

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making 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 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 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 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 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 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for Movement of
Livestock, Poultry, and Exotic Animals**

PROPOSED AMENDMENT

2 CSR 30-2.020 Movement of Livestock, Poultry and Exotic Animals Within Missouri. The division is amending subsection (6)(D).

PURPOSE: This amendment specifies that chronic wasting disease (CWD) in cervids is reportable and quarantinable.

(6) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection

showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(D) Elk and deer may move within Missouri in compliance with the *Cervidae* Uniform Methods and Rules for Brucellosis and the *Cervidae* Uniform Methods and Rules for Tuberculosis. Elk, red deer, reindeer, fallow deer and sika deer six (6) months of age and over must have one (1) approved negative brucellosis test within thirty (30) days prior to shipment. *Cervidae* originating from certified brucellosis-free herds may move on the current herd number and test date. All *cervidae* six (6) months of age and over must have a negative tuberculosis test using the single cervical method or BTB test within ninety (90) days prior to shipment. *Cervidae* originating from accredited TB *cervidae* herds may move on the current herd number and test date. **All suspected or confirmed cases of chronic wasting disease (CWD) must be reported immediately to the state veterinarian. All cervids from infected or source herds will be quarantined.**

AUTHORITY: section 267.645, RSMo 1994. Original rule filed April 18, 1975, effective April 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 15, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$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 State Veterinarian, Department of Agriculture, Division of Animal Health, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty 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 4—Wildlife Code: General Provisions**

PROPOSED AMENDMENT

3 CSR 10-4.116 Special Regulations for Areas Owned by Other Entities. The department proposes to amend paragraphs (2)(D)3. and 7.

PURPOSE: This amendment opens Maysville (Willow Brook Lake) to fishing and establishes a 15 inch length limit on largemouth bass.

(2) The special regulations in this section apply on all lands and waters included in the department's Urban Fishing Program and Community Assistance Program.

(D) Fishing. Fishing, under statewide seasons, methods and limits, is permitted except as further restricted in this section.

1. Fishing may be further restricted on designated portions of areas.

2. Bullfrogs and green frogs may be taken during the statewide season by hand, handnet, gig, longbow or hook and line except as follows:

A. Longbows may not be used to take frogs on Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake) Farmington City Lake, Jackson County (Alex George Lake,

Bergan Lake, Bowlin Road Lake, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake), Mexico (Lakeview Lake, Kiwanis Lake), Moberly (Rothwell Park Lake, Water Works Lake) and the James Foundation (Scioto Lake).

B. Only pole and line may be used to take frogs on Bridgeton (Kiwanis Lake), Butler City Lake, Kirkwood (Walker Lake), Mineral Area College (Quarry Pond), Overland (Wild Acres Park Lake), Saint Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake), Sedalia (Clover Dell Park Lake, Liberty Park Pond), Warrensburg (Lion's Lake), Wentzville (Community Club Lake) and Windsor (Farrington Park Lake).

3. Fishing is prohibited on Jackson County (Fleming Pond) *and Maysville (new lake)*.

4. Fish may be taken from lakes only with pole and line with lure or bait and not more than three (3) poles may be used by one (1) person at any time, except as follows:

A. Carp, buffalo, suckers and gar may be taken by gig, longbow or crossbow during statewide seasons on the following lakes:

- (I) Brookfield City Lake
- (II) Bethany (North Bethany City Reservoir)
- (III) Cameron (Reservoirs No. 1, 2 and 3, Grindstone Reservoir)
- (IV) Fayette (D.C. Rogers Lake, Fayette City Lake No. 2)
- (V) Hamilton City Lake
- (VI) Harrison County Lake
- (VII) Jackson County (Lake Jacomo, north of Colbern Road)
- (VIII) Kirksville (Hazel Creek Lake)
- (IX) Maryville (Mozingo Lake)
- (X) Macon City Lake
- (XI) Saint Louis County (Sunfish Lake)
- (XII) Unionville City Lake

B. Carp, buffalo, suckers and gar may be taken by gig during statewide seasons on Jackson County (Prairie Lee Lake).

C. Carp, buffalo, gar and shad may be taken by longbow from sunrise to midnight throughout the year on Concordia (Edwin A. Pape Lake) and Higginsville City Lake.

5. Fishing is permitted, except in designated areas, on Concordia (Edwin A. Pape Lake), Higginsville City Lake and Odessa (City Lake, Upper Lake).

6. Statewide daily limits shall apply for all species, except as follows:

A. The daily limit for black bass is two (2) on the following lakes:

- (I) Ballwin (New Ballwin Lake, Vlasis Park Lake)
- (II) Bridgeton (Kiwanis Lake)
- (III) Butler City Lake
- (IV) California (Proctor Park Lake)
- (V) Columbia (Twin Lake)
- (VI) Concordia (Edwin A. Pape Lake)
- (VII) Ferguson (January-Wabash Lake)
- (VIII) Higginsville City Lake
- (IX) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
- (X) Jefferson City (McKay Park Lake)
- (XI) Kirksville (Hazel Creek Lake)
- (XII) Kirkwood (Walker Lake)
- (XIII) Macon (Blees Lake)
- (XIV) Mineral Area College (Quarry Pond)
- (XV) Overland (Wild Acres Park Lake)
- (XVI) Saint Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park

Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

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

(XVIII) University of Missouri (South Farm R-1 Lake)

(XIX) Warrensburg (Lion's Lake)

(XX) Wentzville (Community Club Lake)

(XXI) Windsor (Farrington Park Lake)

B. The daily limit for bullheads is ten (10) on the following lakes:

(I) Ballwin (New Ballwin Lake, Vlasis Park Lake)

(II) Ferguson (January-Wabash Lake)

(III) Saint Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

(IV) Saint Louis County (Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

C. The daily limit for carp is four (4) on the following lakes:

(I) Ballwin (New Ballwin Lake, Vlasis Park Lake)

(II) Ferguson (January-Wabash Lake)

(III) Saint Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

(IV) Saint Louis County (Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes No. 1, 2 and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

D. The daily limit for channel catfish, blue catfish and flathead catfish in the aggregate is four (4).

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

(I) Ballwin (New Ballwin Lake, Vlasis Park Lake)

(II) Ferguson (January-Wabash Lake)

(III) Kirksville (Hazel Creek Lake)

(IV) Saint Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

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

(VI) Springfield City Utilities (Fellows Lake)

F. The daily limit for white bass, striped bass and their hybrids in the aggregate is four (4) on Cameron (Reservoir No. 3) and Saint Louis County (Creve Coeur Lake).

G. The daily limit for gizzard shad for bait on Jackson County (Lake Jacomo, Prairie Lee Lake) and Concordia (Edwin A. Pape Lake) is one hundred fifty (150).

H. The daily limit for other fish (those not included in rules 3 CSR 10-6.505 through 3 CSR 10-6.545 and 3 CSR 10-4.111) is twenty (20) in the aggregate, except on the following lakes where the daily limit in the aggregate is ten (10), and except for those fish included in (2)(D)6.B., C. and G.:

(I) Ballwin (New Ballwin Lake, Vlasis Park Lake)

(II) Bridgeton (Kiwanis Lake)

(III) Ferguson (January-Wabash Lake)

(IV) Kirkwood (Walker Lake)

(V) Mineral Area College (Quarry Pond)

(VI) Overland (Wild Acres Park Lake)

(VII) Saint Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

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

(IX) Wentzville (Community Club Lake)

7. Statewide length limits shall apply for all species, except that all black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught, except as follows:

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

(I) Bethany (Old Bethany City Reservoir)

(II) Butler City Lake

(III) California (Proctor Park Lake)

(IV) Cameron (Reservoirs No. 1, 2 and 3, Grindstone Reservoir)

(V) Carthage (Kellogg Lake)

(VI) Concordia (Edwin A. Pape Lake)

(VII) Dexter City Lake

(VIII) Hamilton City Lake

(IX) Harrison County Lake

(X) Higginsville City Lake

(XI) Holden City Lake

(XII) Iron Mountain City Lake

(XIII) Jackson (Rotary Park Lake)

(XIV) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)

(XV) Jefferson City (McKay Park Lake)

(XVI) Lancaster City Lake

(XVII) Maryville (Mozingo Lake)

(XVIII) Maysville (Willow Brook Lake)

[(XVIII)] (XIX) Mineral Area College (Quarry Pond)

[(XIX)] (XX) Warrensburg (Lion's Lake)

[(XX)] (XXI) Windsor (Farrington Park Lake)

[(XXI)] (XXII) Unionville City Lake

[(XXII)] (XXIII) University of Missouri (Dairy Farm Lake No. 1, McCredie Lake)

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

(I) Ballwin (New Ballwin Lake, Vlasik Park Lake)

(II) Bridgeton (Kiwanis Lake)

(III) Columbia (Twin Lake)

(IV) Ferguson (January-Wabash Lake)

(V) Kirksville (Hazel Creek Lake)

(VI) Kirkwood (Walker Lake)

(VII) Macon (Blees Lake)

(VIII) Overland (Wild Acres Park Lake)

(IX) Saint Louis City (Benton Park Lake, Boathouse Lake, Clifton Heights Park Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

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

(XI) University of Missouri (South Farm R-1 Lake)

(XII) Wentzville (Community Club Lake)

C. All black bass more than fourteen inches (14") but less than eighteen inches (18") total length must be returned to the

water unharmed immediately after being caught on LaBelle City Lake.

