri, Department of Transportation, **Traffic and Highway Safety Division**, will publish and maintain a list of approved devices. The list will be updated as changes occur.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.525, and 577.041, RSMo Supp. 2012, sections 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.020. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.020, effective Aug. 28, 2003. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Amended: Filed March 7, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.030 Standards and Specifications. The Missouri Highways and Transportation Commission is amending the purpose, subsections (1)(A)–(1)(C) and (1)(E), and adding a new subsection (1)(G).

PURPOSE: This proposed amendment clarifies installation and certification standards and procedures for ignition interlock devices in the state of Missouri.

PURPOSE: This rule outlines the minimum standards and specifications for ignition interlock device approval and [certification] installation in the state of Missouri.

(1) Standards and Specifications.

(A) *[Beginning July 1, 2009,] [a]All devices [newly] installed into a vehicle must be based on electro-chemical fuel cell sensor technology and shall meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as “Model Specifications for Breath Alcohol Ignition Interlock Devices” 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. [Beginning July 1, 2011, all devices currently installed in an operator’s vehicle that are not electro-chemical fuel cell technology shall be removed by the authorized service provider of the non-electro-chemical fuel cell device and such authorized service provider shall install new devices based on electro-chemical fuel cell technology, which must be selected from the state of Missouri’s list of such approved devices. The authorized service provider shall notify by May 1, 2011, operators with non-electro-chemical fuel cell devices in their vehicles that such devices are to be removed from the operators’ vehicles at the cost of the authorized service provider and that new devices shall be installed at the authorized service provider’s expense.]*

1. All devices approved by the Missouri Department of Transportation, **Traffic and Highway Safety Division**, must contain an anti-circumvention feature to help deter bogus breath samples and that feature should not be disengaged by any other person, including, but not limited to, the installer.

2. All devices approved by the Missouri Department of Transportation, **Traffic and Highway Safety Division**, shall be programmed to allow the vehicle to be restarted without requiring an additional breath test for three (3) minutes after the ignition has been turned off or the vehicle has stalled, except when the driver has failed to take a random test **or has provided a breath sample over the alcohol setpoint.**

3. An ignition interlock installer shall—

A. Install an ignition interlock device on a vehicle only if

the vehicle is driven in to the service center;

B. Ensure that a driver or other unauthorized person does not witness the installation or removal of an ignition interlock device; and

C. Inspect all vehicles prior to installation to determine that mechanical and electrical parts of the vehicle affected by an ignition interlock device are in acceptable condition and not install a device unless and until the vehicle is in acceptable condition.

4. The following anti-tampering measures shall be utilized when installing an ignition interlock device:

A. Place all connections between a device and the vehicle under the dash or in an inconspicuous area of the vehicle;

B. Cover all of the following connections with a unique and easily identifiable seal, epoxy, resin, wire, sheathing, or tape:

(I) Any portion of an ignition interlock device that can be disconnected;

(II) All wires used to install the device that are not inside a secured enclosure; and

(III) All exposed electrical connections.

(B) All approved devices must have an alcohol setpoint of twenty-five thousandths (.025) for initial startup.

1. A device shall be programmed to allow a maximum of three (3) attempts to blow a breath sample below the alcohol setpoint within a ten- (10-)/-/ minute period.

2. Three (3) failed startup attempts within a ten- (10-)/-/ minute period shall result in a fifteen- (15-)/-/ minute temporary lockout.

3. Two (2) fifteen- (15-)/-/ minute temporary lockouts within a thirty- (30-)/-/ day period will result in a violations reset message.

4. The violations reset message shall instruct the operator to return the device to the installer for servicing within five (5) working days.

A. As the result of a reset message, the installer must **download and calibrate** the device.

B. The installer must report all violations to the court-ordered supervising authority within three (3) working days.

5. If the vehicle is not returned to the installer within five (5) working days, the device shall cause the vehicle to enter a permanent lockout condition.

(C) A retest feature is required for all devices.

1. A device shall be programmed to require a rolling retest five (5) minutes after the start of the vehicle and randomly during each subsequent thirty- (30-)/-/ minute time period thereafter as long as the vehicle is in operation.

2. Any breath sample above the alcohol retest setpoint of twenty-five thousandths (.025) or any failure to provide a retest sample within five (5) minutes shall activate the vehicle’s horn or other installed alarm and/or cause the vehicle’s emergency lights to flash until the engine is shut off by the operator. Three (3) breath samples above the alcohol setpoint or three (3) refusals by the driver to provide a retest sample within a thirty- (30-)/-/ day period **[will] shall** result in a violations reset message.

3. The violations reset message shall instruct the operator to return the device to the installer for servicing within five (5) working days.

A. As the result of a reset message, the installer must **download and calibrate** the device.

B. The installer must report all violations to the court-ordered supervising authority within three (3) working days.

4. If the vehicle is not returned to the installer within five (5) working days, the device shall cause the vehicle to enter a permanent lockout condition.

(E) A device shall record data in its memory in such a manner that a hard copy report can be printed which includes all of the following information:

1. The date and time of any use or attempted use of a vehicle;

2. The date and time of any act or attempt to tamper or circumvent the device;

3. The date, time, and breath alcohol concentration, in grams per two hundred ten (210) liters of air, of each breath sample provided to the device;

4. The date and time of any malfunctions of the device;

5. The date and time of any failures to provide retest samples;

6. The date that a “service required” (that is, violations reset message is issued to the operator; *and*)

7. The date that any service is performed [.] ; *and*

8. Photo identification and global positioning data when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute.

(G) The sale or use of any type of remote code allowing a driver to bypass a lockout condition or any user to not provide a breath sample on vehicle start up is prohibited.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.525, and 577.041, RSMo Supp. 2012, sections 577.600–577.614, RSMo 2000 and RSMo Supp. [2009] 2012, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.030. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.030, effective Aug. 28, 2003. Emergency amendment filed May 7, 2009, effective July 1, 2009, expired Dec. 30, 2009. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Emergency amendment filed April 8, 2010, effective April 18, 2010, expired Nov. 30, 2010. Amended: Filed April 8, 2010, effective Nov. 30, 2010. Amended: Filed March 7, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.040 Responsibilities of Authorized Service Providers. The Missouri Highways and Transportation Commission is amending subsections (1)(A) and (1)(B).

PURPOSE: This proposed amendment clarifies the record-keeping protocols for breath alcohol ignition interlock device authorized service providers.

(1) Responsibilities of Authorized Service Providers.

(A) The responsibilities of a breath alcohol ignition interlock device authorized service provider to the state of Missouri shall include:

1. The authorized service provider shall carry product liability insurance with minimum liability limits of one (1) million dollars per occurrence and three (3) million dollars aggregate total. The liability insurance shall include coverage for defects in product design and materials as well as manufacturing, calibration, installation, and

removal of devices. The authorized service provider shall ensure that its installers are named additional insureds or that its installers carry like insurance in the amounts stated herein. The proof of insurance shall include a statement from the insurance company that thirty (30) days’ notice will be given to the director, **Traffic and Highway Safety Division**, before cancellation of the insurance. Proof of insurance must be submitted to the Missouri Department of Transportation, **Traffic and Highway Safety Division** within thirty (30) days after a Letter of Certification has been issued. Failure to provide certificate of insurance may result in suspension or revocation of approval for the device;

2. The authorized service provider shall indemnify and hold harmless the state of Missouri and its officers, employees, and agents from all claims, demands, actions, and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the authorized service provider or its installers relating to the installation, service, repair, use, or removal of a device;

3. The authorized service provider shall provide expert or other required testimony in any civil or criminal proceedings or administrative hearings as to the method of manufacture of the device, how said device functions, *and* the testing protocol by which the device was evaluated for approval, **and interpretation of any report or information recorded in the data storage system of the device.** Failure to provide testimony may result in suspension or revocation of approval for the device;

4. The authorized service provider shall notify the Missouri Department of Transportation, **Traffic and Highway Safety Division** in writing of any material modification or alteration in the components, design, or installation and operating instructions of any device approved for use in the state of Missouri and shall provide the **Traffic and Highway Safety Division** satisfactory proof that any modifications or alterations do not adversely affect the ability of the device to satisfy the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as “Model Specifications for Breath Alcohol Ignition Interlock Devices” 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication;

5. The authorized service provider must provide informational materials to the Division of Probation and Parole, the circuit courts (including circuit, associate, and municipal divisions), and the Department of Revenue for distribution to operators at no cost;

6. In cases of operator noncompliance, the authorized service provider or his/her installer must notify the appropriate court-ordered supervising authority before the end of the next working day. Noncompliance shall include tampering, circumvention, violations resets, high breath alcohol concentration (BAC), missing a scheduled service date, or other noncompliance as determined by the referring court;

7. The authorized service provider shall notify the appropriate court-ordered supervising authority by the end of the next working day of removal of a device;

8. The authorized service provider, **installation site, and service center** shall conduct physical tamper inspections any time the device is serviced or given routine inspection, maintenance, or repair. Tamper inspections shall include the following:

A. Inspection of all external wiring, insulation, connections, tamper seals, and sheathing for the device and where the device connects to the vehicle; and

B. Checking the device for proper operation to ensure tamper detection capabilities;

9. The authorized service provider must immediately notify the chief law enforcement official of the county, or a city not within a county, where the installer is located, and the court-ordered supervising authority of any evidence of tampering with or circumvention

of the device. The evidence must be preserved by the authorized service provider or his/her installer until otherwise notified by local law enforcement officials;

10. The authorized service provider must provide summary reports every thirty (30) days to the court-ordered supervising authority. The summary reports must contain a summary of violations, the number of starts, and all noncompliance on devices placed in service in the state of Missouri under sections 577.600–577.614, RSMo;

11. The authorized service provider must provide to the court-ordered supervising authority additional reports, to include, but not be limited to, records of installation, calibrations, maintenance checks, and usage records on devices placed in service in the state of Missouri under sections 577.600–577.614, RSMo. These records shall be agreed upon and transmitted using electronic transfer protocols or in hard copy;

12. The authorized service provider must provide a quarterly status report to the Missouri Department of Transportation, **Traffic and Highway Safety Division**. The first quarter of each year shall be January 1 through March 31. The quarterly reports should reach the **Traffic and Highway Safety Division** on or before the fifteenth of the month immediately following the end of the quarter. The reports shall be filed electronically and contain the following information: the name of the ignition interlock device, total number of devices in operation in Missouri each quarter at the time of reporting, total number of devices installed during the quarter, total number of voluntary installations during the quarter, total number of devices removed during the quarter, **total number of breath tests**, total number of breath alcohol tests resulting in a BAC above the alcohol setpoint, total number of attempts to circumvent the device **as defined in 7 CSR 60-2.010**, **total number of vehicle starts**, **total number of miles driven**, and the total number of devices that malfunctioned or were defective;

13. The authorized service provider shall grant the state of Missouri, **or an agent of the state**, the right to inspect or request copies of any and all operator files and records on a random basis **at no cost**;

14. The authorized service provider shall supply for each ignition interlock device installed as a result of a Missouri probation order a warning label, which shall not be less than one-half inch (1/2") in height by three inches (3") in length and shall contain the following language: "WARNING! ANY PERSON TAMPERING, CIRCUMVENTING OR OTHERWISE MISUSING THIS DEVICE IS GUILTY OF A CLASS A MISDEMEANOR.";

15. The authorized service provider must notify the **Traffic and Highway Safety Division** electronically *[or in writing]* of changes in the status of any installer and additions or deletions or other changes to its complete listing of all installers that includes the name, location, phone number, **and** contact name*[, and hours of operation]*. Such notification shall occur at least once per month and shall occur more frequently if additional changes are made; *[and]*

16. Data downloaded from an ignition interlock device shall be—

A. Reviewed by the authorized service provider for any evidence of violations reset, tampering, and/or circumvention as defined in 7 CSR 60-2.010 for the designated monitoring period; and

B. All information obtained as a result of each calibration or inspection must be retained by the authorized service provider for three (3) years from the date the ignition interlock device is removed from the vehicle;

[16.]17. The authorized service provider shall electronically notify the Department of Revenue in a format as determined by the director of revenue within one (1) working day of the following:

A. The date the ignition interlock device was installed;

B. *[The driver's failure to have the ignition interlock device calibrated every thirty (30) days]* **A service lockout condition; [and]**

C. The date the ignition interlock device was removed*./;* **and**

D. The completion of the designated monitoring period of ignition interlock use by the driver with no violation resets, tampering, and/or circumventions as defined in 7 CSR 60-2.010;

18. Each installation site and service center must maintain records documenting all calibrations, downloads, and any other services performed on an ignition interlock device, including service of a violation reset; and

19. Retention of the record of installation, calibrations, downloads, service, and associated invoices must be maintained for a minimum of three (3) years.

