

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

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

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

#### ORDER OF RULEMAKING

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

#### **3 CSR 10-4.116** Special Regulations for Areas Owned by Other Entities **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2000 (25 MoReg 633-635). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

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

#### ORDER OF RULEMAKING

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

3 CSR 10-7.435 is amended.

This amendment relates to hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.435 by adopting provisions for hunting deer during the 2000-2001 seasons.

#### **3 CSR 10-7.435 Deer: Seasons, Methods, Limits.**

*PURPOSE: This amendment establishes the firearms seasons, archery season and special managed hunts for deer in 2000-2001.*

##### (1) General Requirements.

(A) For the purposes of this rule, deer shall mean white-tailed deer and mule deer and antlered deer shall mean a deer with at least one (1) antler not less than three inches (3") long. Deer may be pursued, taken, killed, possessed or transported only as permitted in this rule. A person may take two (2) deer of either sex on an archer's hunting permit provided that only one (1) antlered deer may be taken prior to the November portion of the firearms deer hunting season. A person holding an archer's hunting permit may obtain up to five (5) antlerless-only archery deer hunting permits to be used only in units 13, 14, 17, 22, 24, 58 and 59. A person may take one (1) antlerless deer on each antlerless-only archery deer hunting permit. In addition, a person may take one (1) antlered deer on a firearms deer hunting permit or one (1) deer of either sex on a firearms any-deer hunting permit. A person may take one (1) additional antlerless deer on a firearms first bonus deer hunting permit and one (1) additional antlerless deer on a firearms second bonus deer hunting permit. Additional deer may be taken as a participant in a managed deer hunt on a managed deer hunting permit. A person may participate in only one (1) managed deer hunt in the prescribed permit year. A person under twelve (12) years of age holding a youth deer and turkey hunting permit may, during the firearms deer hunting seasons, take one (1) antlered deer statewide or (1) antlerless deer in a deer management unit where any-deer permits are issued (as provided in 3 CSR 10-5.205). Any person killing a deer shall properly tag it immediately with a transportation tag listing the full name and address of the taker, which shall remain attached to the carcass until it has been inspected and marked at an established checking station. In addition, the taker shall validate the harvest by immediately notching the permit as required. A landowner or lessee, as defined in this Code, shall not be required to purchase a deer hunting permit to take, during the November and December portions of the firearms deer hunting season, an antlered deer, to take deer of either sex during the archery deer hunting season or to take up to five (5) additional antlerless deer during the archery season in units 13, 14, 17, 22, 24, 58 and 59, as prescribed in this rule, on any land s/he owns or, in the case of the lessee, upon which s/he resides, but s/he shall adhere to season methods and limits prescribed in this rule and shall tag the deer immediately with the full name and address of the taker and submit it for inspection as required in this rule. Landowners or corporate shareholders as defined in this rule are eligible for any-deer and bonus deer hunting permits.

(B) All deer taken shall be transported and possessed only by the taker until such deer have been submitted in person by the taker thereof for inspection and marking at an established checking station. Deer taken during the November portion of the firearms deer

hunting season, and during the January portion of the firearms deer hunting season in units 1 through 17, 20, 22 through 24, 58 and 59, shall be submitted with the transportation tag attached and the prescribed hunting permit, notched as required, for inspection and marking in the county where taken or an adjoining open county between the hours of 8:00 a.m. and 8:00 p.m. Central Standard Time (CST) on the day taken. Deer taken during the December portion of the firearms deer hunting season and the archery hunting season shall be submitted for inspection and marking within twenty-four (24) hours of take at an established checking station, except that deer taken on an antlerless-only archery deer hunting permit must be checked at an established checking station within the unit where taken. Deer may not be transported without the head attached unless inspected and marked at an established checking station. Notwithstanding any contrary provisions of other rules, deer inspected and marked with a locking seal at an established checking station may be transported, possessed and stored, and parts of properly checked deer when labeled with the full name, address and permit number of the taker, may be transported and possessed by any person. Locking seals placed on deer at established checking stations shall remain attached to the deer carcass until the processor begins the act of processing the meat for packaging. Donations of commercially processed deer meat may be made to not-for-profit charitable organizations for distribution to underprivileged persons under administrative guidelines established by the director.

#### (2) Firearms Deer Hunting Season.

(A) Deer may be taken as provided in this rule from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset from November 11 through November 21, 2000 and from January 6 through January 9, 2001 in units 1 through 17, 20, 22 through 24, 58 and 59, by the holder of a firearms deer hunting permit with a shotgun not smaller than 20-gauge or larger than 10-gauge; or with a muzzleloading or cap-and-ball firearm not capable of being loaded from the breech, not smaller than .40 caliber, and capable of firing only a single projectile at one (1) discharge; or with any pistol, revolver or rifle firing centerfire ammunition propelling an expanding-type bullet; or with a longbow or crossbow. The possession of full hard metal case projectiles, ammunition propelling more than one (1) projectile at a single discharge and self-loading firearms having a capacity of more than eleven (11) cartridges in magazine and chamber combined are prohibited while pursuing deer.

(B) Deer may be taken as provided in this rule from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset from December 2 through December 10, 2000, by the holder of a firearms deer hunting permit with a muzzleloading or cap-and-ball firearm not capable of being loaded from the breech, not smaller than .40 caliber, and capable of firing only a single projectile at one (1) discharge. A person, while in the act of pursuing or hunting deer on a firearms deer hunting permit may have and use more than one (1) muzzleloading or cap-and-ball firearm, but have no other firearm, longbow or crossbow on his/her person.

(C) During the November portion of the firearms deer hunting season, and during the January portion of the firearms deer hunting season in units 1 through 17, 20, 22 through 24, 58 and 59, other wildlife may be hunted only with a shotgun and shot not larger than No. 4, except that this provision does not apply to waterfowl hunters, trappers or to a landowner on his/her land or to a lessee on the land on which s/he resides; provided that the holder of an unused firearms deer hunting permit and the prescribed hunting permit may take coyotes and, after the opening of the furbearer hunting season, bobcats in the area described in 3 CSR 10-7.450 by the methods prescribed for taking deer. Furbearers, squirrels and rabbits may not be chased, pursued or taken with dogs during daylight hours of the November portion of the firearms

deer hunting season in Bollinger, Butler, Carter, Dent, Iron, Madison, Oregon, Reynolds, Ripley, Shannon and Wayne counties.

(D) During all portions of the firearms deer hunting season, all persons while hunting deer shall wear a cap or hat, and a shirt, vest or coat having the outermost color commonly known as daylight fluorescent orange, blaze orange or hunter orange which shall be plainly visible from all sides while being worn. Camouflage orange garments do not meet this requirement. This requirement shall not apply to archery deer hunters during the December portion of the firearms season, to archery deer hunters during the January portion of the firearms season in Units 18, 19, 21, and 25-57, or to hunters using archery methods while hunting within municipal boundaries where discharge of firearms is prohibited or on federal or state public hunting areas where deer hunting is restricted to archery methods.