D. All white bass, striped bass and their hybrids less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught on Cameron (Reservoir No. 3) and Saint Louis County (Creve Coeur Lake).

E. All bluegill less than nine inches (9") total length must be returned to the water unharmed immediately after being caught on University of Missouri (Dairy Farm Lake No. 1 and McCredie Lake).

F. All channel catfish less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on Macon City Lake and Marceline City Lake.

G. All flathead catfish less than twenty-four inches (24") total length must be returned to the water unharmed immediately after being caught on Concordia (Edwin A. Pape Lake), Higginsville City Lake and Saint Louis County (Bee Tree Lake, Sunfish Lake).

H. All muskellunge less than forty-two inches (42") total length must be returned to the water unharmed immediately after being caught in Kirksville (Hazel Creek Lake).

I. All walleye less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on, Memphis (Lake Showme) and Maryville (Mozingo Lake).

8. Netting or trapping live bait is prohibited, except that on Concordia (Edwin A. Pape Lake), Jackson County (Lake Jacomo, Prairie Lee Lake) gizzard shad may be taken with dip net or throw net.

9. All trout must be returned to the water unharmed immediately after being caught and only flies, artificial lures and soft plastic baits (unscented) may be used from November 1 to January 31 on Kirkwood (Walker Lake), Overland (Wild Acres Park Lake) and Saint Louis County (Tilles Park Lake). Trout may not be possessed on these waters during this season.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed May 31, 1990, effective Jan. 1, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 7, 2000.

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

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

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

**Title 7—DEPARTMENT OF [HIGHWAYS AND]
TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program**

PROPOSED AMENDMENT

7 CSR 10-14.010 Purpose. The commission is amending the fiscal note with respect to the Adopt-A-Highway Program and proposes to add new sections (3) and (4).

PURPOSE: This amendment revises the fiscal note information and further describes the purpose of the Adopt-A-Highway Program.

(3) This program will have the result of a cost savings to the Missouri Department of Transportation (MoDOT) for other highway purposes.

(4) The program is not intended as a means of providing a public forum for the participants to use in promoting name recognition or political causes. Missouri highway right-of-way is not a public forum.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Amended: Filed Feb. 8, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate. However, this amendment will result in a savings of approximately \$1,422,892 per year to the Missouri Department of Transportation. See attached fiscal note.

PRIVATE COST: This proposed amendment will not cost private entities, including small businesses, more than \$500 in the aggregate.

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

**FISCAL NOTE
PUBLIC ENTITY COST**

I. 7 CSR 10-14.010

Title: 7 - Missouri Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 14 - Adopt-A-Highway Program

Type of Rulemaking: Amended Rule

Rule Number and Name: 7 CSR 10-14.010, Purpose.

II. SUMMARY OF FISCAL IMPACT

Estimate of number of entities by class which would likely be affected by adoption of rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1	Missouri Department of Transportation (MoDOT)	(\$ 1,422,892)savings

III. WORKSHEET

MoDOT's expenditures:

Signs, including installation:

\$149/for 2 signs x 200 groups-permanent sign \$ 29,800

Trash Bags:

.15/bag x 15 bags x 4 pickups per year = \$9/group
\$9 x 4,673 groups participating 42,057

Safety Vests:

.38 x 47,000 (approx. individual participants)
divided by 3 (one-time charge and vests may be reused) 5,953

TOTAL \$ 77,810

MoDOT savings per year

Adopt-A-Highway litter pick up averages 15 trash bags per pick up at four pick ups per year.
(4,673 groups x 4 pick ups x 15 trash bags = 280,380 bags)

Labor cost if agency did trash pick up rather than

volunteers - 280,380 total bags (divided by 3 bags picked up per hour = 93,560 bags / hour x average labor rate of \$16.04/hr.	\$1,500,702
Minus State Expenditures	- \$ 77,810
TOTAL STATE SAVINGS PER YEAR	\$1,422,892

IV. ASSUMPTIONS

The fiscal impact on the Missouri Department of Transportation is based upon the following assumptions and methodology:

(a) There were 4,673 groups during the year 1999. Each group is to perform a program activity at least 4 times per year. Each activity averages in 15 bags of trash being picked up. This calculates at a total of 280,380 trash bags per year. The average worker would pick up 3 bags of trash per hour. A MoDOT employee's average labor rate (pay grade 5) is \$16.04. Therefore, it would cost MoDOT \$1,500,702 in labor expenses to do the work of the adopters.

(b) These public entity costs will recur each year for the life of the rule; however, the number of program participants will vary from year to year and are almost impossible to predict accurately.

**Title 7—DEPARTMENT OF [HIGHWAYS AND]
TRANSPORTATION**
**Division 10—Missouri Highways and Transportation
Commission**
Chapter 14—Adopt-A-Highway Program

PROPOSED AMENDMENT

7 CSR 10-14.020 Definitions. The commission proposes to amend previous sections (3), (7), (9), and (10) and add new sections (9) and (12).

PURPOSE: This amendment contains additional definitions of terms used in this chapter.

(3) Adopter representative means a group member designated to represent the volunteer group and serve as its liaison with the commission. [Usually the person who signs the agreement is the adopter representative.] The adopter representative is the person who signs the agreement.

(7) Department means the [Missouri Highways and Transportation Department] Missouri Department of Transportation.

(9) Participant means any individual or group who will be participating in the program activity.

[[9]] (10) Program means the Adopt-A-Highway Program.

[[10]] (11) Program activity means litter pickup and/or beautification and/or mowing.

(12) Violent criminal activity means any offenses having as an element the use, attempted use, or threatened use of physical force against the person or property of another or any offense involving weapons, hate crimes, sexual assault, aggravated harassment, civil rights violations, and offenses defined under the Racketeer Influenced and Corrupt Organizations Act (RICO), United States Code Title 18, or for whom state or federal courts have taken judicial notice of an applicant's unlawful activity or advocating of violence.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Emergency amendment filed Feb. 8, 2000, effective Feb. 18, 2000, expires Aug. 15, 2000. Amended: Filed Feb. 8, 2000.

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

PRIVATE ENTITY COST: This proposed amendment will not cost private entities, including small businesses, more than \$500 in the aggregate.

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

**Title 7—DEPARTMENT OF [HIGHWAYS AND]
TRANSPORTATION**
**Division 10—Missouri Highways and Transportation
Commission**
Chapter 14—Adopt-A-Highway Program

PROPOSED AMENDMENT

7 CSR 10-14.030 Application for Participation. The commission proposes to amend the previous section (1) and subsections

(2)(A), (2)(B), and (2)(C) and add a new section (1) and subsections (2)(B), and (2)(C).

PURPOSE: This amendment is to further identify criteria for eligible adopters and criteria in determining whether an application is rejected or accepted.

(1) The adopter representative of a group who desires to participate in the program shall submit an application to the commission on a form provided by the commission.

[[1]] (2) Eligible Adopters. Eligible adopters include civic and nonprofit organizations, commercial and private enterprises and individuals who have not been convicted of or who are not associated with organizations who have been convicted of a violent criminal activity, do not practice any action which constitutes a hate crime, and do not overtly deny membership on the basis of race. [The program is not intended as a means of providing a public forum for the participants to use in promoting name recognition or political causes.] The commission reserves the right to limit the number of adoptions for a single group.

[[2]] (3) Acceptance of Application. The commission will have sole responsibility in determining whether an application is rejected or accepted and determining what highways will or will not be eligible for adoption.

(A) The commission may refuse to grant a request to participant if, in its opinion, granting the request would jeopardize the program, or the safety of the adopters, traveling public or Missouri Department of Transportation (MoDOT) employees, or otherwise be counterproductive to [its] the program's purpose or have undesirable results such as increased litter, vandalism or sign theft.

(B) The commission may refuse to grant a request to participate if the applicant has submitted false statements of a material fact or has practiced or attempted to practice any fraud or deception in an application.

(C) An application completed by an individual on behalf of a group or organization must identify the group or organization for which the application is being submitted and failure to identify the group or organization on the application will result in rejecting the application.