(B) The responsibilities of an authorized service provider to the operator shall include:

1. Written instructions on how to clean and care for the device;

2. Written instructions on what type of vehicle malfunctions or repairs may affect the device, and what to do when such repairs are necessary;

3. Written and hands-on training for the operator, and all persons who will use the vehicle, on how to use the device after it is installed in the operator's vehicle. Training shall include operation, maintenance, and safeguards against improper operations;

4. An emergency twenty-four- (24-)*[-]* hour toll-free telephone number that the operator may contact to receive assistance in the event of device failure or vehicle problems related to the interlock device. **Calls must either be answered by an ignition interlock technician qualified to service the manufacturer's ignition interlock device, or the call must be returned by a qualified technician within thirty (30) minutes of the original call.**

A. Assistance shall include technical information, tow service, and/or road service.

B. Emergency assistance related to the failure of a device should be provided within two (2) hours *[for vehicles located in or near an area with an installation or repair center]*.

C. The device must be made functional within twenty-four (24) hours from when the call for assistance is made or the device must be replaced;

5. Restoration of the operator's vehicle to its original condition after removal of the breath alcohol ignition interlock device; and

6. Access to an enclosed building with a separate waiting area for operators. If installation is by a mobile unit, the operator must have a separate, enclosed waiting area available.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.525, and 577.041, RSMo Supp. 2012, sections 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.040. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.040, effective Aug. 28, 2003. Emergency amendment filed May 7, 2009, effective July 1, 2009, expired Dec. 30, 2009. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Amended: Filed March 7, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security. The Missouri Highways and Transportation Commission is amending the purpose and subsection (1)(A).

PURPOSE: This proposed amendment provides for physical tamper inspection by authorized breath alcohol ignition interlock service providers.

PURPOSE: This rule outlines the security and inspection requirements of the authorized service providers.

(1) Security.

(A) The authorized service providers shall be responsible for ensuring that the installers comply with all of the following security requirements:

1. Only authorized [employees] technicians of an installer may observe the installation of a device. Reasonable security measures must be taken to prevent the operator from observing the installation of a device, or obtaining access to installation materials;

2. An installer is prohibited from assisting or facilitating any tampering or circumvention of a device; [and]

3. An installer [may] shall not install or service a device on a vehicle owned or operated by any of its employees[.]; and

4. **Physical tamper inspections shall be conducted any time the device is serviced or given routine inspection, maintenance, or repair. Tamper inspections shall include the following:**

A. Inspection of all external wiring, insulation, connections, tamper seals, and sheathing for the device and where the device connects to the vehicle; and

B. Checking the vehicle for proper operation to ensure tamper detection capabilities.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.525, and 577.041, RSMo Supp. 2012, sections 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.050. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.050, effective Aug. 28, 2003. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Amended: Filed March 7, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.060 Suspension, or Revocation of Approval of a Device. The Missouri Highways and Transportation Commission is amending section (1) and adding sections (2) and (3).

PURPOSE: This proposed amendment clarifies the conditions for which ignition interlock device certification may be suspended or revoked.

(1) Suspension[, or Revocation] of Approval of a Device.

(A) The state of Missouri, Department of Transportation, Traffic and Highway Safety Division may suspend [or revoke] approval of a device, and temporarily remove it from the list of approved devices, for any of the following reasons:

[1. Defects in design, materials, or workmanship causing repeated failures of a device;]

[2.]1. Termination or cancellation of an authorized service provider's liability insurance;

[3. Discontinuance in the business of manufacturing devices;]

[4.]2. Voluntary request by an authorized service provider to [cancel] suspend approval of a device; or

[5. Violation by an authorized service provider, or installer, of any of the provisions set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060; or

6. Modification or alteration of the components, design, or installation and operation instructions in such a way that the requirements of the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772–11787, which is incorporated by reference and made a part of this rule as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992, are no longer satisfied. This rule does not incorporate any subsequent amendments or additions to this publication.]

3. Any issues with a device, installation site, service center, or technician that are determined to be minor in nature and do not compromise the safety of the public.

(B) A suspension shall last for at least ninety (90) days after the final decision of the Missouri Department of Transportation, Traffic and Highway Safety Division or the committee, whichever comes last. A device that has been suspended may have to follow the procedures of 7 CFR 60-2.020 to become re-approved. The Missouri Department of Transportation, Traffic and Highway Safety Division or the committee may impose additional requirements to ensure the safety of the public for a suspended device to be approved. Actions that have the effect of jeopardizing public safety by the authorized service provider and/or their installers may result in a longer suspension, not to exceed one (1) year.

(2) Revocation of Approval of a Device.

(A) The state of Missouri, Department of Transportation, Traffic and Highway Safety Division may revoke approval of a device, and remove it from the list of approved devices, for any of the following reasons:

1. Defects in design, materials, or workmanship causing repeated failures of a device;

2. Discontinuance in the business of manufacturing devices;

3. Voluntary request by an authorized service provider to revoke approval of a device;

4. Violation by an authorized service provider, or installer, of any of the provisions set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060; or

5. Modification or alteration of the components, design, or installation and operation instructions in such a way that the requirements of the United States Department of Transportation,

National Highway Traffic Safety Administration, identified as “Model Specifications for Breath Alcohol Ignition Interlock Devices” 57 FR 11772–11787, which is incorporated by reference and made a part of this rule as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992, are no longer satisfied. This rule does not incorporate any subsequent amendments or additions to this publication.

(B) A revocation shall last for at least one (1) year after the final decision of the Missouri Department of Transportation, Traffic and Highway Safety Division or the committee, whichever comes last. A device that has been revoked will have to follow the procedures of 7 CFR 60-2.020 to become approved. The Missouri Department of Transportation, Traffic and Highway Safety Division or the committee may impose additional requirements to ensure the safety of the public for a revoked device to be approved. Actions that have the effect of jeopardizing public safety by the authorized service provider and/or their installers may result in a longer revocation, not to exceed five (5) years.

(3) Notice and Review.

[(B)](A) Notice of suspension or revocation shall be mailed to a representative of the authorized service provider at the last known address on file with the Missouri Department of Transportation, Traffic and Highway Safety Division. The notice is deemed received three (3) days after mailing unless returned by postal authorities.

[(C)](B) A suspension or revocation is effective fifteen (15) days after notification is deemed received by the authorized service provider **when no written request for an informal review has been received by the Missouri Department of Transportation, Traffic and Highway Safety Division.**

(C) **If, in the sole discretion of the Missouri Department of Transportation, Traffic and Highway Safety Division, the device shall be suspended or revoked immediately due to a risk to public safety, such suspension or revocation is effective the day notification is deemed received by the authorized service provider.**

(D) An authorized service provider may request an informal review of a suspension or revocation. This request must be submitted to the Missouri Department of Transportation, Traffic and Highway Safety Division, in writing, within ten (10) days of receipt of a notice of suspension or revocation.

1. The informal review may be conducted in person, in writing, or by telephone with Missouri Department of Transportation, Traffic and Highway Safety Division personnel delegated to conduct such informal review by the Missouri Highways and Transportation Commission.

2. In the event that the informal review is unable to resolve the dispute between the Traffic and Highway Safety Division and the authorized service provider, the *[initial determination]* **committee may issue a decision which shall become the final decision of the commission.**

(E) Within *[ninety (90)]* **thirty (30)** days of the event of suspension, revocation, or voluntary surrender of approval, an authorized service provider shall be responsible for notifying operators of decertified devices and shall bear the cost for the removal of any and all decertified devices from operators’ vehicles and the installation of new devices which must be selected from the state of Missouri’s list of approved devices.

AUTHORITY: sections 302.060, 302.304, 302.309, 302.525, and 577.041, RSMo Supp. 2012, sections 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.060. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.060, effective Aug. 28, 2003. Amended: Filed May 7, 2009, effective Dec. 30, 2009. Amended: Filed March 7, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

10 CSR 10-5.570 Control of Sulfur Emissions From Stationary Boilers. The commission proposes to amend section (2) and subsections (3)(A) and (3)(C). If the commission adopts this rule action, it will be the department’s intention to submit this rule action to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources’ Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources’ Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule limits sulfur dioxide (SO₂) emissions from industrial boilers in the St. Louis Nonattainment Area. This amendment will clarify that the limit for emissions from breweries is for applicable units only and not a limit for the entire installation’s emissions. This amendment will also remove definitions that can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a letter dated June 26, 2009, from Anheuser-Busch, Inc. requesting clarification of the regulatory language.

(2) Definitions. **Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.**

[(A) Boiler—An enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water.

(B) Commercial/Institutional boiler—A boiler used in commercial establishments or institutional establishments such as medical centers, institutions of higher education, hotels, and laundries to provide electricity, steam, and/or hot water.

(C) Gaseous fuel—A combustible gas that includes, but is not limited to, natural gas, landfill gas, coal derived gas, refinery gas, and biogas. Blast furnace gas is not considered a gaseous fuel for the purposes of this rule.

(D) Industrial boiler—A boiler used in manufacturing, processing, mining, and refining, or any other industry to provide steam, hot water, and/or electricity.

(E) Liquid fuel—A combustible liquid that includes, but is not limited to, distillate oil, residual oil, waste oil, and process liquids.

(F) Process heater—Any enclosed device using controlled flame, that is not a boiler, and the unit’s primary purpose is

to transfer heat indirectly to a process material (liquid, gas, or solid) or to heat transfer material for use in a process unit, instead of generating steam. Process heaters are devices in which the combustion gases do not directly come into contact with process materials. Process heaters do not include units used for comfort heat or space heat, food preparation for onsite consumption, or autoclaves.

(G) Solid fuel—A solid material used as a fuel that includes, but is not limited to, coal, wood, biomass, tires, plastics, and other nonfossil solid materials.