(F) Hunting is permitted within deer management units as follows:

1. Unit 57: Antlered deer may be taken from November 11 through November 21 and from December 2 through December 10.

2. Units 1-56, 58 and 59: Antlered deer may be taken from November 11 through November 21 and from December 2 through December 10. Deer of either sex may be taken from November 11 through November 21 and from December 2 through December 10 by the holder of an any-deer permit in the unit specified on the permit. Additional deer, which must be antlerless, may be taken by holders of bonus permits in the unit specified on the permits.

3. Units 1-17, 20, 22-24, 58 and 59: Antlerless deer may be taken from January 6 through January 9 by holders of any-deer and/or bonus permits from any unit. An unfilled firearms deer hunting permit for antlered deer may be converted to a firearms any-deer hunting permit for use during the January portion of the firearms deer hunting season. Any firearms deer hunting permittee may purchase firearms first and second bonus deer hunting permits for use during the January portion of the firearms deer hunting season provided s/he adheres to season limits prescribed in this rule.

4. Nonresidents may take antlered deer from November 11 through November 21 and from December 2 through December 10. Nonresidents may purchase any-deer first bonus and second bonus permits according to a quota for nonresident permits established for each deer management unit. A nonresident who owns seventy-five (75) acres or more within a single deer management unit, if his/her land is within a deer management unit for which any-deer permits are issued, after purchasing the nonresident firearms deer hunting permit, may apply for and shall receive any-deer permits for use on his/her land during the firearms deer hunting season according to the acreage formula applicable to resident landowners, and may purchase a first bonus and second bonus permit where available. Nonresident landowners must purchase a nonresident firearms deer hunting permit for each landowner any-deer permit received.

5. A landowner as defined in this Code, or a corporate shareholder who is a resident of Missouri, who also meets acreage requirements specified in this paragraph, if his/her land is within a single deer management unit for which any-deer permits are issued, may apply for and shall receive any-deer permits for use on his/her land according to the following formula. The total number of landowner any-deer permits that may be issued for any qualifying acreage shall not exceed the number specified in the following formula, and no landowner may receive more than one (1) landowner any-deer permit and two (2) landowner bonus permits issued in his/her name but these permits may be used on qualifying property in more than one unit as specified on the permits. Additional permits authorized by the acreage formula may be assigned to others as provided in (1)(F)6. of this rule. No more than three (3) deer, only one (1) of which may be antlered, may be

taken by anyone during the firearms deer hunting seasons during the prescribed permit year.

A. A landowner of at least seventy-five (75) acres may apply for one (1) any-deer permit. This acreage may be eligible for two (2) bonus permits.

B. A landowner of at least one hundred fifty (150) acres may apply for two (2) any-deer permits. This acreage may be eligible for four (4) bonus permits.

C. A landowner of at least three hundred (300) acres may apply for three (3) any-deer permits. This acreage may be eligible for six (6) bonus permits.

D. A landowner of at least six hundred (600) acres may apply for four (4) any-deer permits. This acreage may be eligible for eight (8) bonus permits.

6. A resident or nonresident landowner eligible for one (1) any-deer permit may assign the permit to his/her lessee or farm operator residing on the land by written request on the application. Except as otherwise provided, a landowner whose acreage qualifies for more than one (1) any-deer permit may not be issued more than one (1) such permit in his/her name or take more than one (1) deer but may assign his/her additional any-deer permits, together with all associated bonus permits, to other members of his/her immediate household or to his/her lessee or farm operator residing on the land by written request on the application. No more than three (3) deer, only one (1) of which may be antlered, may be taken by anyone during the firearms deer hunting seasons during the prescribed permit year.

### (3) Archery Deer Hunting Season.

(A) Deer may be taken as provided in section (1) exclusively by longbow from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset from October 1 through January 15, excluding the dates of the November portion of the firearms deer hunting season, by the holder of an archer's hunting permit. An archer, while in the act of pursuing or hunting deer on an archer's permit, shall not have a firearm on his/her person. Archers may take deer of either sex statewide, provided that only one (1) may be antlered prior to the November portion of the firearms deer season.

### (4) Managed Deer Hunts.

(A) On the fenced portion of Caney Mountain Conservation Area, one (1) deer of either sex may be taken with muzzleloading or cap-and-ball firearms from October 21 through October 23, 2000.

(B) On the fenced portion of Peck Ranch Conservation Area, one (1) deer of either sex may be taken with longbow from October 7 through October 8; one (1) antlered deer may be taken with muzzleloading or cap-and-ball firearms from October 21 through October 23, 2000.

(C) On Drury-Mincy Conservation Area, one (1) deer of either sex may be taken with muzzleloading or cap-and-ball firearms from October 28 through October 30, 2000.

(D) On designated portions of Swan Lake National Wildlife Refuge, two (2) deer, only one (1) of which may be antlered, may be taken with muzzleloading or cap-and-ball firearms from January 6 through January 7; and two (2) antlerless deer may be taken with muzzleloading or cap-and-ball firearms from January 13 through January 14, 2001.

(E) On designated portions of Fort Leonard Wood, one (1) deer of either sex may be taken with historic weapons from December 22 through December 23, 2000.

(F) On designated portions of Mingo National Wildlife Refuge, one (1) deer of either sex may be taken with modern firearms from October 22, 2000; one (1) deer of either sex may be taken with muzzleloading or cap-and-ball firearms from January 6 through January 7 and from January 20 through January 21, 2001.

(G) On designated portions of August A. Busch Memorial Conservation Area, one (1) antlerless deer may be taken with long-

bow from October 14 through October 22 and one (1) deer of either sex may be taken with longbow from December 1 through December 10 and from December 26 through January 7, 2001; one (1) deer of either sex may be taken with historic weapons or modern firearms from October 28 through October 29; one (1) antlerless deer may be taken with muzzleloading or cap-and-ball firearms from November 13 through November 15; and one (1) deer of either sex may be taken with muzzleloading or cap-and-ball firearms from November 18 through November 20, 2000.

(H) On Weldon Spring Conservation Area, one (1) deer of either sex may be taken with longbow from October 7 through October 22, from December 1 through December 20 and from December 26 through January 15, 2001; one (1) deer of either sex may be taken with modern firearms from October 28 through October 29, from November 13 through November 15 and from November 18 through November 20, 2000.

(I) On designated portions of James A. Reed Memorial Wildlife Area, three (3) deer, only one (1) of which may be antlered, may be taken with longbow from October 28 through November 5; and three (3) deer, only one (1) of which may be antlered, may be taken with muzzleloading or cap-and-ball firearms from November 6 through November 9 and from November 13 through November 17, 2000. An antlerless deer must be taken and registered prior to taking an antlered deer.