[[B]](D) Applicants must adhere to the restrictions of all state and federal nondiscrimination laws including state executive orders. Specifically, the applicant must not discriminate on the basis of race, religion, color, national origin or disability. The adopter representative will certify on the application form that the group or organization does not overtly deny membership on the basis of race. Such discrimination disqualifies the applicant from participation in the program.

[[C]](E) Applicants with a history of unlawfully violent [or] criminal [behavior] activity as defined in this chapter will be prohibited from participation in the program.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Emergency amendment filed Feb. 8, 2000, effective Feb. 18, 2000, expires Aug. 15, 2000. Amended: Filed Feb. 8, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities, including small businesses, more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF [HIGHWAYS AND]
TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program
PROPOSED AMENDMENT**

7 CSR 10-14.040 Agreement [Terms]; Responsibilities of Adopter and Commission. The commission proposes amending the rule title and to amend previous subsection 2(C), and add new subsections (2)(B), (2)(E), (2)(F), (2)(S), (2)(T) and (3)(D) and delete section (4).

PURPOSE: This amendment provides for additional terms of the written agreement between the adopter and the commission to promote the safety of the program and to develop a record-keeping system for tracking the program's success.

(2) Responsibilities of Adopter. The adopter shall—

(B) Provide to the commission, in writing, the name and complete mailing address, including street address, of the adopter representative and to notify the commission within thirty (30) days, in writing, of any change of adopter representative name or address;

[(B)](C) Abide by all safety requirements as listed in the department's Safety Tips brochure;

[(C)](D) Have *[all members of the group]* each adopter representative participating in the program activity attend a safety training meeting conducted by the *[adopter representative, or designee,]* commission before participation in any program activity;

(E) Have all members of the group participating in the program activity attend a safety training meeting conducted by the adopter representative, or designee, before participation in any program activity;

(F) Have the adopter representative provide to the commission, in writing, the name of each member of the group who will be participating in the program activity, indicating that each member has attended a safety training meeting;

[(D)](G) Properly use all safety equipment provided by the department and perform the work in a safe and professional manner;

[(E)](H) Provide one (1) adult supervisor for every eight (8) participants between thirteen and seventeen (13–17) years of age and one (1) adult supervisor for every four (4) participants between six and twelve (6–12) years of age. No one under the age of six (6) will be allowed to participate in the program;

[(F)](I) Adopt a section of highway right-of-way for a minimum of three (3) years;

[(G)](J) Collect litter along the adopted section a minimum of four (4) times per year, or as required by the commission;

[(H)](K) Adopt for litter pickup a minimum of two (2) miles in rural areas and one-half (1/2) mile in urban areas. Shorter lengths may be permissible in special circumstances;

[(I)](L) Provide prior notice, as required by the commission, before performing any program activity;

[(J)](M) Restrict program activities to the areas of right-of-way outside the pavement and shoulder areas;

[(K)](N) Perform program activity between the hours of one (1) hour after sunrise to one (1) hour before sunset and not during inclement weather;

[(L)](O) Prohibit members from possessing, consuming, or being under the influence of alcohol or drugs while participating in the program;

[(M)](P) Place litter in trash bags provided by the department and place filled trash bags at a designated location;

[(N)](Q) Separate tires, batteries and other trash as needed for proper disposal according to local landfill requirements; *[and]*

[(O)](R) Indemnify and hold harmless the commission and department and their officers, employees and agents from any claim, lawsuit or liability which may arise from adopter's participation in the program./;

(S) Have the adopter representative submit to the commission within five (5) working days an after action report using a form provided by Missouri Department of Transportation (MoDOT). This form will enable MoDOT to monitor the program's success; and

(T) Not subcontract or assign its responsibilities under this program to any other enterprise, organization, or individual unless assignee is also an active adopter.

(3) Responsibilities of Commission. The commission shall—

(D) Provide safety training to the adopter representative which includes but is not limited to a safety video and Safety Tips brochure.

[(D)](E) Provide the adopter with safety equipment; and

[(E)](F) Remove and dispose of filled trash bags from the adopter section as soon as practical after the litter pickup is finished.

[(4) Termination of Agreement. The commission reserves the right to terminate the agreement and remove the signs when, in the sole judgment of the commission, it is found the adopter has not met the terms and conditions of the agreement or there is concern about the safety of the adopters, traveling public or Missouri Highways and Transportation Department (MHTD) employees.]

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Emergency amendment filed Feb. 8, 2000, effective Feb. 18, 2000, expires Aug. 15, 2000. Amended: Filed Feb. 8, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities, including small businesses, more than \$500 in the aggregate.

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

**Title 7—DEPARTMENT OF [HIGHWAYS AND]
TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program**

PROPOSED AMENDMENT

7 CSR 10-14.050 Sign [Specifications]. The commission proposes to amend this rule to delete the word "Specifications" from the rule title, amend subsections (1)(A), (1)(C) and section (3) and add a new section (5).

PURPOSE: This amendment is to clarify the purpose and intent of the adopt-a-highway signs.

(1) The signs shall—

(A) Identify and recognize the adopter, but are not intended to be, an advertising medium or serve as a means of providing a public forum for the participants;

(C) Have the actual name of the adopter with no telephone numbers, logos, slogans or addresses, including internet addresses, with verbiage kept to a minimum.

(3) The erection of a sign is not a requirement for participation in the program. The commission, at [their] its sole discretion, may refuse to erect [a sign under the program] and/or remove a sign.

(5) Two (2) signs will be erected for each group, one at each end of the adopted section, at or about the time of the first program activity.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Amended: Filed Feb. 8, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities, including small businesses, more than \$500 in the aggregate.

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program**

PROPOSED RULE

7 CSR 10-14.060 Termination or Modification of the Agreement

PURPOSE: This rule provides for the commission to terminate or modify the program agreement.

(1) The agreement may be terminated or modified at the sole discretion of the commission.

(2) The commission reserves the right to terminate or modify the program agreement and remove the signs when, in the sole judgment of the commission, it is found that:

(A) Continuing the agreement would jeopardize the program, be counterproductive to the program's purpose or create a hazard to the safety of the adopters, traveling public or Missouri Department of Transportation (MoDOT) employees;

(B) The adopter has not met the terms and conditions of the agreement; or

(C) Actions of the adopter may be contrary to any legislative restrictions or any restrictions on the use of appropriated funds for political activities.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 8, 2000.

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

PRIVATE COST: This proposed rule will not cost private entities, including small businesses, more than \$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 Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 25—Fiscal Management
Chapter 4—Vendor Procedures**

PROPOSED AMENDMENT

9 CSR 25-4.040 Recovery of Overpayments to Providers. The department is amending sections (1)–(6) and add new sections (7)–(12).

PURPOSE: The Department of Mental Health proposes to amend this rule to correspond with changes in section 630.460, RSMo 1996.

(1) Providers that deliver care, treatment, habilitation or rehabilitation services to clients under contract with the department may receive [payments in excess of or contrary to the provisions of the contract with] an overpayment which must be repaid to the department. [These overpayments are due immediately and must be repaid by the provider within forty five (45) days after the overpayment are discovered or reasonably should have been discovered.] An overpayment is any payment by the department which is:

(A) Greater than the contracted rate for a service less any portion paid by or on behalf of a client;

(B) For services not provided;

(C) For services not authorized in the contract; or

(D) For services provided contrary to the provisions of the contract.

(2) [Upon discovery of] On determination an overpayment has been made, the department[,] shall notify the provider by certified mail of the amount of the overpayment, the basis of the overpayment and [the date the overpayment was or should have been discovered. The department shall determine whether the overpayment shall be repaid by applying a credit against a future payment due to the provider or by the provider issuing a refund to the department.] request reimbursement. The date on the certified mail return receipt shall be the official date of notice of overpayment.

(3) [Within fifteen (15) days of receipt of the notice of overpayments, a provider may request the division director for a review of the overpayment. The division director, in consultation with the deputy director administration, shall review the overpayment within fifteen (15) days of the request for review. The criteria which the division director shall consider in conducting the review include:] If the provider concurs with the overpayment, the provider should promptly contact the department and make arrangements for repayment to avoid interest charges. Any overpayment not

repaid within forty-five (45) days from the date of notice shall accrue interest charges on the unpaid balance from the date of notice of overpayment.

[(A) Whether the overpayment was properly and reasonably determined;

(B) Whether extraordinary circumstances caused or resulted in the overpayments; and

(C) Whether the clients being served by the provider would be adversely impacted.]