(H) Temporary boiler—Any gaseous or liquid fuel boiler that is designed to, and is capable of, being carried or moved from one (1) location to another. A temporary boiler that remains at a location for more than one hundred eighty (180) days during any three hundred sixty-five (365)-day period is no longer considered to be a temporary boiler. Any temporary boiler that replaces a temporary boiler at a location and is intended to perform the same or similar function will be included in calculating the consecutive time period.

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

(3) General Provisions.

(A) Emission Limitations.

1. Except as otherwise provided in this section, no installation shall cause or allow the emission of sulfur dioxide (SO₂) into the atmosphere exceeding one (1.0) pound (lb) of SO₂ per mmBtu of actual heat input in any thirty (30)-day period from any installation with applicable units.

2. No brewery shall cause or allow the [emission of SO₂ into the atmosphere exceeding three thousand fifty (3,050) tons SO₂ in any twelve (12)-month rolling period from any installation with applicable units] combined total of atmospheric emissions of SO₂ from all applicable emission units within an installation to exceed three thousand fifty (3,050) tons during any twelve (12)-month rolling period. SO₂ emission from all applicable units shall be determined by compliance with subparagraph (3)(C)2.D. of this rule.

(C) Measurements for Multi-Unit and Multi-Fuel Installations. For sources not controlling SO₂ emissions by flue gas desulphurization equipment or by sorbent injection, the following alternate compliance method may be used:

1. SO₂ emission rates for a single boiler that burns different fuels. The owner or operator of an affected installation shall determine the SO₂ emission rate of a large boiler which burns multiple fuels separately, according to the following formula:

$$E_s = \frac{\sum_{i=1}^q (Ka_q)_n + \sum_{i=1}^r (Kb_r)_n + \sum_{i=1}^s (Kc_s)_n}{H_T}$$

Where:

- E_s = unit SO₂ emissions in lb per mmBtu heat input;
- K_a = solid fuel sample monthly composite SO₂ emission rate in lbs;
- K_b = liquid fuel sample monthly composite SO₂ emission rate in lbs;
- K_c = gaseous fuel sample monthly composite SO₂ emission rate in lbs;
- q = number of different solid fuels used including the number of different batches of coal;
- r = number of different liquid fuels used;
- s = number of different gaseous fuels used; and
- H_T = total heat content for all fuels in any monthly period.

2. Averaging SO₂ emissions among different boilers.

A. To meet the requirements of paragraphs (3)(A)1. and (3)(A)2. of this rule, if there is more than one (1) existing boiler located at an installation, compliance may be demonstrated by emission averaging according to the procedures in this paragraph.

B. For a group of two (2) or more existing boilers that each vent to a separate or common stack, SO₂ emissions may be averaged to demonstrate compliance with the limits in paragraphs (3)(A)1. and (3)(A)2. of this rule.

C. Compliance with the limit in paragraph (3)(A)1. of this rule must be demonstrated on a monthly rolling average. The first period begins on the compliance date. For each monthly period, the following equation must be used to calculate the monthly rolling average weighted emission rate using the actual heat capacity for each existing boiler participating in the emissions averaging option.

$$\text{Avg Weighted Emissions} = \frac{\sum_{i=1}^n (Er \times Hb)}{\sum_{i=1}^n Hb}$$

Where:

- Avg Weighted Emissions = monthly average weighted emission level for SO₂, in units of lbs per mmBtu of heat input;
- Er = Emission rate, in units of lbs per mmBtu of heat input;
- Hb = The average heat input for each monthly period of boiler, i, in units of mmBtu; and
- n = Number of boilers participating in the emissions averaging option.

D. Compliance with the limit in paragraph (3)(A)2. of this rule must be demonstrated on a twelve (12)-month rolling total. The first period begins on the compliance date. For each twelve (12)-month period, the following equation must be used to calculate the twelve (12)-month rolling total weighted emission rate using the actual heat capacity for each existing boiler participating in the emission averaging option.

$$\text{Avg SO}_2 \text{ Emissions} = \frac{\sum_{i=1}^n \frac{\sum_{j=1}^q (Ka_q)_n + \sum_{j=1}^r (Kb_r)_n + \sum_{j=1}^s (Kc_s)_n}{1}}{1}$$

Where:

- Avg SO₂ Emissions = twelve (12)-month total weighted emission level for SO₂, in units of tons of SO₂;
- Ka = solid fuel monthly SO₂ emissions in tons based on material/mass balance as the source of the emission factor;

Where:

$$Ka = \frac{\text{Sulfur \% by weight}}{100} \times \frac{64.064}{32.065} \times \frac{\text{tons fuel}}{\text{burned}}$$

Kb = liquid fuel monthly SO₂ emissions in tons based on similar material/mass balance calculations as Ka as the source of the emission factor;

Kc = gaseous fuel monthly SO₂ emissions in tons based on similar material/mass balance calculations as Ka as the source of the emission factor;

n = number of boilers participating in the emissions averaging option;

q = number of different solid fuels used including the number of different batches of coal;

r = number of different liquid fuels used; and

s = number of different gaseous fuels used.

AUTHORITY: section 643.050, RSMo [2000] Supp. 2012. Original rule filed Dec. 16, 2008, effective Sept. 30, 2009. Amended: Filed March 13, 2013.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 30, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., June 6, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

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

PROPOSED AMENDMENT

10 CSR 10-6.060 Construction Permits Required. The commission proposes to amend subsections (5)(D), (6)(A), (6)(E), and (8)(A). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule defines sources which are required to obtain permits to construct. It establishes requirements to be met prior to construction or modification of any of these sources. This rule also establishes permit fees and public notice requirements for certain sources and incorporates a means for unifying the processing of construction and operating permit issuance. The purpose of this amendment is to incorporate by reference three (3) U.S. Environmental Protection Agency (EPA) rules that revise plantwide applicability limitations for greenhouse gases (GHGs), repeal the grandfather provision for particulate matter less than 2.5 micrometers (PM_{2.5}) under the prevention of significant deterioration (PSD) program, and correct the definition of regulated New Source Review (NSR) pollutant in the NSR program. At the same time, the notification period for initial equipment start-up is being modified to improve tracking of new/modified equipment and testing and de minimis permit air quality analysis requirements are being clarified. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Federal Register Notice dated July 12, 2012, finalizing step 3 of the GHG tailoring rule; Federal Register Notice dated May 18, 2011, repealing grandfather clause for PM_{2.5} under PSD program; Federal Register Notice dated October 25, 2012, correcting regulated NSR pollutant definition; email dated October 7, 2009, requesting rule

language correction; and Rule Comment Form dated August 10, 2010, requesting rule language clarification.

(5) *De Minimis* Permits.

(D) Air Quality Analysis Requirements.

1. An air quality analysis will not be required for applications having a maximum design capacity emission rate of no more than the hourly *de minimis* level unless paragraph (5)(D)2. of this rule applies. For applications having a maximum design capacity emission rate greater than the hourly *de minimis* level, a permit will be issued only if an air quality analysis demonstrates that the proposed construction or modification will not [*appreciably affect air quality or the air quality standards are not appreciably exceeded.*]

A. Interfere with the attainment or maintenance of NAAQS and the air quality standards established in 10 CSR 10-6.010; or

B. Cause or contribute to ambient air concentrations in excess of any applicable maximum allowable increase listed in subsection (11)(A) Table 1, of this rule, over the baseline concentration in any attainment or unclassified area.

2. Exceptions. The director may require an air quality analysis for applications if it is likely that emissions of the proposed construction or modification will [*appreciably affect air quality or the air quality standards are being appreciably exceeded or complaints filed in the vicinity of the proposed construction or modification warrant an air quality analysis.*]

A. Interfere with the attainment or maintenance of NAAQS and the air quality standards established in 10 CSR 10-6.010;

B. Cause or contribute to ambient air concentrations in excess of any applicable maximum allowable increase listed in subsection (11)(A) Table 1, of this rule, over the baseline concentration in any attainment or unclassified area; or

C. Complaints filed in the vicinity of the proposed construction or modification warrant an air quality analysis.

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

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

1. Violate any of the applicable provisions of this rule;

2. Interfere with the attainment or maintenance of [*ambient air quality standards*] NAAQS and the air quality standards established in 10 CSR 10-6.010;

3. Cause or contribute to ambient air concentrations in excess of any applicable maximum allowable increase listed in subsection (11)(A) Table 1, of this rule, over the baseline concentration in any attainment or unclassified area;

4. Violate any applicable requirements of the Air Conservation Law; and

5. Cause an adverse impact on visibility in any Class I area (those designated in paragraph (12)(I)3. of this rule).

(E) After a permit has been granted—

1. The owner or operator subject to the provisions of this rule shall furnish the permitting authority written notification as follows:

A. A notification of the anticipated date of initial start-up of the source operation or installation [*not more than sixty (60) days or less than*] within thirty (30) days [*prior to that date*] of actual start-up; and

B. A notification of the actual date of initial start-up of a source operation or installation within fifteen (15) days after that date;

2. A permit may be revoked if construction or modification work is not begun within two (2) years from the date of issuance or if work is suspended for one (1) year, and if—

A. The delay was reasonably foreseeable by the owner or operator at the time the permit was issued;

B. The delay was not due to an act of God or other conditions beyond the control of the owner or operator; or

C. Failure to revoke the permit would be unfair to other potential applicants;

3. Any owner or operator who constructs, modifies, or operates an installation not in accordance with the application submitted and the permit issued, including any terms and conditions made a part of the permit, or any owner or operator of an installation who commences construction or modification after May 13, 1982, without meeting the requirements of this rule, is in violation of this rule;

4. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Air Conservation Law and rules or any other requirements under local, state, or federal law; and

5. The permitting authority may require monitoring of visibility in any Class I area (those designated in paragraph (12)(I)3. of this rule) near the new installation or major modification for these purposes and by such means as the permitting authority deems necessary and appropriate.

(8) Attainment and Unclassified Area Permits.

(A) All of the subsections of 40 CFR 52.21, other than (a) Plan disapproval, (q) Public participation, (s) Environmental impact statements, and (u) Delegation of authority, promulgated as of July 1, [2011] 2012, and *Federal Register* Notice [76 FR 43507] 77 FR 41051 promulgated [July 20, 2011] July 12, 2012, *Federal Register* Notice 77 FR 65107 promulgated October 25, 2012, and *Federal Register* Notice 76 FR 28646 promulgated May 18, 2011, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 643.050, RSMo Supp. [2011] 2012. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 13, 2013.

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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 30, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m. June 6, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

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

PROPOSED AMENDMENT

10 CSR 10-6.110 Reporting Emission Data, Emission Fees, and Process Information. The commission proposes to amend section (2), subsection (3)(A), and section (4). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule provides procedures for reporting emission related information and establishing emission fees for the purpose of state air resource planning. The purpose of this amendment is to add a reference to applicable year(s) for set emission fees, clarify information required in emission reports, clarify types and frequency of reports to be submitted for Emissions Inventory Questionnaire purposes, and remove definitions of terms now located in 10 CSR 10-6.020. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is 643.079, RSMo; a Rule Comment Form dated September 20, 2011, requesting rule language clarification; a rule comment file note dated October 21, 2011, requesting an update to a table term; and an email dated October 17, 2012, requesting that control device ID be included in recordkeeping requirements.