(J) On designated portions of U.S. Army Corps of Engineers project lands at Smithville Lake and Mark Twain Lake, three (3) deer, only one (1) of which may be antlered, may be taken with modern firearms from November 18 through November 19, 2000. On designated portions of Smithville Lake two (2) deer, only one (1) of which may be antlered, may be taken with modern firearms from January 6 through January 7, 2001. On designated portions of Truman Lake and Stockton Lake, two (2) deer, only one (1) of which may be antlered, may be taken with modern firearms from November 4 through November 5, 2000.

(K) On designated portions of Whetstone Creek Conservation Area, two (2) deer, only one (1) of which may be antlered, may be taken with modern firearms from November 13 through November 15, 2000. An antlerless deer must be taken and registered prior to taking an antlered deer. One deer of either sex may be taken with longbow from October 1 through November 10; and one (1) antlerless deer may be taken with longbow from November 22 through January 15, 2001.

(L) On designated portions of Forest 44 Conservation Area, two (2) deer, only one (1) of which may be antlered, may be taken with longbow from December 1 through January 15, 2001; and two (2) deer, only one (1) of which may be antlered, may be taken with muzzleloading or cap-and-ball firearms from November 13 through November 14 and from November 20 through November 21, 2000.

(M) On designated portions of Squaw Creek National Wildlife Refuge, two (2) antlerless deer may be taken with muzzleloading or cap-and-ball firearms from January 6 through January 7, 2001.

(N) On designated portions of Burr Oak Woods Conservation Area, three (3) deer, only one (1) of which may be antlered, may be taken with longbow from November 11 through November 14 and from November 15 through November 19, 2000. An antlerless deer must be taken and registered prior to taking an antlered deer.

(O) On designated portions of Shaw Arboretum, three (3) antlerless deer may be taken with muzzleloading or cap-and-ball firearms from December 2 through December 3, 2000.

(P) On designated portions of Thousand Hills State Park, three (3) antlerless deer may be taken with modern firearms from December 9 through December 10, 2000 and from January 6 through January 7, 2001; on designated portions of Crowder State Park, three (3) antlerless deer may be taken with modern firearms from December 16 through December 17, 2000; on designated portions of Babler State Park, three (3) antlerless deer may be

taken with modern firearms from December 1 through December 4, 2000; on designated portions of Cuivre River State Park, three (3) antlerless deer may be taken with modern firearms from December 9 through December 10, 2000; on designated portions of Watkins Mill State Park, three (3) antlerless deer may be taken with muzzleloading or cap-and-ball firearms from December 16 through December 17 and from January 13 through January 14, 2001; on designated portions of Big Oak Tree State Park, three (3) antlerless deer may be taken with muzzleloading or cap-and-ball firearms from January 13 through January 14, 2001.

(Q) On designated portions of Columbia Bottom Conservation Area, one (1) deer of either sex may be taken with longbow from October 7 through November 5 and from December 1, 2000 through January 15, 2001.

(R) On designated portions of Jackson County's Fleming Park and adjacent property owned by the Church of Jesus Christ of Latter Day Saints, three (3) deer, only one (1) of which may be antlered, may be taken with muzzleloading or cap-and-ball firearms from December 4 through December 6 and from December 20 through December 22, 2000. An antlerless deer must be taken and registered prior to taking an antlered deer.

(S) On designated portions of Rockwoods Range, two (2) deer, only one (1) of which may be antlered, may be taken with longbow from November 1 through November 30 and from December 1 through December 30, 2000.

(T) On designated portions of Charles W. Green Conservation Area, one deer of either sex may be taken with historic weapons or modern firearms from November 4 through November 5, 2000.

(U) On designated portions of Pelican Island Conservation Area, two (2) deer, only one (1) of which may be antlered, may be taken with muzzleloading or cap-and-ball firearms from December 15 through December 17, 2000.

(V) On designated portions of Prairie Fork Creek Conservation Area, two (2) antlerless deer may be taken with modern firearms from November 13 through November 15, 2000.

(W) On designated portions of St. Stanislaus Conservation Area, two (2) deer, only one (1) of which may be antlered, may be taken with longbow from October 7 through November 5 and from December 1 through January 15, 2001.

**SUMMARY OF COMMENTS:** Seasons and limits are excepted from the requirement for filing as a proposed amendment under section 536.021, RSMo.

This amendment filed April 24, 2000, effective **June 1, 2000**.

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

**ORDER OF RULEMAKING**

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

3 CSR 10-8.515 is amended.

This amendment relates to hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The department amended 3 CSR 10-8.515 by adopting provisions for otter harvest through zoning, bag limits and extended seasons.

**3 CSR 10-8.515 Furbearers: Trapping Seasons**

*PURPOSE:* To reduce decimation of fish populations caused by otters in areas of high otter density and maintain populations in lower populated areas.

(1) Raccoon, opossum, striped skunk, badger, red fox, gray fox, bobcat, and mink may be taken in any numbers by trapping from November 20 through January 20; provided that bobcat may be taken only in that part of the state west and south of a line running west from the Illinois border on Interstate Hwy. 70 to U.S. Hwy. 63; north on U.S. Hwy. 63 to U.S. Hwy. 36; west on U.S. Hwy. 36 to U.S. Hwy. 65; north on U.S. Hwy. 65 to the Iowa border. Beaver may be taken in any number by trapping from November 20 through March 31.

(2) Otters and muskrats may be taken by trapping during specified seasons and in specified limits described below:

(A) A season limit of five (5) otters, and muskrats in any numbers may be taken from November 20 through January 20 in Otter Management Zones A, C, and D, described as:

1. Otter Management Zone A—That portion of northwest Missouri from the Iowa border and west of a line running south on Worth County Hwy. F to Mo. Hwy. 46; south on Mo. Hwy. 46 to U.S. Hwy. 136; south on U.S. Hwy. 136 to U.S. Hwy. 169; south on U.S. Hwy. 169 to Mo. Hwy. 31; south on Mo. Hwy. 31 to U.S. Hwy. 36; east on U. S. Hwy. 36 to U. S. Hwy. 69; south on U.S. Hwy. 69 to Mo. Hwy. 10; east on Mo. Hwy. 10 to Mo. Hwy. 13; south on Mo. Hwy. 13 to Interstate Hwy. 70; west on Interstate Hwy. 70 to Mo. Hwy. 131; south on Mo. Hwy. 131 to Mo. Hwy. 2; west on Mo. Hwy. 2 to the Kansas line.

2. Otter Management Zone C—That portion of eastern Missouri east and south of a line running west from the Illinois border on Interstate Hwy. 270 to Interstate Hwy. 44; west on Interstate Hwy. 44 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and north of a line comprised of Mo. Hwy. 32 east to St. Francois County Hwy. OO; south on St. Francois County Hwy. OO to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and west of Mo. Hwy. 51 to the Illinois line.