(4) *If [any overpayment is not fully repaid within forty-five (45) days of the due date, the department shall assess interest on the unpaid balance. Interest shall be charged beginning with the forty-sixth (46th) day after the due date at the rate of one and five tenths percent (1.5%) per month] the provider does not concur with the overpayment, the provider may request a review of the overpayment by the department. This request must be made within thirty (30) days of receipt of the notice of overpayment. The department shall review the overpayment within fifteen (15) days of the request for review. If requested by the provider, the review will be conducted in person and the department will notify the provider of the date, time and place for the review. The criteria for the review shall be to:*

(A) Verify the overpayment was properly determined in accordance with the terms of the provider contract;

(B) Verify the overpayment amount has been properly calculated;

(C) Examine and accept additional documentation or other material from the provider; and

(D) Upon completion of the review, the department shall notify the provider of the results of the review in writing.

(5) [If any overpayment plus interest is not fully repaid within six (6) months of the due date, the department may certify the amount due to the Department of Revenue, the Office of the Attorney General, or take other collection actions.] After any review, if requested, and the overpayment amount has been finally determined, the department shall initiate appropriate collection actions.

(A) If any portion of the overpayment consists of Medicaid claims payments, these claims shall be subject to recovery provisions of the Medicaid program and shall be referred to the Department of Social Services, Division of Medical Services.

(B) If any portion of the overpayment is due and payable to the Department of Mental Health, such amounts shall be collected in accordance with the following provisions.

(6) [Payments received by the department shall first be applied to accrued interest and then to reduce the balance of the overpayment.] Whether or not the provider requests a review, the department and the provider have forty-five (45) days from the date of notice of overpayment to negotiate a repayment plan. A repayment plan may allow for payments over a specific time period and shall not exceed twelve (12) months. The repayment plan must be in writing and be signed by the department and the provider. If a repayment plan is not adopted, the overpayment is immediately due and payable.

(7) The department shall specify the method of repayment which may include direct payment by the provider, deduction from future amounts due to the provider, or both. The department shall maintain a record of each overpayment in an account showing the amount due, payments received and interest charged.

(8) An overpayment account shall be considered to be delinquent if:

(A) The account is not subject to a repayment plan and it is not repaid within forty-five (45) days from the date of notice of overpayment; or

(B) The account is subject to a repayment plan and an installment payment is not received within thirty (30) days of the installment due date.

(9) The department may take appropriate actions to recover delinquent amounts due to the department, which may include:

(A) Sending notices to the provider requesting immediate payment;

(B) Deducting the overpayment from amounts due to the provider by the department; and

(C) Filing a claim for debt offset with the Director of Revenue to recover the overpayment from any refunds due to the provider by the Department of Revenue.

(10) An overpayment account shall be considered to be in default if:

(A) The account is not subject to a repayment plan and is not fully repaid within six (6) months from the date of notice of the overpayments; or

(B) The account is subject to a repayment plan and is delinquent for more than three (3) months in installment payments.

(11) The department may take appropriate actions to seek recovery of overpayment accounts which are in default. These actions may include:

(A) Deducting the overpayment from amounts due to the provider by the department;

(B) Filing a claim for debt offset with the Director of Revenue to recover the overpayment from any refunds due to the provider by the Department of Revenue; and

(C) Certifying the overpayment to general counsel or the Office of the Attorney General to seek a judgment for settlement of the amount due.

(12) Interest shall be charged on any overpayment balance not repaid within forty-five (45) days of the date of notice of overpayment. Interest shall accrue from the date of notice of overpayment and be calculated on a daily basis. The interest rate to be charged on overpayments may vary and will be set for each calendar year. The rate of interest shall be the annual rate determined by the Department of Revenue, as provided in section 32.085, RSMo, plus three (3) percentage points. Payments received by the department shall first be applied to accrued interest and then to reduce the balance of the overpayment.

AUTHORITY: section 630.050, RSMo [1994] Supp. 1999. Emergency rule filed Aug. 3, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Original rule filed Sept. 10, 1984, effective Dec. 13, 1984. Amended: Filed July 17, 1995, effective Feb. 25, 1996. Amended: Filed Feb 15, 2000.

PUBLIC COST: This proposed amendment will result in a projected loss of \$7,018 in state revenue to the State General Revenue Fund in FY 2001. Total loss in state revenue over the twenty year life of the rule is an estimated \$172,206.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Jackie D. White, Deputy Director Administration, P. O. Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC ENTITY COST
9 CSR 25-4.040 Recovery of Overpayments to Providers

Prepared August 17, 1999 by Department of Mental Health, Office of Administration
Affected Agencies: Department of Mental Health, Office of the Director

EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Loss of interest revenue	7,018	7,090	7,163	7,236	7,310	7,385	7,461	7,537	7,615	7,693	7,771
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	7,018	7,090	7,163	7,236	7,310	7,385	7,461	7,537	7,615	7,693	7,771

EXPENDITURES	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Loss of interest revenue	7,851	7,932	8,013	8,095	8,178	8,262	8,346	8,432	8,518	8,606	8,694
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	7,851	7,932	8,013	8,095	8,178	8,262	8,346	8,432	8,518	8,606	8,694

Total for 20 life of the rule: 172,206

Assumptions:

1. Inflation of 2.5% per year is compounded for salaries and 3% for expenses.
2. Based on H.B. 1081, A.L. 1996, section 630.460, RSMo was revised to reduce the rate of interest the department will charge on overpayments. The old rate was 1 and 1/2 percent per month (18% annually). This was changed to "a rate not to exceed the annual rate established pursuant to the provisions of 32.065, RSMo, plus three percentage points." This refers to the rate established by the Department of Revenue which for FY 1999 is 8%. The department is charging 11% (8% plus three percentage points.) Amounts above for FY 1996 through 1998 are actual amounts collected. The remaining amounts are estimates using only the 2.5% inflation assumption.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and
Developmental Disabilities
Chapter 5—Standards

PROPOSED RULE

9 CSR 45-5.040 Missouri Alliance for Individuals with Developmental Disabilities

PURPOSE: This rule establishes the Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD) and its governing board, and describes its activities. The functions of MOAIDD were previously promulgated under 9 CSR 45-5.010. This new rule separates the MOAIDD functions from the certification process. MOAIDD is an organization of volunteers with developmental disabilities or immediate family members of persons with developmental disabilities which shall conduct visits with individuals receiving services from the Division of Mental Retardation and Developmental Disabilities. This rule defines terms, establishes principles and sets out the process by which MOAIDD will conduct visits.

(1) The Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD) Board shall be established by the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities. The board shall be appointed by the division director.

(A) The MOAIDD Board shall be responsible for the development, modification, evaluation and continuing oversight of the process of volunteer visiting. The MOAIDD Board, in cooperation with the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities, shall determine necessary administrative, staffing and procedural functions of the volunteer visiting and shall advise the division on policy matters. The board is advisory and shall focus on the individuals receiving services. The board shall not review the agency or facility for compliance with local, state, or federal standards.

(B) Membership of the MOAIDD Board shall consist of fifteen (15) individuals with developmental disabilities and/or their family members who reside in the state of Missouri and share involvement in the life of their family member with developmental disabilities. At no time shall less than two (2) members of the board be individuals with developmental disabilities. One individual shall be selected to serve from each of the eleven (11) regions of the state. Four (4) additional individuals shall be selected from the state to serve as at-large members.

(C) Board members shall not serve more than two (2) consecutive three (3)-year terms. Following a one-year period off the board, an individual may be eligible to serve again.

(D) The board shall establish a Constitution and Bylaws, approved by the division, that sets forth its responsibilities, operating procedures and membership guidelines.

(2) Terms defined in sections 630.005 and 633.005, RSMo, are incorporated by reference for use in this rule. As used in this rule, unless the context clearly indicates otherwise, the following terms also mean:

(A) ACD—Accreditation Council on Services for People with Disabilities, also known as The Council on Quality and Leadership in Supports for People with Disabilities.

(B) Agency quality assurance/enhancement—a written document prepared by the regional center and provider agency to address quality assurance issues.

(C) CARF—The Commission for Accreditation of Rehabilitation Facilities, also known as The Rehabilitation Accreditation Commission.

(D) Certification unit—the unit within the Department of Mental Health that administers the certification process described in 9 CSR 45-5.010 for community-based programs funded under the Medicaid HCB waiver program.

(E) Department—the Missouri Department of Mental Health.

(F) Division—the Division of Mental Retardation and Developmental Disabilities within the Missouri Department of Mental Health.

(G) HCB waiver program—the Missouri Medicaid Home- and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

(H) MOAIDD is a self-governing organization of volunteers with developmental disabilities and immediate family members of individuals with developmental disabilities, established by the division, to assess the quality of life for individuals receiving services through the division.

(I) MOAIDD team—a volunteer team consisting of a team leader and at least one team member.