(2) Definitions.

[(A) Air emissions reporting rule—The U.S. Environmental Protection Agency (EPA) rule that finalized changes to emission reporting requirements in 40 CFR Part 51 (*Federal Register*, December 18, 2008).

(B) Missouri Emissions Inventory System (MoEIS)—Online interface of the state of Missouri's air emissions inventory database.

(C) Particulate matter (PM)—Any material or particle, except uncombined water, that exists in a finely divided form as a liquid or solid and as specifically defined as follows:

1. Condensable PM (PMcon)—Material that is vapor phase at stack conditions but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid PM immediately after discharge from the stack. Note that all condensable PM, if present from a source, is typically in the PM_{2.5} size fraction and, therefore, all of it is a component of both primary PM_{2.5} and primary PM₁₀;

2. Filterable PM (PMfil)—Particles that are directly emitted by a source as a solid or liquid at stack or release conditions and captured on the filter of a stack test train. Filterable PM_{2.5} is particulate matter with an aerodynamic diameter equal to or less than 2.5 micrometers. Filterable PM₁₀ is particulate matter with an aerodynamic diameter equal to or less than 10 micrometers; and

3. Primary PM (PMpri)—The sum of condensable and filterable PM.

(D) Point source—Large, stationary (nonmobile), identifiable source of emissions that releases pollutants into the atmosphere. A point source is an installation that is either—

1. A major source under 40 CFR part 70 for the pollutants for which reporting is required; or

2. A holder of an intermediate operating permit.

(E) Reporting year—Twelve (12)-month calendar year ending December 31. The reporting requirement for installations with three (3)-year reporting cycles begins with the 2011 reporting year. The subsequent reporting years will be every three (3) years following 2011 (i.e., 2014, 2017, 2020, etc.).

(F) *Small source*—An installation subject to this rule but not a point source as defined in this section of the rule.

(G) *Emissions report*—A report that satisfies the provisions of this rule and is either a—

1. *Full emissions report*—Contains all required data elements for current reporting year; or

2. *Reduced reporting form*—Represents data elements and emissions from the last full emissions report.]

[(H)](A) *Reportable pollutants*—The regulated air pollutants at the process level required for emission inventory reporting as summarized in Table 1 of this rule.

[(I)](B) *Reporting threshold*—Minimum amount of reportable emissions at the emission unit level that requires reporting as summarized in Table 1 of this rule. Emissions below this amount may be designated as insignificant on the full emissions report.

[(J)](C) *Definitions of certain terms* specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

TABLE 1. Reportable Pollutants with Reporting Thresholds

Process Level Reportable Pollutants		Emission Unit Level Reporting Threshold	
		Tons	Pounds
PM ₁₀ fil ----- PMcon	PM ₁₀ pri	0.438	876
PM _{2.5} fil ----- PMcon	PM _{2.5} pri	0.438	876
SO ₂		1	2000
NO _x		1	2000
VOC		0.438	876
CO		1	2000
Category One (1) HAP ^a		0.01 ^a	20 ^a
Category Two (2) HAP ^b		0.1 ^b	200 ^b
NH ₃		0.438	876
Lead ^a		0.01 ^a	20 ^a

^a Category One (1) Hazardous Air Pollutant (HAP) chemicals include Polycyclic Organic Matter, Arsenic Compounds, Lead Compounds, Chromium Compounds, Mercury Compounds (Alkyl and Aryl), Mercury Compounds (Inorganic), Nickel Compounds, Chlordane, Benzene, Methoxychlor, Vinyl Chloride, Heptachlor, Benzidine, Butadiene (1,3-), Chloromethyl Methyl Ether, Hexachlorobenzene, Bis(chloromethyl)ether, Asbestos, Polychlorinated Biphenyls, Trifluralin, Tetrachlorodibenzo-P-Dioxin (2,3,7,8-), Toxaphene, and Coke Oven Emissions.

^b Category Two (2) HAP chemicals are those defined in 10 CSR 10-6.020 that are not included in the list of Category One (1) HAP chemicals

(3) General Provisions.

(A) Emission Fees.

1. Any installation subject to this rule, except sources that produce charcoal from wood, shall pay an annual emission fee of forty dollars and no cents (\$40.00) per ton of applicable pollutant emissions identified in Table 2 of this rule **for calendar years 2013, 2014, and 2015 in accordance with paragraphs (3)(A)2. through (3)(A)7. of this rule.**

2. For full emissions reports, the fee is based on the information provided in the installation's emissions report. For sources which qualify for and use the Reduced Reporting Form, the fee shall be based on the last full emissions report.

3. The fee shall apply to the first four thousand (4,000) tons of

each air pollutant subject to fees as identified in Table 2 of this rule. No installation shall be required to pay fees on total emissions in excess of twelve thousand (12,000) tons for any reporting year. An installation subject to this rule which emitted less than one (1) ton of all pollutants subject to fees shall pay a fee for one (1) ton.

4. An installation which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140, RSMo, may deduct those fees from the emission fee due under this section.

5. The fee imposed in paragraph (3)(A)1. of this rule shall not apply to NH₃, CO, PM_{2.5}, or HAPs reported as PM₁₀ or VOC, as summarized in Table 2 of this rule.

6. Emission fees for the reporting year are due June 1 after each reporting year. The fees shall be payable to the Missouri Department

of Natural Resources.

7. To determine emission fees, an installation shall be considered one (1) source as defined in section 643.078.2, RSMo, except that an installation with multiple operating permits shall pay emission fees separately for air pollutants emitted under each individual permit.

TABLE 2. Pollutant Fee Applicability

Pollutants Subject to Fees	Pollutants Not Subject to Fees
PM ₁₀ pri	PM _{2.5} pri
SO ₂	CO
NO _x	NH ₃
VOC	HAPs reported as PM ₁₀ or VOC
HAP	
Lead	

(4) Reporting and Record Keeping. All data collected and recorded in accordance with the provisions of this rule shall be retained by the owner or operator for not less than five (5) years after the end of the calendar year in which the data was collected and all these records shall be made available upon the director's request.

(A) The owner or operator of an installation that is subject to this rule shall collect information as required in this section of the rule. The information required in the emissions report is listed in Table 3 of this rule. All data elements must be reported initially and only changed data elements must be reported subsequently. To ensure permit consistency, the Air Pollution Control Program Emissions Inventory Unit will provide assistance to identify and quantify the data elements in Table 3 of this rule.

TABLE 3. Data Elements

1. Inventory year
2. Contact name
3. Contact phone number
4. Federal Information Processing Standard (FIPS) County Code
5. Installation plant ID Code
6. Emission unit ID
7. Stack ID
8. Site name
9. Physical address
10. Source Classification Code (SCC)
11. Heat content (fuel) (annual average)
12. Ash content (fuel) (annual average)
13. Sulfur content (fuel) (annual average)
14. Reportable <i>P</i> /pollutant
15. Activity level/throughput
16. Annual emissions
17. Emission factor, with method
18. Winter throughput (percent)
19. Spring throughput (percent)
20. Summer throughput (percent)
21. Fall throughput (percent)
22. Hr/day in operation
23. Days/wk in operation
24. Wks/yr in operation
25. Stack height
26. Stack diameter
27. Exit gas temperature
28. Exit gas velocity
29. Exit gas flow rate
30. Capture efficiency (percent)
31. Control efficiency (percent)
32. Control device type and ID
33. Emission release point type
34. Maximum Hourly Design Rate (MHDR)

(B) Types and Frequency of Reporting. The requirements in this subsection are summarized in Table 4 of this rule.

1. All sources (Part 70, intermediate, and small) must submit a Full Emissions Report for the first full calendar year of operation and, for point sources, a Full Emissions Report is required for an initial partial year of operation.

2. Starting with reporting year 2011, subsequent years of operation reports or forms shall be submitted as follows:

A. Part 70 sources must continue to submit a Full Emissions Report annually;

B. Intermediate sources must submit a Full Emissions Report every third year after 2011 (subsequent years 2014, 2017, 2020, etc.) and may submit a Reduced Reporting Form in other years unless either or both of the following apply:

(I) Any change in installation-wide emissions subject to fees of plus or minus five (5) tons or more since the last Full Emissions Report submitted requires a Full Emissions Report for that year; and

(II) A construction permit action issued under 10 CSR 10-6.060 section (5) or (6) requires a Full Emissions Report for the first full year the affected permitted equipment operates; and

C. Small sources may submit a Reduced Reporting Form for all subsequent years after a Full Emissions Report unless either or both of the following apply:

(I) Any change in installation-wide emissions subject to fees of plus or minus five (5) tons or more since the last Full Emissions Report submitted requires a Full Emissions Report for

that year; and

(II) A construction permit action issued under 10 CSR 10-6.060 section (5) or (6) requires a Full Emissions Report for the first full year the affected permitted equipment operates.

3. An installation may choose to complete a Full Emissions Report in any year.

TABLE 4. Summary of Types and Frequency of Reporting

Installation classification	Emission Year							Years Beyond 2017*
	2011	2012	2013	2014	2015	2016	2017	
Part 70	Full Emissions Report	Full Emissions Report	Full Emissions Report	Full Emissions Report	Full Emissions Report	Full Emissions Report	Full Emissions Report	*
Intermediate	Full Emissions Report	Reduced Reporting Form (subparagraph (4)(B)2.B.)	Reduced Reporting Form (subparagraph (4)(B)2.B.)	Full Emissions Report	Reduced Reporting Form (subparagraph (4)(B)2.B.)	Reduced Reporting Form (subparagraph (4)(B)2.B.)	Full Emissions Report	*
Small Source	Reduced Reporting Form (subparagraph (4)(B)2.C.)	Reduced Reporting Form (subparagraph (4)(B)2.C.)	Reduced Reporting Form (subparagraph (4)(B)2.C.)	Reduced Reporting Form (subparagraph (4)(B)2.C.)	Reduced Reporting Form (subparagraph (4)(B)2.C.)	Reduced Reporting Form (subparagraph (4)(B)2.C.)	Reduced Reporting Form (subparagraph (4)(B)2.C.)	*

*Reporting requirements for years beyond 2017 are repeated in three (3)-year cycles. (e.g. requirements for years 2018, 2019, and 2020 are the same as years 2012, 2013, and 2014 respectively)

[(B)](C) Submittal Requirements.

1. The full emissions report shall be submitted either electronically via MoEIS, which requires Form 1.0 signed by an authorized company representative, or on Emissions Inventory Questionnaire (EIQ) paper forms on the frequency specified in Table 4 of this rule. Alternate methods of reporting the emissions, such as a spreadsheet file, can be submitted for approval by the director.