3. Otter Management Zone D—That portion of southwest Missouri west and south of a line running north from the Arkansas border on Mo. Hwy. 5 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Webster County Hwy. A; north on Webster County Hwy. A to Mo. Hwy. 38; west on Mo. Hwy. 38 to Interstate Hwy. 44; west on Interstate Hwy. 44 to Mo. Hwy. 39; north on Mo. Hwy. 39 to U.S. Hwy. 160; west on U.S. Hwy. 160 to the Kansas line.

(B) Otters and muskrat may be taken in any numbers from November 20 through February 20 in Otter Management Zone E, described as:

1. Otter Management Zone E—That portion of south Missouri east and north of a line running north from the Arkansas border on Mo. Hwy. 5 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Webster County Hwy. A; north on Webster County Hwy. A to Mo. Hwy. 38; west on Mo. Hwy. 38 to Interstate Hwy. 44; west on Interstate Hwy. 44 to U.S. Hwy. 65; east of a line running north on U.S. Hwy. 65 to Interstate Hwy. 70; south of a line running east on Interstate Hwy. 70 to the north bank of the Missouri River; east on the Missouri River to U.S. Hwy 63; south on U.S. Hwy. 63 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and south of a line comprised of Mo. Hwy. 32 to U. S. Hwy. 67; south on U.S. Hwy. 67 to Mo. Hwy. 32; east on Mo. Hwy. 32 to St. Francois County Hwy. OO; south on St. Francois County Hwy. OO to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and south and east of Mo. Hwy. 51 to the Illinois line.

(C) A season limit of twenty (20) otters and muskrats in any numbers may be taken from November 20 through January 20 in Otter Management Zone B, described as:

1. Otter Management Zone B—The remainder of the state not in Otter Management Zone A, C, D, or E, as described above.

(3) Except in Otter Management Zone E, killer or Conibear-type traps with a jaw spread less than eight inches (8") and leghold traps smaller than number three (3) are prohibited in water sets after January 20. In Otter Management Zone E, killer or Conibear-type traps with a jaw spread less than eight inches (8") and leghold traps smaller than number three (3) are prohibited for trapping beavers after February 20. Coyotes may be taken in any numbers by trapping from November 20 through February 20. Traps may not be placed or set before November 20 and must be removed by midnight of the last day of the trapping season.

(4) Pelts of furbearers may be possessed, transported and sold only by the taker from November 20 through February 4, except that pelts of coyotes and pelts of muskrats taken in Otter Management Zone E may be possessed, transported, consigned for processing and sold by the taker from November 20 through March 1, pelts of beaver may be possessed, transported, consigned for processing and sold by the taker from November 20 through April 10, and tagged bobcats and otters or their pelts may be possessed throughout the year. Bobcats or their pelts shall be delivered by the taker to an agent of the department in any open county for registration or tagging; otters shall be delivered by the taker to an agent of the department only in the Otter Management Zone of harvest for registration or tagging. Bobcats and otters shall be registered or tagged before selling, transferring, tanning or mounting not later than February 4, except for otters taken in Otter Management Zone E, not later than March 4. It shall be illegal to purchase or sell untagged bobcats and otters or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year. (Certain Department of Health rules also govern how furbearer carcasses might be utilized.)

(5) Rabbits may be taken by trap from November 20 to January 20 within prescribed hunting limits, but carcasses may not be sold.

(6) Restrictions on possession shall not apply to tanned pelts, mounted specimens or manufactured products.

(7) Red fox, gray fox and coyotes may be taken alive during established seasons by prescribed methods and held in captivity. They may not be exported and may only be sold or given to holders of a valid Hound Running Area Operator's Permit. Red fox and gray fox may not be possessed after February 4; coyotes may not be possessed after February 25. These animals may be held for no longer than twenty-four (24) hours after capture, except when confined in facilities and cared for as specified in 3 CSR 10-9.220. Complete and current records of all transactions must be maintained showing the county of origin, the species, date captured, date of transfer and name and permit number of hound running area operator receiving each individual animal. These records shall be kept on forms provided by the department and submitted to the department by March 15. Records shall be made available for inspection by an authorized agent of the department at any reasonable time.

SUMMARY OF COMMENTS: Seasons and limits are excepted from the requirement for filing as a proposed amendment under section 536.021, RSMo.

This amendment filed April 24, 2000, effective **November 1, 2000**.

*PRIVATE COST: This proposed amendment will not cost private entities more than \$500 per year or \$2,500 in the five-year aggregate.*

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

FISCAL NOTE  
PRIVATE ENTITY COSTS

Proposed Amendment:       **3 CSR 10-8.515 Furbearers: Trapping Seasons**  
Prepared:                       April 24, 2000 by Department of Conservation  
Affected Private Entities:    Individual trappers

This rule to establish zones and bag limits for otter trapping is expected to cost a small number of individual trappers as much as \$500 because of the reduced bag limits in some zones. However, part of the intent of this rule is to encourage trappers to trap otters in other zones (with no bag limits) where the otter population density is high to reduce damage to local fish populations. It is unclear what the final cost may be to the individual trapper, but it is probable that if they are enticed to trap in these high otter density areas, trappers could actually take more otters, not fewer, and suffer no cost hardship at all. Based on data from the last three complete seasons, it is expected that the total cost would not exceed \$500 for all individual trappers combined.

<u>CLASSIFICATION</u>	<u>ANNUAL COST<sup>1</sup></u>	<u>FIVE-YEAR AGGREGATE COST<sup>2</sup></u>
Trappers	\$500	\$2,500

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

<sup>2</sup> Based on an average five-year life cost. All permit fees are reviewed annually and adjustments made as needed—normally within five years—to remain competitive with other states.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.120, 339.710, 339.780 and 339.820, RSMo Supp. 1999, the board amends a rule as follows:

**4 CSR 250-8.020** Broker Supervision and Improper Use of License and Office **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2000 (25 MoReg 360). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.100, RSMo 1994 and 339.120, RSMo Supp. 1999, the board amends a rule as follows:

**4 CSR 250-8.070** Advertising **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2000 (25 MoReg 360–361). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.120, 339.730, 339.740, 339.750, 339.755, 339.780 and 339.820, RSMo Supp. 1999, the board amends a rule as follows:

**4 CSR 250-8.090** Brokerage Service Agreements **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2000 (25 MoReg 361–363). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 1999, the board rescinds a rule as follows:

**4 CSR 250-8.095** Agency Disclosure **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2000 (25 MoReg 363). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.120, 339.720 and 339.770, RSMo Supp. 1999, the board adopts a rule as follows:

**4 CSR 250-8.095** Brokerage Relationship Disclosure **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2000 (25 MoReg 363–365). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.120, 339.720 and 339.780, RSMo Supp. 1999, the board adopts a rule as follows:

**4 CSR 250-8.096** Brokerage Relationship Confirmation **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2000 (25 MoReg 365). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.120, 339.720 and 339.770, RSMo Supp. 1999, the board amends a rule as follows:

**4 CSR 250-8.097 Broker Disclosure Form is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2000 (25 MoReg 365-366). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under section 339.120 and 339.770, RSMo Supp. 1999, the board amends a rule as follows:

**4 CSR 250-8.160 Retention of Records is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2000 (25 MoReg 366). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Real Estate Commission under sections 339.120, 339.720, 339.780 and 339.820, RSMo Supp. 1999, the board amends a rule as follows:

**4 CSR 250-8.210 Management Agreements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2000 (25 MoReg 366). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**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**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1999, the commission amends a rule as follows:

**10 CSR 10-5.380 is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2000 (25 MoReg 14-17). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources (MDNR) received comments from the U.S. Environmental Protection Agency (EPA).