(J) MOAIDD team leader—an experienced team member who has received MOAIDD volunteer training and team leader training.

(K) MOAIDD team member—a person with a developmental disability or such person's immediate family member who has participated in volunteer training, has passed a background screening according to 9 CSR 10-5.190 and has signed a confidentiality statement.

(L) MOAIDD visit—a visit by a MOAIDD team with an individual receiving services through the division to ensure the individual is living as full a life as possible.

(M) Observations—comments in the MOAIDD team report reflecting positive outcomes present in the individual's life.

(N) Overriding concern—a significant concern in the individual's life identified by the MOAIDD team that, while not a red or Yellow Flag, needs to be addressed.

(O) Recommendation—an action step suggested by the MOAIDD team intended to address a Yellow Flag issue or overriding concern, or otherwise to enhance the individual's quality of life.

(P) Red Flag—an immediate threat to the individual's health/safety.

(Q) Yellow Flag—a significant, but not immediate, threat to an individual's health, safety or rights.

(3) MOAIDD Visits.

(A) The purpose of the MOAIDD visit is to determine if an individual is living as full a life as possible, not to review local, state or federal standards. This determination is based, in part, on the division's philosophy and guidelines regarding self-determination, community membership, rights, health and safety. Of more significance, the determination is based on the volunteer's own perspective as a person with a developmental disability or the family member of a person with such a disability. Visits are conducted independently from other quality assurance reviews including those by the certification unit.

(B) Who Gets Visited.

1. Routine visits: MOAIDD shall visit individuals served in residential setting by residential providers reimbursed under the HCB Waiver. Not-for-profit providers accredited by CARF or ACD and in good standing with the accrediting agency are exempt from routine visits. If an individual resident in a CARF or ACD accredited agency or that person's guardian requests a MOAIDD visit, the visit can occur with the provider's permission.

2. Requested visits: MOAIDD visits may be requested at any time by an individual, family member or guardian, regional center, or provider to assist with planning and resource development to enhance the individual's life. The permission of the individual or his or her guardian must be obtained. Requested visits shall not be made to individuals receiving residential services from agencies

exempted from routine visits in paragraph 1., without the provider's permission.

(C) Schedule of MOAIDD visits. MOAIDD will conduct routine visits alternately with certification, with at least nine (9) months intervening between routine certification surveys and routine MOAIDD visits. MOAIDD visits are subject to the availability of volunteers. Requested visits will occur as quickly as possible following the request.

(D) Outcome of Visits.

1. MOAIDD visits shall result in observations and recommendations regarding the individual visited. These observations and recommendations shall be reported to the regional center director or designee and to the provider. The regional center shall consider the recommendations, and as appropriate, and with agreement of the individual or guardian, incorporate them in the individual's plan. These recommendations are intended to enhance the life of the individual visited, but may also contain information pertinent to the lives of other individuals served. The regional center and provider shall determine the generalized applicability of the recommendations and shall incorporate those that are pertinent, in the agency's quality assurance/enhancement plan.

2. In addition, section (4) of this rule specifies how the MOAIDD team will react to observing conditions that, in its opinion, require prompt action on behalf of the individual to preserve or protect health, safety or rights.

(4) This section prescribes two (2) sets of indicators referred to as red and Yellow Flags.

(A) The following conditions shall be considered Red Flags.

1. The team members suspect, for whatever reason, that the individual's health or safety is at immediate risk. This could include situations in which agency staff appear not sufficiently trained/knowledgeable, or otherwise unable, to address threatening health, dietary, medicinal needs or operate prescribed equipment to an extent that it constitutes an imminent or immediate threat.

2. The team members suspect, for whatever reason, that the individual(s):

A. Is being verbally, physically or sexually abused;

B. Is being neglected;

C. Is the victim of verbal manipulation or other type of psychological mistreatment; or

D. Has been mechanically, physically and/or chemically restrained and the restraint is not appropriately addressed in the individual's plan.

(B) The following conditions shall be considered Yellow Flags if the team members believe they constitute a significant but not immediate threat to an individual's health, safety or rights.

1. The individual does not have a physician or dentist and/or does not see them at least annually.

2. The individual has experienced emotional or physical trauma and his/her needs have not been addressed.

3. Safety devices (smoke detectors, fire extinguishers, locks, railings, etc.) are missing or in need of repair.

4. There are no procedures or practice for emergency situations.

5. Residence appears to be an unhealthy environment (e.g. dirty, strong odors, mildew, wiring is exposed, electrical fixtures and/or plumbing fixtures are broken, broken furniture, unhealthy clutter, heating or air conditioning is inadequate or nonfunctioning, etc.).

6. The individual's ordinary living activities are unreasonably limited or restricted.

7. The individual is not provided with needed information or training that would allow him/her greater independence.

8. Community access rarely occurs or is limited by insufficient staff and/or available transportation.

9. Staff lacks adequate training on health/medical issues, (cardiopulmonary resuscitation, first aid, physical management, nutritional management, drug side effects, seizures and allergies).

10. Staff lacks a means of communication with the individual they serve.

11. There is insufficient staff or staff is unfamiliar with the individual, resulting in staff not meeting the needs of the individual.

12. There is evidence that the individual is, or has been, restricted from activities.

13. Staff is unfamiliar or untrained regarding the specific needs of the individual they support (e.g. behavior, verbal, physical, psychological or recognition of abuse and neglect).

14. Medication is not stored or managed in a safe manner.

15. The individual is restricted from seeing family, friends or guardian.

16. The individual is not treated in a respectful manner by staff/administration.

17. Adaptive equipment is unavailable, broken or restricted from use.

18. Other items, which may not be significant individually but cumulatively, represent a threat to the safety, health or rights of the individual.

(5) MOAIDD visits shall proceed according to the requirements set forth in this section.

(A) The MOAIDD coordinator shall randomly select at least one individual from each residence where an agency provides residential service and shall notify the agency and regional center of the intent to visit.

(B) With the individual's/guardian's permission, pre-visit surveys returnable within thirty (30) days, shall be sent to the individual's family/guardian, residential provider, service coordinator and, when appropriate, daily activities provider.

(C) The MOAIDD team shall—

1. Gather information through observation, review of relevant records and conversation with the individual and staff; and

2. Issue a written report within seventy-two (72) hours to the MOAIDD coordinator for further processing.

(D) The MOAIDD coordinator shall distribute the written report within thirty (30) days of the visit to the individual visited, guardian, residential provider agency appropriate division staff, certification unit, members of the MOAIDD team that conducted the visit and other persons designated by the individual visited or the individual's guardian.

(E) If the MOAIDD team identifies Red Flags, the team shall proceed as follows:

1. The team leader shall remain on-site and immediately notify the MOAIDD coordinator who shall contact the regional center director or designee and request that he/she go to the location where the Red Flag was reported.

2. After the regional center director or designee arrives and the team leader provides any necessary information, the MOAIDD visit ceases and standard division procedures shall be followed. The team leader may then leave the site and contact the MOAIDD coordinator to complete any further documentation.

3. Should the Red Flag result in an abuse/neglect investigation, the findings shall be recorded in the department's Incident and Investigation Tracking System. The regional center director shall incorporate in the agency's quality assurance/enhancement plan the action steps that result from the findings and notify the MOAIDD coordinator of the actions taken. If there are enforcement issues the regional center shall notify the certification unit.

4. If the initial inquiry into the Red Flag does not warrant an abuse/neglect investigation, the regional center shall submit a written report of findings within two (2) working days of the inquiry to the MOAIDD coordinator.

(F) If the MOAIDD team identifies Yellow Flags, the team shall proceed as follows:

1. The team leader shall inform the MOAIDD coordinator of the Yellow Flags within twenty-four (24) hours of the visit.

2. The MOAIDD coordinator shall immediately notify the regional center director or designee of the Yellow Flag issues. The coordinator shall follow up with written notification within two (2) working days following contact with the regional center.

3. The regional center director shall incorporate in the agency's quality assurance/enhancement plan the action steps that result from the findings and notify the MOAIDD coordinator of the actions taken. If there are enforcement issues the regional center shall notify the certification unit.

4. After receiving consent from the individual/guardian, all action steps which pertain specifically to the individual will be documented in his/her personal plan and forwarded to the MOAIDD coordinator.

(G) The regional center director shall review all overriding concerns and recommendations reported by the MOAIDD team. Action steps to address these overriding concerns and recommendations shall be incorporated, as appropriate, in the agency's quality assurance/enhancement plan. They shall also be incorporated in the individual's personal plan, with the consent of the individual/guardian. The regional center director shall provide a written report to the MOAIDD coordinator indicating action taken.

AUTHORITY: section 633.010, RSMo 1994. Original rule filed Feb. 15, 2000.