[TABLE 4. Reporting Frequency

<i>Installation Classification</i>	<i>Frequency of Full Emissions Report</i>	<i>Frequency of Reduced Reporting Form</i>
<i>Any installation required to obtain a Part 70 permit under 10 CSR 10-6.065.</i>	<i>Annually.</i>	<i>Not Applicable.</i>
<i>Any installation with an intermediate operating permit.</i>	<i>Once every three (3) years beginning with reporting year 2011, with subsequent years of 2014, 2017, 2020, etc., and when installation-wide emissions subject to fees increase or decrease by five (5) tons or more since the last full emissions report.</i>	<i>When installation-wide emissions subject to fees increase or decrease less than five (5) tons compared to the last full emissions report.</i>
<i>Small sources, as defined in subsection (2)(F) of this rule.</i>	<i>When installation-wide emissions subject to fees increase or decrease by five (5) tons or more since the last full emissions report.</i>	<i>When installation-wide emissions subject to fees increase or decrease less than five (5) tons compared to the last full emissions report.]</i>

[(C)]2. An installation not required to submit a full emissions report is required to submit a Reduced Reporting Form, which is due April 1 after each reporting year.

[(D)]3. The full emissions report is due April 1 after each reporting year. If the full emissions report is filed electronically via MoEIS, this due date is extended to May 1.

[(E)] For small sources, the first full emissions report is for the first full calendar year of operation in order to obtain a representative annual emissions total.

[(F)] For point sources, the initial full emissions report will be required for the first partial year of operation.

[(G)] For holders of intermediate permits and small sources as defined in this rule, a construction permit action issued under 10 CSR 10-6.060 section (5) or (6) requires a full emissions report for the first full calendar year the affected permitted equipment operates.]

[(H)]4. The installation owner or operator of record on December 31 of the reporting year is responsible for the emissions report and associated fees for the entire reporting year.

[(I)]5. If there is no production from an installation in a reporting year, no emission fees are due for that year but notice of such status must be provided to the director in writing by the emissions report due date of April 1.

[(J)]6. If an installation is out of business, the final emissions report required will be for the full or partial year the installation went out of business. Notice of such status must be provided to the director in writing by the emissions report due date of April 1.

[(K)]7. After the effective date of this rule, any revision to the department-supplied EIQ forms will be presented to the regulated community for a forty-five (45)-day comment period.

AUTHORITY: section 643.050, RSMo [2000] Supp. 2012. Original rule filed June 13, 1984, effective Nov. 12, 1984. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 13, 2013.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 30, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., June 6, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
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PROPOSED RESCISSION

10 CSR 10-6.345 Control of NO_x Emissions From Upwind Sources. This rule protected air quality in the St. Louis area by addressing nitrogen oxides (NO_x) sources proposed for construction

outside and upwind of the St. Louis nonattainment area. This rule is proposed for rescission because it has expired on December 30, 2011. If the commission adopts this rule action, it will be the department's intention not to submit this rule rescission to the U.S. Environmental Protection Agency because the rule was not written as a permanent requirement and the rule has never been approved as part of the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule protected air quality in the St. Louis area by addressing nitrogen oxides (NO_x) sources proposed for construction outside and upwind of the St. Louis nonattainment area. This rule is proposed for rescission because it has expired. Subsection (1)(C) states this rule expires five (5) years from the December 30, 2006, effective date. The five (5)-year period ended on December 30, 2011. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is the expiration requirement in subsection (1)(C) of this rule.

AUTHORITY: section 643.050, RSMo 2000. Original rule filed May 4, 2006, effective Dec. 30, 2006. Rescinded: Filed March 13, 2013.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., May 30, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., June 6, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
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PROPOSED AMENDMENT

10 CSR 10-6.390 Control of NO_x Emissions From Large Stationary Internal Combustion Engines. The commission proposes to amend the purpose, section (2), and subsections (3)(E) and (3)(F). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the

Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule reduces emissions of oxides of nitrogen (NO_x) to ensure compliance with the federal NO_x control plan to reduce the transport of air pollutants. This rule establishes emission levels for large stationary internal combustion engines. This amendment will correct a wording error found in subsection (3)(F). In addition, the amendment will remove the definitions from the rule that can now be found in 10 CSR 10-6.020, Definitions and Common Reference Tables. The definitions are being removed because they were added to 10 CSR 10-6.020 as part of the Air Program's consolidation of all air rule definitions. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a Rule Comment Note from staff mentioning the text error in subsection (3)(F).

PURPOSE: This rule reduces emissions of oxides of nitrogen (NO_x) to ensure compliance with the federal NO_x control plan to reduce the transport of air pollutants. This rule establishes emission levels for large stationary internal combustion engines. The evidence supporting the need for this [proposed rulemaking] rule, per section 536.016, RSMo, is the U.S. Environmental Protection Agency NO_x State Implementation Plan (SIP) Call dated April 21, 2004.

(2) Definitions. **Definitions of certain terms used in this rule may be found in 10 CSR 10-6.020.**

(A) Diesel engine—A compression ignited (CI) two- or four-stroke engine in which liquid fuel is injected into the combustion chamber and ignited when the air charge has been compressed to a temperature sufficiently high for auto-ignition.

(B) Dual fuel engine—Compression ignited stationary internal combustion engine that is capable of burning liquid fuel and gaseous fuel simultaneously.

(C) Emergency standby engine—An internal combustion engine used only when normal electrical power or natural gas service is interrupted, or for the emergency pumping of water for either fire protection or flood relief. An emergency standby engine may not be operated to supplement a primary power source when the load capacity or rating of the primary power source has been either reached or exceeded.

(D) Engine rating—The output of an engine as determined by the engine manufacturer and listed on the nameplate of the unit, regardless of any derating.

(E) Higher heating value (HHV)—The total heat liberated per mass of fuel burned in British thermal units (Btu) per pound, when fuel and dry air at standard conditions undergo complete combustion and all resultant products are brought to their standard states at standard conditions. If certification of the HHV is not provided by the third party fuel supplier, it shall be determined by one of the following test methods: ASTM D2015-85 for solid fuels; ASTM D240-87 or ASTM D2382-88 for liquid hydrocarbon fuels; or ASTM D1826-88 or ASTM D1945-81 in conjunction with ASTM D3588-89 for gaseous fuels. These methods are all incorporated by reference as specified at 40 CFR 52.3002.

(F) Lean-burn engine—Any two- or four-stroke spark ignited (SI) engine with greater than four percent (4%) oxygen in the engine exhaust.

(G) Maintenance operation—Normal routine maintenance on any stationary internal combustion engine subject to this rule or the use of an emergency standby engine and fuel system during testing, repair and routine maintenance to verify its readiness for emergency standby use.

(H) Output—The shaft work output from any engine plus the energy reclaimed by any useful heat recovery system.

(I) Peak load—The maximum instantaneous operating load.

(J) Permitted capacity factor—The annual permitted fuel

use divided by the manufacturers specified maximum fuel consumption times eight thousand seven hundred sixty (8,760) hours per year.

(K) Rich-burn engine—A two- or four-stroke SI engine where the oxygen content in the exhaust stream before any dilution is one percent (1%) or less measured on a dry basis.

(L) Stationary internal combustion engine—Internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one (1) location to another and remains at a single site at a building, structure, facility, or installation for more than twelve (12) consecutive months. Any engine or engines that replace an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period. Nonroad engines and engines used solely for competition are not stationary internal combustion engines.

(M) Stoichiometric air/fuel ratio—The air/fuel ratio where all fuel and all oxygen in the air/fuel mixture will be consumed.

(N) Unit—Any diesel, lean-burn, or rich-burn stationary internal combustion engine as defined in this section.

(O) Utilization rate—The amount of an engine's capacity reported in horsepower-hours that is utilized.

(P) Definitions of certain terms used in this rule, other than those specified in this rule, may be found in 10 CSR 10-6.020.]

(3) General Provisions.

(E) Monitoring Requirements.

1. Any owner or operator meeting the applicability of section (1) of this rule shall not operate such equipment unless it is equipped with one (1) of the following:

A. A continuous emissions monitoring system (CEMS), which meets the applicable requirements of 40 CFR [part] 60, subpart A, Appendix B, and complies with the quality assurance procedures specified in 40 CFR [part] 60, Appendix F. The CEMS shall be used to demonstrate compliance with the applicable emission limit; or

B. A calculational and record keeping procedure based upon actual NO_x emissions testing and correlations with operating parameters. The installation, implementation, and use of such an alternate calculational and record keeping procedure must be approved by the director and EPA and incorporated into the SIP in writing prior to implementation.

2. The CEMS or approved alternate monitoring procedure shall be operated and maintained in accordance with an on-site CEMS or alternate monitoring plan approved by the director.

(F) Excess Emissions During Start-Up, Shutdown, or Malfunction. If the owner or operator provides notice of excess emissions pursuant to state rule 10 CSR 10-6.050(3)(B), the director will determine whether the excess emissions are attributable to start-up, shutdown, or malfunction conditions, pursuant to rule 10 CSR 10-6.050(3)(C). If the director determines that the excess emissions are attributable to such conditions, and if such excess emissions cause [a kiln] an engine to exceed the applicable emission limits in this rule, the director will determine whether enforcement action is warranted, as provided in rule 10 CSR 10-6.050(3)(C). If the director determines that the excess emissions are attributable to a start-up, shutdown, or malfunction condition and does not warrant enforcement action, those emissions would not be included in the calculation of ozone season NO_x emissions.

AUTHORITY: section 643.050, RSMo [2000] Supp. 2012. Original rule filed Feb. 14, 2005, effective Oct. 30, 2005. Amended: Filed Aug. 27, 2009, effective May 30, 2010. Amended: Filed March 13, 2013.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 30, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., June 6, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

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

PROPOSED AMENDMENT

10 CSR 10-6.400 Restriction of Emission of Particulate Matter From Industrial Processes. The commission proposes to amend the purpose, section (2), and section (5). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This regulation restricts the emission of filterable particulate matter in the source gas of an operation or activity except where 10 CSR 10-6.405 and/or 10 CSR 10-6.070 would be applied. This amendment is to provide a hierarchy of various compliance methods to use for demonstrating compliance, clarify that this rule limits filterable particulate matter only, and remove definitions that can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a rule comment form dated Dec. 9, 2011, with a U.S. Environmental Protection Agency email requesting clarification of methods used by sources to demonstrate compliance with this rule.

PURPOSE: This regulation restricts the emission of filterable particulate matter in the source gas of an operation or activity except where 10 CSR 10-6.405 and/or 10 CSR 10-6.070 would be applied.

(2) Definitions. **Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.**

(A) Process weight is defined as the total weight of all materials, including solid fuels, introduced into an emission unit, which may cause any emission of particulate matter, but excluding liquids and gases used solely as fuels and air introduced for purposes of combustion.

(B) Process weight rate is defined as a rate in tons per

hour established as follows:

1. The rate of materials introduced to the process which may cause any emission of particulate matter;

2. For continuous or long-run steady-state emission units, the total process weight for the entire period of continuous operation or for a typical portion, divided by the number of hours of that period or portion;

3. For cyclical or batch emission units, the total process weight for a period of time which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during that period; or

4. Where the nature of any process or operation or the design of any equipment permits more than one (1) interpretation of this section, that interpretation which results in the minimum value for allowable emissions shall apply.

(C) For purposes of this regulation, a jobbing cupola is defined as a cupola which has a single melting cycle operated no more than ten (10) hours in any consecutive twenty-four (24) hours and no more than fifty (50) hours in any consecutive seven (7) days.

(D) A smoke generating device is defined as a specialized piece of equipment which is not an integral part of a commercial, industrial, or manufacturing process and whose sole purpose is the creation and dispersion of fine solid or liquid particles in a gaseous medium.