COMMENT: The EPA commented that in subsection (2)(C), the language is vague as to when the residents of Franklin County may opt in to the biennial emissions inspection program.

RESPONSE AND EXPLANATION OF CHANGE: The MDNR agrees and has added the date July 1, 2000, to subsection (2)(C).

COMMENT: The EPA commented that in paragraph (7)(C)9. House Bill 603 allows a used vehicle sold without an emission inspection to be returned to the dealer within 14 days if emission inspected and the vehicle fails, not 10 days as stated in the rule.

RESPONSE: The MDNR understands the confusion. The proposed amendment if adopted will not be effective until late July 2000. Senate Bill 19 which changes the 14 days to 10 days will be effective July 1, 2000, so the language will be appropriate. No change was made as result of this comment.

COMMENT: The EPA commented that in paragraph (7)(C)11., the language should reflect how the automobile dealers and used car dealers would actually accomplish the emissions inspection during the transition period. It should also identify the types of tests that will be used to test vehicles of different model years.

RESPONSE AND EXPLANATION OF CHANGE: The MDNR agrees and has changed the paragraph to reflect the actual emission test and the cutpoints.

**10 CSR 10-5.380 Motor Vehicle Emissions Inspection**

**(2) Applicability.**

(C) Starting July 1, 2000, owners of motor vehicles registered in Franklin County who choose to have their vehicles biennial emission inspected shall have their vehicles inspected at emission stations in City of St. Louis or the counties of St. Louis, St. Charles, or Jefferson pursuant to this rule.

**(7) Documentation.**

(C) Transitional Period. The transitional period shall begin January 1, 2000, and end when the centralized test-only emission inspection stations begin emissions inspections.

1. Owners of subject vehicles shall receive either a clean screen notice as provided in subsection (3)(I) of this rule or an emission extension certificate and emission extension sticker, which will allow subject vehicle owners to register their vehicle in a timely manner. An emission extension certificate is the document that allows subject vehicle owners to register their vehicles with a deferred emissions inspection. An emission extension sticker is the



sticker that temporarily replaces the emission sticker for up to six (6) months.

2. The owner of a vehicle that has not received a clean screen notice and who cannot obtain an emission inspection during the transitional period may submit an emission extension certificate, in lieu of an emission inspection certificate, to the Missouri Department of Revenue in order to register the vehicle only during the transitional period. Owners of such vehicles who do not receive an emission extension certificate by mail may obtain one from the Department of Revenue at the time the vehicle is registered during the transitional period.

3. The emission extension certificate shall contain the certificate's expiration date.

4. The emission extension sticker shall be affixed on the inside of the vehicle's front windshield in the lower left hand corner. Previous emission inspection stickers affixed to the windshield shall be removed. Stickers are valid for six (6) calendar months.

5. The owner shall have their subject vehicle emission inspected prior to the emission extension sticker expiring.

6. The emission inspection sticker that replaces the emission extension sticker shall be valid until the subject vehicle's next required emission inspection.

7. No emission inspection fee is required for the emission extension certificate and emission extension sticker.

8. The automobile dealer may sell the vehicle with prior inspection and approval. The automobile dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to sections 643.300 to 643.355, RSMo or by obtaining a waiver pursuant to section 643.335, RSMo. A vehicle sold pursuant to this subsection by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty (120) days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

9. The automobile dealer may sell the vehicle without prior inspection and approval. The automobile dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle that fails an emission inspection within ten (10) days, provided that the vehicle has no more than one thousand (1,000) additional miles since the time of sale. The automobile dealer shall inform the purchaser about emission inspecting the vehicle.

10. The automobile dealer shall either repair the returned vehicle and provide an emissions certificate and sticker within five (5) working days or enter into any mutually acceptable agreement with the purchaser.

11. The emission inspection for automobile dealers and used vehicle purchasers shall be the idle test. The emission standards for all subject vehicles:

Model Year	CO (%)	HC (PPM)
1971-1974	7.0	700
1975-1979	6.0	600
1980	3.0	300
1981 and later	1.2	220

**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**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 10-5.490 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2680-2686). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources (MDNR) received comments from three entities, which include the U.S. Environmental Protection Agency (EPA), Burns and McDonnell and the National Solid Wastes Management Association (NSWMA). One entity supported the amendments and the other two supported the amendments with changes.

**COMMENT:** The EPA supports the revisions as necessary to be consistent with revisions made to the related federal rule. The proposed rule revisions accurately and completely reflect the revisions necessary to be consistent with the federal requirements. Therefore, we have no adverse or critical comments.

**RESPONSE:** No changes were made to the text as a result of this comment.

**COMMENT:** The NSWMA made comments on two sections of the rule: section (1) Applicability and section (3) General Provisions. The comment on section (1) raises the concern that landfills not located in the St. Louis noncompliance area will not have to get an operating permit. The comment on section (3) is that the requirements are more stringent than federal requirements. This is because landfills having design capacities equal to or greater than 1.0 million megagrams or 1.0 million cubic meters are being required to comply with the emission guidelines intended for landfills having design capacities equal to or greater than 2.5 million megagrams or cubic meters. The NSWMA recommends that the Commission not implement these rules until it has thoroughly reviewed the federal requirements and ensured that any adopted rules in Missouri are consistent with the federal requirements.

**RESPONSE:** Regarding the comment on applicability the MDNR feels that rule 10 CSR 10-5.490 and its companion rule 10 CSR 10-6.310 make it clear that any Missouri landfill above 2.5 million megagrams and cubic meters is required to obtain a Title V operating permit. On the second comment the MDNR is aware that the requirements for landfills in the general provisions section are more stringent than federal requirements in that smaller design capacity landfills may be required to install gas collection and control systems. In nonattainment areas, such as St. Louis, the Commission has the power to promulgate regulations more stringent than federal requirements to bring the area into attainment. The landfill rule and the controls it requires have a positive effect on reducing volatile organic compound (VOC) emissions coming from landfills. For that reason the applicability section requires smaller landfills than required in federal emission guidelines to control emissions. No changes were made to the rule text as a result of this comment.