PUBLIC COST: This proposed rule will cost the department of mental health approximately \$300,930 during fiscal year 2001. See attached fiscal note.

PRIVATE COST: This proposed rule will have a cost to volunteers in terms of their personal time will be approximately \$20,008 during the fiscal year 2001. See attached fiscal note.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Mental Health, Attn: Jackie Coleman, Division of Mental Retardation and Developmental Disability, P.O. Box 687, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY COST

Number and Title of Rule
9 CSR 45-5.040 Missouri Alliance for Individuals with Developmental Disabilities
Prepared December 22, 1999 by Department of Mental Health, Division of Mental Retardation and Developmental Disabilities
Affected Agencies: Department of Mental Health, Division of Mental Retardation and Developmental Disabilities

EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1 Statewide Coordinator	31,308	64,494	66,148	67,844	69,584	71,368	73,198	75,075	77,000	78,974	80,999
4 Regional Coordinators	50,424	103,873	106,536	109,268	112,070	114,944	117,891	120,914	124,014	127,194	130,455
.5 Clerical	5,760	11,520	11,816	12,119	12,429	12,748	13,075	13,410	13,754	14,107	14,469
Fringe Benefits	26,151	58,533	60,034	61,574	63,153	64,772	66,433	68,136	69,883	71,675	73,513
Equipment- File Cabinet	1,715				11,375				12,849		2,323
Equipment- Personal Computer, Network Card, Expense one time- Software	10,080				1,473				1,663		
Expenses- Travel and Professional Development	7,320	14,640	15,093	15,560	16,041	16,537	17,048	17,576	18,119	18,680	19,257
Expenses- Supplies, Telephone, Postage, and Copying	4,823	9,645	9,943	10,251	10,568	10,895	11,232	11,579	11,937	12,306	12,687
MOAIDD Board Members Expenses	3,500	7,210	7,433	7,663	7,900	8,144	8,396	8,656	8,924	9,200	9,484
Volunteers Training and Visit Expenses	12,750	26,265	27,077	27,915	28,778	29,668	30,586	31,532	32,507	33,512	34,549
MOAIDD Conferences/Registration	1,000	2,060	2,124	2,189	2,257	2,327	2,399	2,473	2,550	2,628	2,710
Miscellaneous MOAIDD Expenses	1,305	2,688	2,771	2,857	2,945	3,036	3,130	3,227	3,327	3,430	3,536
Totals	138,886	300,930	308,977	317,240	338,573	334,439	343,388	352,578	376,527	371,706	383,982

EXPENDITURES	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
1 Statewide Coordinator	83,076	85,206	87,336	89,520	91,758	94,051	96,403	98,813	101,283	103,815	106,411
4 Regional Coordinators	133,800	137,231	140,662	144,178	147,783	151,477	155,264	159,146	163,125	167,203	171,383
.5 Clerical	14,840	15,220	15,601	15,991	16,390	16,800	17,220	17,651	18,092	18,544	19,008
Fringe Benefits	75,398	77,331	79,264	81,246	83,277	85,359	87,493	89,680	91,922	94,220	96,576
Equipment- File Cabinet		14,514				16,336			18,386		3,221
Equipment- Personal Computer, Network Card, Expense one time- Software		1,879				2,115			2,380		
Expenses- Travel and Professional Development	19,853	20,467	21,081	21,713	22,365	23,036	23,727	24,439	25,172	25,927	26,705
Expenses- Supplies, Telephone, Postage, and Copying	13,079	13,484	13,889	14,305	14,734	15,176	15,632	16,101	16,584	17,081	17,594
MOAIDD Board Members Expenses	9,778	10,080	10,382	10,694	11,015	11,345	11,685	12,036	12,397	12,769	13,152
Volunteers Training and Visit Expenses	35,617	36,719	37,821	38,955	40,124	41,328	42,567	43,844	45,160	46,515	47,910
MOAIDD Conferences/Registration	2,794	2,880	2,966	3,055	3,147	3,241	3,339	3,439	3,542	3,648	3,758
Miscellaneous MOAIDD Expenses	3,645	3,758	3,871	3,987	4,106	4,230	4,357	4,487	4,622	4,761	4,903
Totals	391,880	418,769	412,872	423,644	434,699	464,494	457,687	469,635	481,898	515,249	510,620

Total for life of the rule: 8,548,673

Assumptions:

1. Inflation of 2.5% per year is compounded for salaries and 3% for expenses.
2. Fringe for FY 2000 is at 29.89% for FY 2001 forward, fringe is at 30.75%.
3. The Department estimates current staffing (1 statewide coordinator, 4 regional coordinators, and .5 clerical), in addition to volunteers, will suffice for the life of the rule.

PRIVATE ENTITY COST

Enter rule number and rule name

9 CSR 45-5.040 Missouri Alliance for Individuals with Developmental Disabilities
Prepared December 22, 1999 by Department of Mental Health, Division of Mental Retardation and Developmental Disabilities
Affected Agencies: Department of Mental Health, Division of Mental Retardation and Developmental Disabilities

EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Family and consumer volunteers (cost of personal time)	9,760	20,008	20,521	21,047	21,587	22,140	22,708	23,290	23,887	24,500	25,128
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	9,760	20,008	20,521	21,047	21,587	22,140	22,708	23,290	23,887	24,500	25,128

EXPENDITURES	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
	25,772	26,433	27,094	27,771	28,465	29,177	29,907	30,654	31,421	32,206	33,011
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	25,772	26,433	27,094	27,771	28,465	29,177	29,907	30,654	31,421	32,206	33,011

Total for life of the rule: 556,486

Assumptions:

1. Inflation of 2.5% per year is compounded for salaries and 3% for expenses.
2. Cost of personal time estimated at \$80 per day x 1 day per visit x 2 volunteers per visit x 122 visits per year.

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 10-5.451 Control of Emissions from Aluminum Foil Rolling. The commission proposes to amend subsections (3)(A) and (5)(A). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

PURPOSE: This amendment provides a more uniform and equitable application and enforcement of the rule.

(3) Emission Limits.

(A) Rolling Lubricants.

1. Cold rolling mill.

A. Rolling lubricants used on the cold mill shall consist of low vapor pressure lubricants composed of saturated oils and additives. For purposes of this subparagraph, low vapor pressure shall be defined as less than 1.0 mmHg at one hundred degrees Fahrenheit (100°F).

B. The initial [and final] boiling point[s] of the as-received oils shall be [between] three hundred eighty degrees Fahrenheit (380°F) [and six hundred fifty degrees Fahrenheit (650°F)] or greater.

C. The initial boiling point of the as-applied rolling lubricants shall be greater than three hundred eighty degrees Fahrenheit (380°F).

D. The inlet or as-applied rolling lubricant temperatures at each mill shall not exceed one hundred fifty-five degrees Fahrenheit (155°F) and such temperatures shall be monitored at all times that the mill is in operation.

2. Intermediate and finishing mills.

A. Rolling lubricants used on the intermediate and finish mills shall consist of low vapor pressure lubricants composed of saturated oils and additives. For purposes of this subparagraph[s], low vapor pressure shall be defined as less than 1.0 mmHg at one hundred degrees Fahrenheit (100°F).

B. The initial [and final] boiling point[s] of the as-received oils shall be [between] three hundred thirty-five degrees Fahrenheit (335°F) [and four hundred twenty-five degrees Fahrenheit (425°F)] or greater.

C. The initial boiling point of the as-applied rolling lubricants shall be greater than three hundred degrees Fahrenheit (300°F).

D. The inlet or as-applied rolling lubricant temperatures at each mill shall not exceed one hundred sixty degrees Fahrenheit (160°F) and such temperatures shall be monitored at all times that the mill is in operation.

(5) Determination of Compliance.

(A) All incoming shipments of oil shall be sampled and a distillation range test shall be performed using Association of Standard Testing and Materials (ASTM) methods D86-/73/ 95, Standard Method for Distillation of Petroleum Products or other methods approved by the director. The results of such tests shall be used for compliance with subparagraph (3)(A)1.B. of this rule and subparagraph (3)(A)2.B. of this rule.

AUTHORITY: section 643.050, RSMo [1994] Supp. 1999. Emergency rule filed March 15, 1995, effective March 25, 1995, expired July 11, 1995. Original rule filed March 15, 1995, effective Nov. 30, 1995. Amended: Filed Feb. 9, 2000.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$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. on April 27, 2000. The public hearing will be held at the Ramada Inn, 1510 Jefferson Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., May 4, 2000. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176.

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 RULE

10 CSR 10-6.350 Emissions Limitations and Emissions Trading of Oxides of Nitrogen. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan.