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

(5) Test Methods. [The amount of particulate matter emitted shall be determined as specified in 10 CSR 10-6.030(5). Any other test method must be approved by the director.] The following hierarchy of emission measurement approaches shall be used to determine compliance with section (3) of this rule. If compliance data is not available from a measurement approach, or an approach is impractical for a source, then the next approach listed in the hierarchy shall be used in its place. The choice of an emissions measurement approach is subject to the approval of the director—

(A) Continuous Emission Monitoring System (CEMS);

(B) Stack tests as specified in 10 CSR 10-6.030(5)(A) or (5)(B), as determined by the director;

(C) Compliance Assurance Monitoring (CAM) plan found in the facility's operating permit; or

(D) Other methods, as described in permits issued under 10 CSR 10-6.060 or 10 CSR 10-6.065 or as approved by the director. These may include approved engineering calculations or other U.S. Environmental Protection Agency documentation.

AUTHORITY: section 643.050, RSMo Supp. [2011] 2012. Original rule filed Jan. 14, 2000, effective Aug. 30, 2000. Amended: Filed Dec. 22, 2000, effective Sept. 30, 2001. Amended: Filed Sept. 9, 2008, effective May 30, 2009. Amended: Filed July 1, 2010, effective Feb. 28, 2011. Amended: Filed Sept. 16, 2011, effective May 30, 2012. Amended: Filed March 13, 2013.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., May 30, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri.

Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., June 6, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RESCISSION

17 CSR 10-2.010 Regulation and Licensing In General. This rule established procedures, testing requirements, and license fees for those persons required to be licensed.

PURPOSE: The board wishes to rescind this rule and adopt a new rule in its place to clarify the language in the rule and ensure compliance with the applicable law.

AUTHORITY: section 84.720, RSMo 1994. Original rule filed Dec. 5, 1979, effective March 17, 1980. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 14, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RULE

17 CSR 10-2.010 Regulation and Licensing In General

PURPOSE: Under the provisions of sections 84.420 and 84.720 of the Revised Statutes of Missouri, the Board of Police Commissioners of Kansas City, Missouri (board) has the authority and duty to regulate and license all private security and proprietary private investigative personnel, serving or acting as such within Kansas City, Missouri (city). This rule establishes procedures, testing requirements, and license fees for those persons required to be licensed.

(1) Any corporation, partnership, or other entity that provides private security services and proprietary private investigative services is fully responsible for the acts and omissions of its employees acting in the course and scope of their duties. Training is the responsibility of the entity hiring such employees. The board is a licensing agency, not an employer, and assumes no responsibilities for the acts or omissions of any entity or individual providing such services. The board's functions are limited to licensing and regulating any entity or individual who perform such services. The board shall have the power

and duty to enforce the provisions of these rules and upon complaint of any person or on its own initiative to investigate violations, or to investigate the business, business practices, or business method of any person, firm, company, partnership, corporation, or political subdivision applying for or holding a license for providing private security services and proprietary private investigative services if, in the opinion of board, the investigation is warranted. Each entity or individual applicant shall be obligated to supply the information, books, papers, or records as reasonably may be required concerning proposed business practices or methods. Failure to comply with any reasonable request of the board shall be grounds for denying an application for a license or for revoking, suspending, or failing to renew a license issued under these rules. Those licensed must maintain the records that the board requires which include, but are not limited to, records of contract accounts, employment records, time records, and assignment records along with records required to be kept by federal and state law.

(2) Any license granted under section 84.720 of the *Revised Statutes of Missouri* shall constitute a privilege to do business and shall not invest the one licensed with any contractual interest, inherent right, or property interest.

(3) Those licensed to perform private security services or proprietary private investigative services have police powers limited to the property which they have been lawfully assigned to protect. With the exception of those licensed as airport police, whose authority is set out in 17 CSR 10-2.030(1)(A)4., those licensed under these provisions have no authority to enforce ordinances, statutes, or rules on the public streets of city or at any location other than on the property they have been assigned to protect.

(4) Private Officers Licensing Unit (POLU) is responsible for investigating, processing, licensing, inspecting, and the supervision of all persons working or acting as licensed private security or proprietary private investigators. The POLU is further responsible for issuing and transferring all such licenses, for reinstatements, and for periodic inspection of license holders.

(5) Private security and proprietary private investigator licenses are required for each of the following:

(A) Any individual providing private security services or proprietary private investigative services within the city whether for a licensed private security business or otherwise;

(B) Any firm, company, partnership, or corporation that provides private security services or proprietary private investigative services; and

(C) Any political subdivision, sole proprietorship, firm, company, partnership, or corporation that employs personnel to provide private security services or proprietary private investigative services.

(6) The board's licensing requirements do not apply to persons acting as bouncers, process servers, bondsmen, surety recovery agents (bounty hunters), or investigators for attorneys unless acting in a private security capacity as defined in these rules.

(7) No license is required for any peace officer authorized to exercise police powers in the city who holds a valid Peace Officer Standards and Training (POST) certificate.

(8) The board shall perform its functions under statute and under these regulations through the POLU of the Kansas City, Missouri Police Department (department). All private officers and proprietary private investigators are subject to inspection by employees of the board and members of the department. The purpose of such inspections is to ensure that the licensee is in compliance with the provisions of this rule. Failure to cooperate with an employee of the board

or member of the department may result in penalties being assessed as set out in 17 CSR 10-2.060(9).

*AUTHORITY: section 84.720, RSMo 2000. Original rule filed Dec. 5, 1979, effective March 17, 1980. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed March 14, 2013.*

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions eleven thousand, eight hundred twenty-five dollars (\$11,825) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities nine hundred fifty-seven thousand, seven hundred dollars (\$957,700) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 17
Division Title: 10
Chapter Title: 2**

Rule Number and Name:	17 CSR 10-2.010 – Regulation and Licensing in General
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
City of Kansas City, Missouri	\$4185.00
Jackson County, Missouri Family Court	\$515.00
Kansas City International Airport Police	\$6555.00
Housing Authority of Kansas City, Missouri	\$570.00
Total	\$11,825.00

III. WORKSHEET

The City of Kansas City, Missouri licenses one (1) armed security officer and sixty-three (63) unarmed security officers. Jackson County, Missouri Family Court licenses five (5) armed officers and one (1) unarmed person per year. The Kansas City International Airport Police and the Housing Authority of Kansas City, Missouri pay a company fee in the amount of three hundred dollars (\$300.00) per year. The Kansas City International Airport Police currently licenses fifty (50) armed officers and twenty-seven (27) unarmed officers. The Housing Authority of Kansas City, Missouri currently licenses three (3) armed officers. The rates for new armed licenses will be one hundred forty-five dollars (\$145.00) per year. The rate for new unarmed licenses will be ninety dollars (\$90.00) per year.

The yearly renewal fees for armed licenses will be ninety dollars (\$90.00) per year. The yearly renewal fees for unarmed licensees will be sixty-five dollars (\$65.00) per year. The number of current licensees in each category was multiplied by the corresponding

increases in renewal fees charged in order to assess the fiscal impact to the current licensees.

The City of Kansas City, Missouri will incur costs in the amount of ninety dollars (\$90.00) per renewal of armed licenses for a cost of ninety dollars (\$90.00) yearly. The City of Kansas City, Missouri will incur costs of sixty-five dollars (\$65.00) per renewal of each of its unarmed licenses (63) for a cost of four thousand ninety-five dollars (\$4095.00) yearly. The total fiscal impact to the City of Kansas City, Missouri is four thousand one hundred eighty-five dollars (\$4185.00) per year.

Jackson County, Missouri Family Court will incur costs of ninety dollars (\$90.00) per renewal of each of its armed licenses (5) for a cost of four hundred fifty dollars (\$450.00) yearly. The Jackson County, Missouri Family Court will incur costs of sixty-five dollars (\$65.00) per renewal of each of its unarmed licenses (1) for a cost of sixty-five dollars (\$65.00) yearly. The total fiscal impact to Jackson County, Missouri is five hundred fifteen dollars (\$515.00) per year.

The Kansas City International Airport Police will incur costs in the amount of ninety dollars (\$90.00) per renewal of each of its armed licenses (50) for a cost of four thousand five hundred dollars (\$4500.00) yearly. The Kansas City International Airport Police will incur costs in the amount of sixty-five dollars (\$65.00) per renewal of each of its unarmed licenses (27) for a cost of one thousand seven hundred fifty-five dollars (\$1755.00) yearly. The total fiscal impact to the Kansas City International Airport Police for renewals is six thousand two hundred fifty-five dollars (\$6255.00) per year. The Kansas City International Airport Police also pay a company fee of three hundred dollars (\$300.00) per year under the Proposed Rules for a total fiscal impact of six thousand five hundred fifty-five dollars (\$6555.00) per year.

The Housing Authority of Kansas City, Missouri will incur costs in the amount of ninety dollars (\$90.00) per renewal of each of its armed licenses (3) for a cost of two hundred seventy dollars (\$270.00) yearly. The Housing Authority of Kansas City, Missouri also pays a company fee of three hundred dollars (\$300.00) per year under the Proposed Rules for a total fiscal impact of five hundred seventy dollars (\$570.00) per year.

IV. ASSUMPTIONS

This rule requires that those providing security services be licensed as either armed or unarmed security officers. Other fees assessed are provided for in other sections of this chapter and the fiscal impact of those fees will be outlined in the fiscal notes prepared for those sections. These figures assume that the agencies will renew the licenses of all those currently licensed and will not switch the classifications of the persons they are licensing, i.e., from unarmed to armed or vice versa. These figures also assume that the agencies pay the license fees for those they license, rather than the individual paying the fees themselves. At this time, the City of Kansas City, Missouri and Jackson County,

Missouri Family Court are not charged a company license fee, therefore, there is no fiscal impact due to the company license fees. These cost calculations take into account yearly renewal fees for existing licensees. If the entities license additional persons, additional costs for new licenses will be incurred in the amounts set out above for new licenses.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 17
Division Title: 10
Chapter Title: 2**

Rule Number and Title:	17 CSR 10-2.010 – Regulation and Licensing in General
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the 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:
3000	Armed Licensees	\$270,000.00
700¹	New Armed Licenses	\$101,500.00
6000	Unarmed licensees	\$390,000.00
1400²	New Unarmed Licenses	\$126,000.00
209³	Firms, companies, partnerships and corporations⁴	\$62,700.00
25⁵	New Company Licenses	\$7500.00
Total		\$957,700.00

¹ This is Board’s estimate of how many new persons wanting armed licenses will apply in the next year. This estimate will be used throughout these Fiscal Notes.

² This is Board’s estimate of how many new persons wanting unarmed licenses will apply in the next year. This estimate will be used throughout these Fiscal Notes.

³ This is the approximate number of companies currently licensed.

⁴ Throughout these fiscal notes, the firms, companies, partnerships and corporations which hold licenses are referred to as “companies” and the licenses they hold as “company licenses.” Board recognizes that the “companies” are actually organized in various forms under the law. The references to “company” and “company license” are made for ease of reference.

⁵ This is the number of new companies which Board anticipates will apply for a license in the next year. This estimate will be used throughout these fiscal notes.