**COMMENT:** Burns and McDonnell commented that subparagraph (3)(B)2.C. has been revised in the first sentence by deleting the word a and adding the phrase one of the following. The problem with the revised wording is that landfills utilizing energy recovery do not route all the collected gas to one of the following control systems. Such landfill will flare excess gas and burn the other gas in an energy recovery device like a boiler or internal combustion engine. We suggest that you add the phrase one or more of the following to the first sentence of subparagraph (3)(B)2.C.

**RESPONSE AND EXPLANATION OF CHANGE:** The MDNR consulted with the EPA regarding changing the text of the language in response to this comment and still maintaining compliance with federal emission guidelines. Both the MDNR and the EPA agree that such a change would not be considered less stringent than federal emission guidelines or change the intent. A change was made to the rule text as a result of this comment.

**COMMENT:** Burns and McDonnell commented that open flare is not defined in this regulation. Subparagraph (3)(B)2.C. does not appear to be equitable because only one of the three alternate control systems is required to have an initial performance test conducted. The MDNR has added the requirement that a control system designed and operated to reduce non-methane organic compounds (NMOC) must conduct an initial performance test with 180 days after the initial startup. However, there is no testing required for open flares or systems that route the gas for sale or use. Generally control systems designed and operated to reduce NMOCs will have been tested by the manufacturer that will guarantee the destruction efficiency when burning landfill gas at a specified temperature. These devices should not be required to conduct an initial performance test. The MDNR is issuing a rule with a disincentive to purchase higher priced control systems designed and known by testing to meet the desired efficiency. Does the MDNR want landfill operators to purchase equipment that cannot be tested such as an open flare? We recommend that the last sentence of part (3)(B)2.C.(II) be deleted in order to provide an incentive for the landfill operator to purchase equipment designed to control NMOCs.

**RESPONSE AND EXPLANATION OF CHANGE:** There should be a reference to federal regulation 40 CFR part 60.18 concerning flare design and operation in part (3)(B)2.C.(I). This reference was most likely not included in the original rule since it wasn't part of the draft federal emission guidelines. The final version of the emission guidelines does contain the reference. Rule 10 CSR 10-6.310, which was promulgated after the guidelines were finalized, does contain the reference. Flare is a defined term in this rule and matches the definition found in the federal emission guidelines. Open flare is not defined in the emission guidelines. A change was made to the rule text as a result of this comment.

**COMMENT:** Burns and McDonnell commented that the addition of the last sentence to Section (4)(A) that allows use of an alternate value for k in low precipitation areas should not be included in this regulation. There is no area of the state of Missouri that has an annual rainfall less than 25 inches. Adding a sentence to a regulation in Missouri that has no use is a waste of time and paper and causes confusion for the regulated community. It is true that different values for k should be allowed when calculating total NMOC emission rates, but the proposed sentence being added to Section (4)(A) is of no use.

**RESPONSE:** To maintain consistency with federal emission guidelines it is necessary to retain this language regarding an alternate value for k. No changes were made to the rule text as a result of this comment.

### 10 CSR 10-5.490 Municipal Solid Waste Landfills

**PUBLISHER'S NOTE:** The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4 RSMo. Such material will be provided at the cost established by state law.

(3) General Provisions.

(B) Each owner or operator of an MSW landfill having a design capacity equal to or greater than one (1.0) million megagrams or one (1.0) million cubic meters shall submit within ninety (90) days of the rule effective date an initial design capacity report and an NMOC emission rate report, as described in sections (4) and (7) of this rule, to the director. The NMOC emission rate shall be recalculated annually except as provided for in subsection (7)(C) of this rule.

1. If the calculated NMOC emission rate is less than twenty-five (25) megagrams (twenty-seven and one-half (27.5) tons) per year, the owner or operator shall—

A. Submit an annual emission rate report to the director; and

B. Recalculate the NMOC emission rate annually until such time as the calculated NMOC emission rate is equal to or greater than twenty-five (25) megagrams, or the landfill closes.

(I) If the NMOC emission rate, upon recalculation, is equal to or greater than twenty-five (25) megagrams per year, the owner or operator shall install a collection and control system in compliance with paragraph (3)(B)2. of this rule.

(II) If the landfill is permanently closed, a closure notification shall be submitted to the director.

2. If the calculated NMOC emission rate is equal to or greater than twenty-five (25) megagrams per year, the owner or operator shall—

A. Submit a collection and control system design plan prepared by a professional engineer to the director within one (1) year of the NMOC emission rate report. Permit modification approval from the Missouri Department of Natural Resources' Solid Waste Management Program shall be required prior to construction of any gas collection system.

(I) The collection and control system shall meet the design requirements of subparagraph (3)(B)2.B. of this rule.

(II) The collection and control system design plan shall include any alternatives to the operation standards, test methods, procedures, compliance measures, monitoring, record keeping or reporting provisions of sections (4) through (7) of this rule proposed by the owner or operator.

(III) The collection and control system design plan shall either conform with specifications for active collection systems or include a demonstration to the director's satisfaction of the sufficiency of the alternate system.

(IV) The director will review the collection and control system design plan and either approve it, disapprove it, or request that additional information be submitted;

B. Install a collection and control system that captures the gas generated within the landfill as required by part (3)(B)2.B.(I) or (II) and subparagraph (3)(B)2.C. of this rule within thirty (30) months after the first annual report in which the emission rate equals or exceeds twenty-five (25) megagrams per year, unless Tier 2 or Tier 3 sampling under subsection (4)(C) or (4)(D) of this rule demonstrates that the emission rate is less than twenty-five (25) megagrams per year, as specified in paragraph (7)(D)1. or 2. of this rule.

(I) An active collection system shall—

(a) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control;

(b) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of five (5) years or more, if active, or two (2) years or more, if closed or at final grade;

(c) Collect gas at a sufficient extraction rate; and

(d) Be designed to minimize off-site migration of subsurface gas.

(II) A passive collection system shall—

(a) Comply with the provisions of subparts (3)(B)2.B.(I)(a), (b), and (d) of this rule; and

(b) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected;

(III) Each owner or operator of an MSW landfill gas collection and control system shall—

(a) Operate the collection system with negative pressure at each wellhead except under the following conditions:

I. A fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in subsection (7)(H) of this rule;

II. Use of a geomembrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan; and

III. A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the director;

(b) Operate each interior wellhead in the collection system with a landfill gas temperature less than fifty-five degrees Celsius (55°C) and with either a nitrogen level less than twenty percent (20%) or an oxygen level less than five percent (5%). The owner or operator may establish a higher operating temperature, nitrogen, or oxygen value at a particular well. A higher operating value demonstration shall show supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.

I. The nitrogen level shall be determined using Method 3C of Appendix A, 40 CFR part 60, unless an alternative test method is established as allowed by part (3)(B)2.A.(II) of this rule.