PURPOSE: The purpose of this rule is to reduce the emissions of nitrogen oxides (NO_x) and establish a NO_x emissions trading program for the state of Missouri. The reductions in NO_x emissions will reduce the transport of ozone and its precursors within the state of Missouri and to other states as required under the Clean Air Act.

(1) Applicability.

(A) This rule applies to any fossil fuel-fired electric generating unit that serves a generator with a nameplate capacity of greater than twenty-five megawatts (25MW).

(B) Exemptions.

1. Any unit under subsection (1)(A) of this rule with a federally enforceable operating permit that limits the unit's mass NO_x emissions to twenty-five (25) tons or less during the control period is exempt from the requirements of this rule.

2. The provisions of section (3) and section (5) of this rule shall not apply to any emergency standby generators, internal combustion engines and peaking combustion turbine units demonstrated to operate less than four hundred (400) hours per control period averaged over the three (3) most recent years of operation, which have installed and maintained in proper operation a non-resettable engine hour meter.

(C) Loss of Exemption. If the exemption limit in paragraph (1)(B)1. or (1)(B)2. is exceeded, the exemption shall be automatically and permanently withdrawn. The owner or operator must notify the department director within thirty (30) days if an exemption limit is exceeded.

(2) Definitions.

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

(B) Account certificate of representation—The completed and signed submission for certifying the designation of a NO_x authorized account representative for an affected unit or a group of identified affected units who is authorized to represent the owners or operators of such unit or units and of the affected units at such source or sources with regard to matters under the NO_x trading program.

(C) Account number—The identification number given to each NO_x trading program account.

(D) Automated data acquisition and handling system—That component of the Continuous Emissions Monitoring System, or other emissions monitoring system approved for use by the department, designed to interpret and convert individual output signals from pollutant concentration monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required in this rule.

(E) Boiler—An enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(F) Combined cycle system—A system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(G) Combustion turbine—An enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(H) Common stack—A single flue through which emissions from two (2) or more NO_x units are exhausted.

(I) Compliance account—A NO_x allowance tracking system account, established for an affected unit, in which the NO_x allowance allocations for the unit are initially recorded and in which are held NO_x allowances available for use by the unit for a control period for the purpose of meeting the unit's NO_x emission limitation.

(J) Continuous emissions monitoring system (CEMS)—The equipment required by this rule to sample, analyze, measure, and provide, by readings taken at least once every fifteen (15) minutes of the measured parameters, a permanent record of NO_x emissions, expressed in tons per hour for NO_x.

(K) Control period—The period beginning May 1 of a calendar year and ending on September 30 of the same calendar year.

(L) Early reduction credit (ERC)—NO_x emission reductions in the years 2000, 2001, and 2002 that are below those required for the control period starting in 2003. Early reduction credits will only be available for use during the years of 2003 and 2004.

(M) Electric generating unit (EGU)—Any fossil fuel-fired boiler or turbine that serves an electrical generator with the potential to use more than fifty percent (50%) of the usable energy from the boiler or turbine to generate electricity.

(N) Emergency standby generator—A generator operated only during times of loss of primary power at the facility that is beyond the control of the owner or operator of the facility or during routine maintenance.

(O) Fossil fuel—Natural gas, petroleum, coal, or any form of solid, liquid or gaseous fuel derived from such material.

(P) Fossil fuel-fired—With regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input.

(Q) Generator—A device that produces electricity.

(R) Heat input—The product (expressed as million British thermal units per hour) of the gross calorific value of the fuel (expressed as British thermal units per pound) and the fuel feed rate into a combustion device (expressed as pounds per hour), as measured, recorded and reported to the department by the NO_x

authorized account representative and as determined by the director in accordance with this rule and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(S) Nameplate capacity—The maximum electrical generating output (expressed as megawatt) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings, as listed in the National Allowance Data Base (NADB) under the data field "NAMECAP" if the generator is listed in the NADB or as measured in accordance with the United States Department of Energy standards.

(T) NO_x allowance—An authorization by the department under the NO_x trading program to emit up to one (1) ton of NO_x during the control period of the specified year or of any year thereafter.

(U) NO_x allowance tracking system—The system by which the director records allocations, deductions and transfers of NO_x allowances under the NO_x trading program.

(V) NO_x allowance transfer deadline—Close of business on December 31 following the control period or, if December 31 is not a business day, close of business on the first business day thereafter and is the deadline by which NO_x allowances may be submitted for recording in an affected unit's compliance account, or the overdraft account of the installation where the unit is located.

(W) NO_x authorized account representative—The person who is authorized by the owners or operators of the unit to represent and legally bind each owner and operator in matters pertaining to the NO_x trading program.

(X) NO_x emissions limitation—For an affected unit, the tonnage equivalent of the NO_x emissions rate available for compliance deduction for the unit and for a control period adjusted by any deductions of such NO_x allowances to account for actual utilization for the control period or to an account for excess emissions for a prior control period or to account for withdrawal from the NO_x trading program or for a change in regulatory status for an affected unit.

(Y) NO_x opt-in unit—A unit whose owner or operator has requested to become an affected unit under the NO_x trading program and has been approved by the department.

(Z) NO_x unit—Any fossil fuel-fired stationary boiler, combustion turbine, internal combustion engine or combined cycle system.

(AA) Opt-in—To voluntarily become an affected unit under the NO_x trading program.

(BB) Overdraft account—The NO_x allowance tracking system account established by the director for each NO_x authorized account representative with two (2) or more affected units.

(CC) Serial number—When referring to NO_x allowances, the unique identification number assigned to each NO_x allowance.

(DD) Unit load—The total output of a unit in any control period produced by combusting a given heat input of fuel expressed in terms of the total electrical generation (expressed as megawatt) produced by the unit including generation for use within the plant, and/or in the case of a unit that uses heat input for purposes other than electrical generation, the total steam pressure (psia) produced by the unit, including steam for use by the unit.

(EE) Unit operating day—A calendar day in which a unit combusts any fuel.

(FF) Unit operating hour or hour of unit operation—Any hour or fraction of an hour during which a unit combusts fuel.

(GG) Utilization—The heat input (expressed as million British thermal units per hour) for a unit.

(3) General Provisions.

(A) NO_x Emissions Limitations. Beginning May 1, 2003, the following NO_x emission rates shall apply:

1. EGUs located in the City of St. Louis and the counties of Bollinger, Butler, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Lewis, Lincoln, Madison, Marion, Mississippi, Montgomery, New Madrid,

Oregon, Pemiscot, Perry, Phelps, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Warren, Washington and Wayne, shall limit emissions of NO_x to the more stringent of a rate of 0.25 lbs. NO_x/million British thermal units per hour (mmBtu) of heat input during the control period or any applicable permitted NO_x limitation under 10 CSR 10-6.060.

2. EGUs located in any county not identified in paragraph (3)(A)1. of this rule shall limit emissions of NO_x to the more stringent of a rate of 0.35 lbs. NO_x/mmBtu of heat input during the control period or any applicable permitted NO_x limitation under 10 CSR 10-6.060.

3. In lieu of complying with the applicable emission limitations in paragraph (3)(A)1. or (3)(A)2. of this rule, any affected unit may comply through the NO_x emissions trading program under subsection (3)(B) of this rule.

(B) NO_x Emissions Trading Program.

1. NO_x authorized account representative. The NO_x authorized account representative shall have the responsibilities and meet the requirements identified in this subsection.

A. Each affected unit shall have only one NO_x authorized account representative with respect to all matters under the NO_x trading program. Each affected unit may have only one alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative.

B. A NO_x authorized account representative may be responsible for multiple units at an installation or within a system of installations with the same owner.

C. The department will act on a valid submission made on behalf of owners or operators of an affected unit or an affected unit only if the submission has been made, signed and certified by the NO_x authorized account representative or the alternate NO_x authorized account representative.

D. Each unit must submit an account certificate of representation no later than January 1, 2003 or December 31 of the year in which the rule becomes applicable for units installed after January 1, 2003.

2. NO_x allowance tracking system.

A. NO_x Allowance Tracking System accounts. The department will establish one compliance account for each NO_x unit and one overdraft account for each NO_x authorized account representative with one or more NO_x units. Allocations of NO_x allowances pursuant to paragraphs (3)(B)3. or (3)(B)10. of this rule and deductions or transfers of NO_x allowances pursuant to paragraphs (3)(B)3., (3)(B)7., (3)(B)9., or (3)(B)10. of this rule will be recorded in the compliance accounts or overdraft accounts.

B. Establishment of accounts.

(I) Compliance accounts and overdraft accounts. Upon receipt of a complete account certificate of representation, the department will establish—

(a) A compliance account for each affected NO_x unit for which the account certificate of representation was submitted; and

(b) An overdraft account for each NO_x authorized account representative for which the account certificate of representation was submitted.