III. WORKSHEET

The fee for a new armed license is one hundred forty-five dollars (\$145.00) per year. The fee for new unarmed licenses is ninety dollars (\$90.00) per year. The yearly renewal fee for armed licenses is ninety dollars (\$90.00) per year. The yearly renewal fee for unarmed licensees is sixty-five dollars (\$65.00).

In order to assess the fiscal impact to the individuals acquiring new armed licenses, an estimate of the number of new armed licensees, seven hundred (700) must be multiplied by the fee amount (\$145.00) for armed licenses for a total fiscal impact of \$101,500.00. In order to determine the fiscal impact to individuals acquiring new unarmed licenses, an estimate of the number of new unarmed licensees, 1400, must be multiplied by the fee amount (\$90.00) for unarmed licenses for a total fiscal impact of \$126,000.00.

Currently approximately 3000 persons hold armed licenses. With the renewal fee of ninety dollars (\$90.00), the fiscal impact to armed licensees is \$270,000.00. Currently approximately 6000 persons hold unarmed licenses. With the renewal fee of sixty-five dollars (\$65.00), the total fiscal impact to unarmed licensees is \$390,000.00

All firms, companies, partnerships and corporations licensed will pay a company fee in the amount of three hundred dollars (\$300.00) per year. The number of companies holding licenses (209) was multiplied by the new company fee (\$300.00) in order to assess the fiscal impact to the current companies holding licenses in the amount of \$62,700.00. Approximately 25 new companies will obtain new licenses during the year. Each will pay the company license fee of \$300.00 for a total fiscal impact of \$7500.00.

IV. ASSUMPTIONS

These figures make assumptions about the number of new armed, unarmed and company licenses that will be issued each year. They also assume that every individual currently licensed will renew their licenses and that companies will not increase the number of security officers which they are currently licensing nor switch the classifications of the persons they are licensing, i.e., from armed to unarmed or vice versa. These figures also assume that companies pay the license fees for those they license, rather than the individual licensees paying themselves. In fact, Board⁶ is aware that some companies pay a portion of the licensing fees for their employees and the employees pay the balance. Board keeps no record of how the various companies operate and how they pay their fees. Therefore the actual cost to these companies cannot be assessed, and it must be assumed that for purposes of this fiscal note that the companies pay the entire fee for the individuals holding licenses with the company.

For a discussion of the full fiscal impact of requiring individuals and companies to be licensed, see Private Entity Fiscal Note for 17 CSR 10-2.040.

⁶ Throughout these fiscal notes, the Board of Police Commissioners of Kansas City, Missouri will be referred to as "Board."

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RESCISSION

17 CSR 10-2.020 Application for a License. This rule, in order to promote and protect the public welfare, required the board to investigate the background, qualifications, and ability of all applicants and required that applicants use application forms provided by the board.

PURPOSE: The board wishes to rescind this rule and adopt a new rule in its place to clarify the language in the rule and ensure compliance with the applicable law.

AUTHORITY: section 84.720, RSMo 1994. Original rule filed Dec. 5, 1979, effective March 17, 1980. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 14, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RULE

17 CSR 10-2.020 Application for a License

PURPOSE: In order to promote and protect the public welfare, the Board of Police Commissioners of Kansas City, Missouri (board) shall license and regulate those persons wishing to provide private security services or proprietary private investigative services. Application forms provided by the board shall be used by all applicants. All forms may be downloaded at www.kcpd.org.

(1) All individual applicants are required to complete an "Employer's Application for Employment of Private Security/Proprietary Private Investigator 'Intent to Hire Form'" (Form 5409 P.D.). This form must be completed any time a license is applied for, renewed, transferred, or upgraded. All firms, companies, partnerships, corporation, sole proprietorships, and political subdivisions to be licensed under the provisions of section (5) below shall complete "Application for Company License" (Form 5486 P.D.).

(2) The board shall conduct a criminal history records check of each applicant and may conduct investigations as provided by section 84.720 of the *Revised Statutes of Missouri*. The applicant must pay the fee for the criminal history records check and fingerprinting at the time of application and upon each annual renewal.

(3) Each applicant shall submit to photographing and fingerprinting and shall provide proof of identity by submitting with the application a photo identification card, original Social Security card, proof of

citizenship, permanent resident card, Military DD214, most recent name change documentation from a court of competent jurisdiction, or other equivalent identification. If an applicant provides proof of identity by submitting permanent resident card, the applicant must provide sufficient proof that they have established a bona fide residence in the United States of America. If an applicant requests a replacement license because of a name change, the applicant must supply to the Private Officers Licensing Unit (POLU) the appropriate name change documentation from a court of competent jurisdiction.

(4) Each applicant shall provide any additional information required by the board to conduct its investigation and shall comply with all requests of the board in the conduct of its investigation for a license under these rules.

(5) Firms, companies, partnerships, corporations, sole proprietorships, or political subdivisions engaging in the business of providing private security services or proprietary private investigative services or firms, companies, partnerships, corporations, sole proprietorships, or political subdivisions that employ other individuals to perform private security services or proprietary private investigative services shall be licensed in addition to any individual license required under these rules. An applicant wishing to obtain a company license for the sole purpose of employing proprietary private investigators must meet the guidelines outlined in 17 CSR 10-2.050(1)(C). Any license granted under this section shall be designated "company license." All company names must be approved by POLU. All licensed companies are required to annually pay a company fee by January 31 of each year and are required to comply with the terms of this regulation and all federal, state, and local laws. Failure to pay such fee will result in the suspension of the company license. In the absence of the annual company license, all licenses granted to employees or agents of that company are automatically suspended.

(6) Before being licensed under these rules, individual and company applicants shall file with the board a certificate of liability insurance in the amount of one (1) million dollars or the equivalent, naming the board as an additional insured and certificate holder and protecting the board from liability judgments, suits, and claims, including, but not limited to, suits for bodily injury, personal injury, including false arrest, libel, slander, invasion of privacy, and property damage arising out of the licensing of individuals and entities providing private security services or proprietary private investigative services. The insurance must be written by a company approved by the Missouri superintendent of insurance and approved by the board with respect to its form, manner of execution and sufficiency, provided further however, before a license is issued to a nonresident of Missouri, the applicant must file with the Missouri Secretary of State a written consent for jurisdiction of the courts of Missouri, and any case(s) arising from any contract for performance of private security services or proprietary private investigative services made within city are to be performed wholly or in part, in the city or in any way connected with the business within the city or occurring in connection with the business of the one licensed within the city. Any company licensed must provide the insurance specified and cover all employees, provided however, that in the event a suit is filed or claim is made involving the board, the company shall immediately notify the board at which time the licensee may be required to furnish additional insurance. Failure of a licensee to maintain insurance is grounds for revocation. In the absence of adequate insurance, all licenses granted to employees or agents of that company are automatically suspended. Equivalent shall mean a bond in like amount or a certificate of self-insurance by a company with audited net worth of five (5) million dollars. Each certificate of insurance must stipulate coverage for armed/unarmed personnel as appropriate.

(7) When, in the opinion of the board, an applicant has fulfilled the

requirements of these rules, the board may issue the applicant a license to provide private security services or proprietary private investigative services.

(8) All those licensed under these rules shall immediately notify the board in writing of any change of address or employment; a company shall notify the board in writing of the termination of employment of any person listed on the company application or any licensed employee and notify the board as to whether or not the individual's license has been returned to the company.

(9) Licenses, issued under these rules, are not transferable or assignable. When any person's license has been terminated, suspended, revoked, or has expired, the license shall be mailed or delivered to the POLU. If the license is lost or stolen, the license holder shall immediately notify POLU and provide a lost card affidavit signed by a company representative. An additional fee and a new Form 5409 P.D. are required. If the license has been stolen, a police report listing the license may be accepted in lieu of the additional fee. Any person licensed under these rules may hold a maximum of three (3) licenses.

(10) All those licensed will be required to furnish a photograph and description of all vehicles to be used in the course of their business, including state license numbers, vehicle identification numbers, and provide proof of adequate automobile liability insurance coverage in accordance with the requirements established by the state of Missouri. All vehicles must clearly state that the vehicle is a security vehicle and display the company name. Use of any sign, signal, or other device contrary to the ordinance of the city, or which is similar in appearance to those used by the department is prohibited and may be grounds for denial, suspension, or revocation of a license. No private security company, proprietary private investigative company, or individual is authorized to operate any emergency vehicle as that term is defined by state law or city ordinance without the prior approval of the board. No vehicle displaying the word "police" shall be approved for use except as set out in 17 CSR 10-2.030(1)(A)4.

AUTHORITY: section 84.720, RSMo 2000. Original rule filed Dec. 5, 1979, effective March 17, 1980. Rescinded and readopted: Filed May 28, 1993, effective Jan. 31, 1994. Rescinded and readopted: Filed Dec. 15, 1999, effective Aug. 30, 2000. Rescinded and readopted: Filed March 14, 2013.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities \$1,170,000 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 17**
- Division Title: 10**
- Chapter Title: 2**

Rule Number and Title:	17 CSR 10-2.020 – Application for a License
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the 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:
209 ¹	Company Licenses	\$1,045,000.00
25 ²	New Company Licenses	\$125,000.00
Total		\$1,170,000.00

III. WORKSHEET

There are currently approximately two hundred and nine (209) companies licensed by Board. Each company is required to carry a certificate of liability insurance in the amount of one million dollars (\$1,000,000.00) or the equivalent naming Board as an additional insured and certificate holder. The equivalent means a bond in like amount or a self-insurance certificate if the company has an audited net worth of five million dollars (\$5,000,000.00). Using the figure of five thousand dollars (\$5,000.00) per year per company, the resulting fiscal impact to the 209 companies currently holding licenses would be one million forty-five thousand dollars (\$1,045,000.00). Assuming twenty-five (25) new companies apply for licenses in the next year, the resulting fiscal impact to those entities would be one hundred twenty-five thousand dollars (\$125,000.00).

IV. ASSUMPTIONS

¹ This is the approximate number of companies currently licensed.

² This is the number of new companies which Board anticipates will apply for a license in the next year.

Board is unable to exactly calculate the fiscal impact of this insurance requirement to the companies licensed. The cost of insurance varies depending on the insurance company's loss experience with the insured, the company's payroll, whether the company employs armed or unarmed security officers, the nature and location of their business and many other factors which cannot be precisely calculated by Board. Based on information available to Board, it appears that on average the insurance cost to a company, firm or corporation is approximately five thousand dollars (\$5000.00) per year. That figure was used to calculate the fiscal impact of this rule.

For a discussion of the fiscal impact of requiring private entities to purchase a company license, see Private Entity Fiscal Note for 17 CSR 10-2.040.

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RESCISSION

17 CSR 10-2.030 Classification of Licenses. This rule established minimum qualification standards and classification of licenses related to specific private security services provided by the board.

PURPOSE: The board wishes to rescind this rule and adopt a new rule in its place to clarify the language in the rule and ensure compliance with the applicable law.

AUTHORITY: section 84.720, RSMo 1994. Original rule filed Dec. 5, 1979, effective March 17, 1980. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 14, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RULE

17 CSR 10-2.030 Classification of Licenses

PURPOSE: This rule establishes minimum standards and classification of licenses related to specific private security services or proprietary private investigative services provided.

(1) Individual licenses to provide private security services or proprietary private investigative services granted pursuant to this chapter shall be classified as either Class A licenses or Class B licenses.