II. Unless an alternative test method is established as allowed by part (3)(B)2.A.(II) of this rule, the oxygen shall be determined by an oxygen meter using Method 3A of Appendix A, 40 CFR part 60, except that—

- a. The span shall be set so that the regulatory limit is between twenty and fifty percent (20 and 50%) of the span;
- b. A data recorder is not required;
- c. Only two (2) calibration gases are required, a zero and span, and ambient air may be used as the span;
- d. A calibration error check is not required; and
- e. The allowable sample bias, zero drift, and calibration drift are plus or minus ten percent ( $\pm 10\%$ );

(c) Operate the collection system so that the methane concentration is less than five hundred (500) parts per million above background concentration at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area along a pattern that traverses the landfill at thirty (30) meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the thirty (30)-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing;

(d) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with subparagraph (3)(B)2.C. of this rule. In the event the collection or control system is inoperable, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within one (1) hour;

(e) Operate the control or treatment system at all times when the collected gas is routed to the system; and

(f) If monitoring demonstrates that the operational requirement in subpart (3)(B)2.B.(III)(a), (b), or (c) of this rule are not met, corrective action shall be taken as specified in subsection (5)(B) of this rule. If corrective actions are taken as specified in subsection (5)(B) of this rule, the monitored exceedance is not a violation of the operational requirements in this section;

C. Route all the collected gas to one or more of the following control systems:

(I) An open flare designed and operated in accordance with 40 CFR part 60.18 (incorporated by reference);

(II) A control system designed and operated to reduce NMOC by ninety-eight (98) weight-percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by ninety-eight (98) weight-percent, or reduce the outlet NMOC concentration to less than twenty (20) parts per million by volume, dry basis as hexane at three percent (3%) oxygen. The reduction efficiency or parts per million by volume shall be established by an initial performance test, to be completed no later than one hundred eighty (180) days after the initial startup of the approved control system; or

(III) A system that routes the collected gas to a treatment system that processes the collected gas for subsequent sale or use; and

D. The collection and control system may be capped or removed provided the following conditions are met:

(I) The landfill shall be no longer accepting solid waste and be permanently closed. A closure report shall be submitted to the director;

(II) The collection and control system has been in operation a minimum of fifteen (15) years; and

(III) The calculated NMOC gas produced by the landfill is less than twenty-five (25) megagrams per year on three (3) successive test dates. The test dates shall be no less than ninety (90) days apart and no more than one hundred eighty (180) days apart; and

E. The planning, awarding of contracts, and installation of MSW landfill air emission collection and control equipment capable of meeting the emission standards in subsection (3)(B) of this rule shall be accomplished within thirty (30) months after the date the initial NMOC emission rate report shows NMOC emissions equal or exceed twenty-five (25) megagrams per year.

**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**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1999, the commission amends a rule follows:

10 CSR 10-6.310 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2686-2695). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources (MDNR) received comments from three entities,

which include the U.S. Environmental Protection Agency (EPA), the National Solid Wastes Management Association (NSWMA) and Burns and McDonnell. Two entities supported the amendments and the other one supported the amendments with changes.

COMMENT: The EPA supports the revisions as necessary to be consistent with revisions made to the related federal rule. The proposed rule revisions accurately and completely reflect the revisions necessary to be consistent with the federal requirements. Therefore, we have no adverse or critical comments.

RESPONSE: No changes were made to the text as a result of this comment.

COMMENT: The NSWMA made reference to rule 10 CSR 10-6.310 in a comment letter on rule 10 CSR 10-5.490. However, no specific examples of changes needed to rule 10 CSR 10-6.310 were made in the comment letter.

RESPONSE: No changes were made to the text as a result of this comment.

COMMENT: Burns and McDonnell commented that subparagraph (3)(B)2.C. has been revised in the first sentence by deleting the word *a* and adding the phrase *one of the following*. The problem with the revised wording is that landfills utilizing energy recovery do not route all the collected gas to one of the following control systems. Such landfill will flare excess gas and burn the other gas in an energy recovery device like a boiler or internal combustion engine. We suggest that you add one or more of the following to the first sentence of subparagraph (3)(B)2.C.

RESPONSE AND EXPLANATION OF CHANGE: The MDNR consulted with the EPA regarding changing the text of the language in response to this comment and still maintaining compliance with federal emission guidelines. Both the MDNR and the EPA agree that such a change would not be considered less stringent than federal emission guidelines or change the intent. A change was made to the rule text as a result of this comment.

### 10 CSR 10-6.310 Restriction of Emissions From Municipal Solid Waste Landfills

(3) Standards for Air Emissions from Municipal Solid Waste Landfills.

(B) Each owner or operator of an MSW landfill having a design capacity equal to or greater than two and one-half (2.5) million megagrams and two and one-half (2.5) million cubic meters, shall either comply with paragraph (3)(B)2. of this rule or calculate an NMOC emission rate for the landfill using the procedures specified in section (5) of this rule. The NMOC emission rate shall be recalculated annually, except as provided in subparagraph (8)(B)1.B. of this rule. The owner or operator of an MSW landfill subject to this rule with a design capacity greater than or equal to two and one-half (2.5) million megagrams and two and one-half (2.5) million cubic meters is subject to part 70 permitting requirements. When a landfill is closed, and either never needed control or meets the conditions for control system removal specified in subparagraph (3)(B)2.E. of this rule, a part 70 operating permit is no longer required.

1. If the calculated NMOC emission rate is less than fifty (50) megagrams per year, the owner or operator shall—

A. Submit an annual emission report to the director, except as provided for in subparagraph (8)(B)1.B. of this rule; and

B. Recalculate the NMOC emission rate annually using the procedures specified in paragraph (5)(A)1. of this rule until such time as the calculated NMOC emission rate is equal to or greater than fifty (50) megagrams per year, or the landfill is closed.

(I) If the NMOC emission rate, upon recalculation required in subparagraph (3)(B)1.B. of this rule is equal to or greater than fifty (50) megagrams per year, the owner or operator

shall install a collection and control system in compliance with paragraph (3)(B)2. of this rule.

(II) If the landfill is permanently closed, a closure notification shall be submitted to the director as provided for in subsection (8)(D) of this rule.

2. If the calculated NMOC emission rate is equal to or greater than fifty (50) megagrams per year, the owner or operator shall—

A. Submit a collection and control system design plan prepared by a professional engineer to the director within one (1) year. Permit modification approval from the Missouri Department of Natural Resources' Solid Waste Management Program shall be required prior to construction of any gas collection system.

(I) The collection and control system as described in the plan shall meet the design requirements of subparagraph (3)(B)2.B. of this rule.

(II) The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, record keeping or reporting provisions of sections (4) through (9) of this rule proposed by the owner or operator.

(III) The collection and control system design plan shall either conform with specifications for active collection systems in section (10) of this rule or include a demonstration to the director's satisfaction, such that human health and safety is protected, of the sufficiency of the alternative provisions to section (10) of this rule.