(A) Class A licensees shall have the authority to detain or apprehend suspects either committing felonies, misdemeanors, or city ordinance violations in the presence of the licensee or during the attempt to commit the same or upon probable cause to believe an offense was committed; provided, however, the authority is limited to the property the licensee is hired to protect during the hours s/he is hired to protect said property and is not to extend to the public streets of the city with the exception of suspects fleeing from private property on foot. In that case, the authority shall extend to the public streets so long as there is hot pursuit and the suspect has not attempted escape in a vehicle and further excepting airport police officers whose authority is set forth in this rule. No vehicle pursuits are allowed except as specifically authorized in 17 CSR 10-2.030(10)(A)4. Class A licenses may be further classified pursuant to the following titles, designations, and authorities:

1. Loss prevention agent—One who is unarmed, nonuniformed, and is responsible to observe, investigate, apprehend, and prosecute shoplifters, fraud checks, internal thefts, and the like. This individual is employed to prevent theft by unobtrusive, alert skills;

2. Patrol agent—Armed or unarmed, uniformed position delegated all the responsibility of a guard with the authority to react to illegal action by apprehension or detention. Persons, such as bank guards and hospital security, are normally assigned to a particular designated post to protect persons and property. This individual may also be responsible for proactive, aggressive policing of the property they are hired to protect. These responsibilities include foot patrol, response to alarms, self-initiated activity such as car and pedestrian checks on designated private property, investigations, apprehension or detention of suspects, and assisting in prosecution;

3. Proprietary private investigator—An armed or unarmed, nonuniformed person employed exclusively and regularly by one (1) employer in connection with the affairs of that employer and where there exists an employer-employee relationship, responsible for investigations which impact that employer. The qualification for this classification is set out in 17 CSR 10-2.050(1)(C); and

4. Airport police—Armed and uniformed position responsible for patrolling the property designated as the Kansas City International Airport and the Charles B. Wheeler Downtown Airport who are granted special permission to be known as the Kansas City International Airport Police. These officers are exempt from the provisions of 17 CSR 10-2.060(4). Airport police personnel shall be required to have a Class A license. Officers with licenses pursuant to this subclassification have the following authority, in addition to those created by the Class A license. The Class A license that has the airport police designation shall have authority to enforce city ordinance and state statute violations upon the public streets of the city, but only upon the streets within the property boundaries of the Kansas City International Airport and the Charles B. Wheeler Downtown Airport. The Class A license that has the designation unarmed, uniformed “traffic control officer” shall have the authority to control traffic and issue citations for parking violations, but only upon the streets within the property boundaries of the Kansas City International Airport and the Charles B. Wheeler Downtown Airport. This section grants no authority to engage in a vehicle pursuit on streets not within the property boundaries of the Kansas City International Airport or the Charles B. Wheeler Downtown Airport.

(B) Class B licenses shall not grant the authority for the licensees to detain or apprehend suspects. An applicant shall designate the particular subclassification listed in this subsection when applying for a Class B license. An applicant must make a separate application when applying for a Class B license designating more than one (1) subclassification of authority. The license identification issued by the Board of Police Commissioners of Kansas City, Missouri (board) shall designate which subcategory of a Class B license has been granted.

1. Guard—A guard is an unarmed, uniformed position with primary responsibilities being to watch and report on/or in a specific premises or designated area, to escort or guide, to control crowds, to give directions, to monitor camera systems, to control access, and to offer assistance for the safety of others. The guard has no authority to detain or apprehend a person suspected of committing a crime.

2. Armed courier—An armed, uniformed position primarily responsible for the protection and transport of money and other valuables from one (1) designated area to another. This licensee has the authority to conduct private security services on the public streets of the city, but this authority is limited to protecting property from activities which would impact the property protected. The courier must meet the qualifications relating to authority to carry a firearm, as set out in this chapter.

3. Proprietary private investigator—An armed or unarmed, nonuniformed person employed exclusively and regularly by one (1) employer in connection with the affairs of that employer and where there exists an employer-employee relationship, responsible for investigations which impact that employer. The qualification for this classification is set out in 17 CSR 10-2.050(1)(C).

AUTHORITY: section 84.720, RSMo 2000. Original rule filed Dec. 5, 1979, effective March 17, 1980. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed March 14, 2013.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions less 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 Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RESCISSION

17 CSR 10-2.040 Application Forms and Licensing Fees. This rule established a schedule of licensing fees and provided a list of approved forms used by the board to administer its responsibilities in the area of regulation and licensing of private security personnel.

PURPOSE: The board wishes to rescind this rule and adopt a new rule in its place to clarify the language in the rule and ensure compliance with the applicable law.

AUTHORITY: section 84.720, RSMo 1994. Original rule filed Dec. 5, 1979, effective March 17, 1980. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 14, 2013.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. 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 17—BOARDS OF POLICE COMMISSIONERS
Division 10—Kansas City Board of Police Commissioners
Chapter 2—Private Security**

PROPOSED RULE

17 CSR 10-2.040 Application Forms and Licensing Fees

PURPOSE: The Board of Police Commissioners of Kansas City, Missouri (board), in order to administer its responsibilities in the area of regulation and licensing of private security and proprietary private investigative personnel, shall establish a schedule of licensing fees and list of approved forms.

(1) The fees for licensing, renewing, transferring, etc., are as follows:

(A) Annual Company License	\$300.00
(B) Class A—Armed License	\$145.00
(C) Class A—Armed License Renewal	\$ 90.00
(D) Class A—Unarmed License	\$ 90.00
(E) Class A—Unarmed License Renewal	\$ 65.00
(F) Class B—Armed License	\$145.00
(G) Class B—Armed License Renewal	\$ 90.00
(H) Class B—Unarmed License	\$ 90.00
(I) Class B—Unarmed License Renewal	\$ 65.00
(J) Replacement of Lost/Stolen License	\$ 65.00
(K) Dual License	\$ 65.00
(L) Change of Company Name	\$150.00
(M) License Upgrade/Change of license classification	\$ 65.00
(N) Rescheduling Fee (test failure, fail to qualify or attend range)	\$ 85.00
(O) Weapon Change	\$ 85.00
(P) State/NCIC/FBI Annual Fingerprinting Fee	\$ 40.00
(Q) Reinstatement Fee (following suspension/revocation)	\$ 65.00
(R) License Transfer	\$ 65.00
(S) Copy Fee	\$ 1.00
	per page
(T) Annual Range Fee (Training and Qualification/Continuing Education)	\$ 85.00
(U) Classroom Training/Continuing Education Fee (every 2 years)	\$ 50.00

(2) Only cash, credit cards, money orders, cashier's checks, or checks drawn on accounts of licensed companies are accepted in payment of fees. All fees are nonrefundable.

(3) The board will provide forms for applicants to use. All forms may be downloaded at www.kcpd.org.

(A) Form 5001 P.D., "Information for Private Security/Proprietary Investigative Personnel," provides basic information to private security and proprietary private investigative personnel which includes the source of the board's authority to license private security and proprietary private investigative personnel; information on the classifications of licenses; the duties and authority of the various license classifications; information concerning firearms qualification; and scheduling and directions to the police pistol range.

(B) Form 5297 P.D., "Instructions for Licensing a Company to Employ Private Security and Proprietary Private Investigative Personnel," provides instructions for licensing a company to employ private security and proprietary private investigative personnel which includes instructions concerning the required certificate of liability insurance; required documents; fee required; criminal history records check information; lists the private officer license classifications; procedures for monthly invoices; and information concerning the required examination and firearms qualification.

(C) Form 5409 P.D. is the "Employer's Application for Employment of Private Security/Proprietary Private Investigators 'Intent to Hire.'" This form must be presented any time a license is applied for, renewed, or transferred. This is the basic application form for individual licensees which requests the following information: name of business, address, and telephone number; the individual applicant's name, address, telephone number, date of birth, and Social Security number; the type of license being applied for; and if armed, the make, model, caliber, and serial number of the firearm the applicant intends to carry. The form must be signed by both the individual applicant and an authorized company representative. No Form 5409 P.D. will be accepted if signed by a person other than the authorized representative designated by the company in writing and on file with the Private Officers Licensing Unit (POLU).

(D) Form 5486 P.D. is the "Application for Company License." This form is the basic application form for companies wishing to

regularly work or employ persons to engage in private security or proprietary private investigative businesses in the City of Kansas City, Missouri. It requires the following information: the company's trade name; the company's legal name, its address, its mailing address, and business phone; the principal name of the company and home office address and telephone; whether the company is using a fictitious name and whether that name is registered with the Missouri Secretary of State; whether the business is a corporation registered in a state other than Missouri but doing business in Missouri; a copy of the company's registration in Missouri and certificate of good standing from the Missouri Secretary of State if appropriate; a description of the company; information concerning whether a license issued by any governmental entity to the company has ever been denied, suspended, or revoked; a description of the uniform along with a photograph which clearly displays the company name and the word security either on the uniform or company patch to be worn by the company's personnel (the POLU will approve in advance all uniforms to be worn by any licensee); the approximate number of persons to be licensed; a list of all company-owned firearms; a list of the names, addresses, and capacities of each of the owners, partners, officers, directors, and associates of the company; a list of the company's contact persons who are authorized to sign and do business with the board; information and proof that the persons listed in the application are U.S. citizens; and the company's federal employment identification number (E.I.N.).

(E) Form 5715 P.D. is the "Verification of Firearms Training" form. This form requires an individual and his/her instructor to certify that the applicant has been trained in the use of the firearm the applicant intends to carry on duty. Information concerning what the training must include appears on the form. The form must be signed by the training instructor and the training instructor's company must be listed. This form must be presented to the POLU prior to the applicant being scheduled for the range.

(F) Form 5636 P.D. is the "Weapons Discharge Report." This form is designed to report information whenever a licensee discharges his/her firearm. Information which must be provided on the form includes: the name of the licensee and date the license expires; the licensee's weapon make, model, and serial number; the location of the incident; the time of the incident; the name of the licensee's supervisor and the time they were notified of the discharge; whether the licensee was on-duty and in uniform; whether any fatalities or injuries resulted from the discharge; whether the shooting was accidental or intentional; the department's case report number in connection with the incident; a narrative description of what transpired; the signature of the licensee along with the licensee's date of birth; and the signature of the company representative along with the company name and address. This form must be received by the POLU within five (5) days of the incident.

(G) Form 5707 P.D. is a "Temporary License Extension" form. It requests the date, the name of the licensee, their date of birth, and their employer's name. This form provides a temporary license to those who have not yet attended their scheduled firearms qualification date.

AUTHORITY: section 84.720, RSMo 2000. Original rule filed Dec. 5, 1979, effective March 17, 1980. Amended: Filed May 3, 1988, effective Sept. 29, 1988. Rescinded and readopted: Filed May 28, 1993, effective Jan. 31, 1994. Rescinded and readopted: Filed Dec. 15, 1999, effective Aug. 30, 2000. Rescinded and readopted: Filed March 14, 2013.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-two thousand, four hundred forty-three dollars and twenty-five cents (\$22,443.25) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities \$2,262,875 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Police Commissioners of Kansas City, Missouri, 1125 Locust, Kansas City, Missouri 64106. 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.