(IV) The director shall review the information submitted under parts (3)(B)2.A.(I), (II) and (III) of this rule and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems;

B. Install a collection and control system that captures the gas generated within the landfill as required by part (3)(B)2.B.(I) or (II) and subparagraph (3)(B)2.C. of this rule within thirty (30) months after the first annual report in which the emission rate equals or exceeds fifty (50) megagrams per year, unless Tier 2 or Tier 3 sampling under section (5) of this rule demonstrates that the emission rate is less than fifty (50) megagrams per year, as specified in paragraph (8)(C)1. or 2. of this rule.

(I) An active collection system shall—

(a) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control or treatment system equipment;

(b) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of—

I. Five (5) years or more if active; or

II. Two (2) years or more if closed or at final grade;

(c) Collect gas at a sufficient extraction rate; and

(d) Be designed to minimize off-site migration of subsurface gas.

(II) A passive collection system shall—

(a) Comply with the provisions specified in subparts (3)(B)2.B.(I)(a), (b) and (d) of this rule; and

(b) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under 40 CFR part 258.40 (incorporated by reference);

C. Route all the collected gas to one or more of the following control systems:

(I) An open flare designed and operated in accordance with 40 CFR part 60.18 (incorporated by reference);

(II) A control system designed and operated to reduce NMOC by ninety-eight (98) weight-percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by ninety-eight (98) weight-percent or reduce the outlet NMOC concentration to less than twenty parts per million by volume (20 ppmv), dry basis as hexane at three percent (3%) oxygen. The reduction efficiency or parts per million by volume shall be established by an initial performance test, to be completed no later than one hundred eighty (180) days after the initial startup of the approved control system using the test methods specified in subsection (5)(D) of this rule.

(a) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

(b) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in section (7) of this rule; or

(III) A system that routes the collected gas to a treatment system that processes the collected gas for subsequent sale or use. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of part (3)(B)2.C.(I) or (II) of this rule;

D. Operate the collection and control device installed to comply with this rule in accordance with the provisions of sections (4), (6) and (7) of this rule;

E. The collection and control system may be capped or removed provided that all the conditions of parts (3)(B)2.E.(I), (II) and (III) of this rule are met—

(I) The landfill shall be no longer accepting solid waste and be permanently closed under the requirements of 40 CFR part 258.60 (incorporated by reference). A closure report shall be submitted to the director as provided in subsection (8)(D) of this rule;

(II) The collection and control system shall have been in operation a minimum of fifteen (15) years; and

(III) Following the procedures specified in subsection (5)(B) of this rule, the calculated NMOC gas produced by the landfill shall be less than fifty (50) megagrams per year on three (3) successive test dates. The test dates shall be no less than ninety (90) days apart, and no more than one hundred eighty (180) days apart; and

F. The planning, awarding of contracts, and installation of MSW landfill air emission collection and control equipment capable of meeting the emission standards in subsection (3)(B) of this rule shall be accomplished within thirty (30) months after the date the initial NMOC emission rate report shows NMOC emissions equal or exceed fifty (50) megagrams per year.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 10—Licensee's Responsibilities**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.052, 313.800 and 313.805, RSMo 1994, the commission adopts a rule as follows:

**11 CSR 45-10.035** Licensee's Duty to Contact Commission Agent is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2000 (25 MoReg 278). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994, the commission adopts a rule as follows:

**11 CSR 45-13.055** Emergency Order Suspending License Privileges—Expedited Hearing is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2000 (25 MoReg 278–281). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 25—Motor Vehicle Financial Responsibility**

**ORDER OF RULEMAKING**

By the authority vested in the director of revenue under section 303.290, RSMo 1994, the director rescinds a rule as follows:

**12 CSR 10-25.090** Fees Assessed for Failure to Surrender Drivers License or Registration Plates After Suspension is **rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2000 (25 MoReg 392). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**ORDER OF RULEMAKING**

By the authority vested in the director of revenue under section 144.270, RSMo 1994, the director adopts a rule as follows:

**12 CSR 10-103.200** Isolated or Occasional Sale is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2000 (25 MoReg 292–293). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**ORDER OF RULEMAKING**

By the authority vested in the director of revenue under section 144.270, RSMo 1994, the director adopts a rule as follows:

**12 CSR 10-103.610 Sales of Advertising is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2000 (25 MoReg 293–294). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE  
Division 30—State Tax Commission  
Chapter 4—Agricultural Land Productive Values**

**ORDER OF RULEMAKING**

By the authority vested in the State Tax Commission under section 137.021, RSMo 1994, the commission amends a rule as follows:

**12 CSR 30-4.010 Agricultural Land Productive Values is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2000 (25 MoReg 296–297). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received no comments during the comment period.

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

**Title 19—DEPARTMENT OF HEALTH  
Division 60—Missouri Health Facilities Review Committee  
Chapter 50—Certificate of Need Program**

In accordance with §197.330.1 (2), RSMo and 19 CSR 60-50.420 (3) of the Missouri Rules, the Missouri Health Facilities Review Committee is herein publishing "written notification to affected persons" of Certificate of Need applications which are beginning review at this time.

## Certificate of Need Application Review Schedule

**Tentative Meeting Date: June 5, 2000, 9:00 a.m.  
Senate Hearing Rooms 2/3, State Capitol, Jefferson City**

**Application Project Number & Name/Cost & Description/City & County**

1. **#2922 RP:** Combs Residential Care Facility  
\$361,385, LTC bed expansion of 14 RCF I beds  
Cuba (Crawford County)
2. **#2973 RS:** Country Meadows Nursing Home  
\$1,000,000, Replace 11 RCF I beds  
Park Hills (St. Francois County)
3. **#2963 NP:** Ash Grove Health Care Facility  
\$1,141,600, LTC beds expansion of 16 SNF beds  
Ash Grove (Greene County)
4. **#2976 RS:** Deutsch Family Investments  
\$3,000,000, Replace 19 RCF beds  
St. Louis (St. Louis County)
5. **#2975 RS:** Troy Manor, L.L.C.  
\$1,100,000, Replace 19-bed RCF  
Troy (Lincoln County)

**The abbreviated applications listed above are in addition to the four CON applications for which the review schedule has already been published.**

*(Note: "RCF" means residential care facility, "ICF" means intermediate care facility, and "SNF" means skilled nursing facility as defined in Chapter 198, RSMo.)*

*The Missouri Health Facilities Review Committee has initiated review of the applications listed above. These applications are available for public inspection at the address shown below.*

*Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect which is received in the office listed below by May 25, 2000. All written requests and comments should be sent to:  
Chairman, Missouri Health Facilities Review Committee  
c/o Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101*

For additional information contact Donna Schuessler, 573-751-6403  
Notification of Review Publication Date: April 26, 2000