(II) Account identification. The department will assign a unique identifying number to each compliance account and each overdraft account.

C. Recording of NO_x allowance allocations.

(I) The department will record the NO_x allowances for the 2003 control period in the NO_x units' compliance accounts.

(II) Serial numbers for allocated NO_x allowances. The department will assign each NO_x allowance a unique identification number that will include digits identifying the year for which the NO_x allowance is allocated.

3. NO_x allowances.

A. Projected NO_x allowances.

(I) By March 1, 2003, the NO_x authorized account representative for each affected unit shall submit to the department a report containing the following:

(a) The projected control period NO_x emission rate for each affected unit;

(b) The average of the three (3) most recent control period heat inputs, unless those three (3) periods are not representative of normal operation; and

(c) A plan identifying the methodology for compliance with subsection (3)(A) of this rule.

(II) The department will review each report and make any amendments within fifteen (15) working days.

(III) The department will develop a summary of projected NO_x allowances on a unit by unit and statewide basis for distribution on or before May 1 of each year using Equation 1 of this rule.

Equation 1:

$$HI_p \times ER_p = NO_x AL_p$$

where:

HI_p = the projected control period heat input for each NO_x unit;

ER_p = the projected control period emission rate for each NO_x unit; and

NO_xAL_p = the projected NO_x allowance for each NO_x unit.

B. Control period NO_x allowances.

(I) By October 31 following each control period, each NO_x authorized account representative shall submit to the department the actual total control period heat input and actual average emission rate in a compliance report consistent with requirements of section (4) of this rule for each affected NO_x unit.

(II) By November 15 following each control period, the department will issue a notice to each NO_x authorized account representative of the actual NO_x allowances for each affected NO_x unit using Equation 2 of this rule.

Equation 2:

$$HI_a \times ER_r = NO_x AL_a$$

where:

HI_a = the actual control period heat input for each NO_x unit;

ER_r = the allowable control period emission rate for each NO_x unit as determined in paragraph (3)(A)1. or (3)(A)2. of this rule; and

NO_xAL_a = the actual NO_x allowance for each unit for the control period.

4. Compliance. By the end of the NO_x allowance transfer deadline, each NO_x unit shall have sufficient NO_x allowances in their compliance account to allow for the deductions in subparagraph (3)(B)4.B. of this rule.

A. NO_x allowance transfer deadline. The NO_x allowances are available to be deducted for compliance with a unit's NO_x emissions limitation for a control period in a given year only if the NO_x allowances—

(I) Were allocated for a control period in a prior year or the same year; and

(II) Are held in the unit's compliance account or the unit's overdraft account as of the NO_x allowance transfer deadline for that control period.

B. Deductions for compliance.

(I) The director will deduct NO_x allowances to cover the unit's NO_x emissions for the control period—

(a) From the compliance account; and

(b) Only if no more NO_x allowances available under subparagraph (3)(B)4.A. of this rule remain in the compliance account, from the overdraft account. In deducting allowances for units from the overdraft account, the director will begin with the unit having the compliance account with the lowest NO_x allowance tracking system account number and end with the unit having the compliance account with the highest NO_x allowance tracking system account number.

(II) The director will deduct NO_x allowances until the number of NO_x allowances deducted for the control period equals the number of tons of NO_x emissions, determined in accordance with part (3)(B)4.B.(III) of this rule, from the unit for the control period for which compliance is being determined; or until no more NO_x allowances available under subparagraph (3)(B)4.A. of this rule remain in the respective account.

(III) For a NO_x unit that is allocated NO_x allowances under part (3)(B)3.B.(II) of this rule for a control period, the department will deduct NO_x allowances under subparagraph (3)(B)4.B. or (3)(B)4.E. to account for the actual utilization of the unit during the control period. The department will calculate the number of NO_x allowances to be deducted to account for the unit's actual utilization using Equation 3 of this rule.

Equation 3:

$$HI_a \times ER_a = \text{NO}_x AL_a$$

where:

HI_a = the actual control period heat input for each NO_x unit;
 ER_a = the actual control period emission rate for each NO_x unit; and
 $\text{NO}_x AL_a$ = the number of NO_x allowances that will be deducted from each NO_x unit's compliance account.

C. Identification of NO_x allowances by serial number.

(I) The department may identify by serial number the NO_x allowances to be deducted from the unit's compliance account under subparagraph (3)(B)4.B., (3)(B)4.D., or (3)(B)4.E. of this rule. Such identification will be made in the compliance certification report submitted in accordance with paragraph (4)(A)1. of this rule.

(II) First-in, first-out (FIFO). The director will deduct NO_x allowances for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_x allowances by serial number under part (3)(B)9.C.(I) of this rule, or the overdraft account on a FIFO accounting basis in the following order:

(a) Those NO_x allowances that were allocated for the control period to the unit under part (3)(B)3.B.(II) of this rule;

(b) Those NO_x allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to paragraphs (3)(B)7. and (3)(B)8. of this rule, in order of their date of recording;

(c) Those NO_x allowances that were allocated for a prior control period to the unit under part (3)(B)3.B.(II) of this rule; and

(d) Those NO_x allowances that were allocated for a prior control period to any unit and transferred and recorded in the account pursuant to paragraphs (3)(B)7. and (3)(B)8. of this rule, in order of their date of recording.

D. Deductions for units sharing a common stack. In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with section (4) of this rule—

(I) The NO_x authorized account representative of the units shall identify the percentage of NO_x allowances to be deducted from each such unit's compliance account to cover the unit's

share of NO_x emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with paragraph (4)(A)1. of this rule.

(II) Notwithstanding part (3)(B)4.B.(II) of this rule, the director will deduct NO_x allowances for each unit until the number of NO_x allowances deducted equals the unit's identified percentage (under part (3)(B)4.D.(I) of this rule) of the number of tons of NO_x emissions, as determined in accordance with section (4) of this rule, from the common stack for the control period for which compliance is being determined or, if no percentage is identified, an equal percentage for each unit, plus the number of allowances required for deduction to account for actual utilization under subparagraph (4)(A)1.G. of this rule for the control period.

E. The director will record in the appropriate compliance account or overdraft account all deductions from such an account pursuant to subparagraphs (3)(B)4.B. and (3)(B)4.D. of this rule.

5. Banking.

A. NO_x allowances may be banked for future use or transfer into a compliance account or an overdraft account, as follows:

(I) Any NO_x allowance that is held in a compliance account or an overdraft account, will remain in such account until the NO_x allowance is deducted or transferred under paragraphs (3)(B)4., (3)(B)5., (3)(B)6., or (3)(B)7. of this rule.

(II) The director will designate, as a banked NO_x allowance, any NO_x allowance that remains in a compliance account or an overdraft account after the director has made all deductions for a given control period from the compliance account or overdraft account pursuant to paragraph (3)(B)4. of this rule.

B. Each year, starting in 2004, after the director has completed the designation of banked NO_x allowances under part (3)(B)5.A.(II) of this rule and before May 1 of the year, the department will determine the extent to which banked NO_x allowances may be used for compliance in the control period for the current year, as follows:

(I) The director will determine the total number of banked NO_x allowances held in compliance accounts or overdraft accounts;

(II) If the total number of banked NO_x allowances determined, under part (3)(B)5.B.(I) of this rule, to be held in compliance accounts or overdraft accounts is less than or equal to ten percent (10%) of the sum of the NO_x trading program allocations for the previous control period, any banked NO_x allowance may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule.

(III) If the total number of banked NO_x allowances determined, under part (3)(B)5.B.(I) of this rule, and held in compliance accounts or overdraft accounts exceeds ten percent (10%) of the sum of the state trading program allocations for the previous control period, any banked allowance may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule, except as follows:

(a) The director will determine the adjustment factor using Equation 4 of this rule.

Equation 4:

$$AF = \frac{0.1 \times \sum \text{NO}_x AL_a}{\sum \text{NO}_x AL_b}$$

where:

AL = the adjustment factor;
 $\sum \text{NO}_x AL_a$ = the sum of the statewide NO_x allowance allocated for the previous control period; and
 $\sum \text{NO}_x AL_b$ = the sum of the banked NO_x allowances as determined under part (3)(B)5.B.(I) of this rule on January 1 of the current year;

(b) The director will determine the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule using Equation 5 of this rule. Any banked NO_x allowances in excess of the product of Equation 5 may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule, except that, if such NO_x allowances are used to make a deduction, two (2) such NO_x allowances must be deducted for each deduction of one (1) NO_x allowance required under paragraph (3)(B)4. of this rule.

Equation 5:

$$\text{AF} \times \text{NO}_x \text{AL}_b$$

where:

AF = is the adjustment factor calculated in Equation 4; and
 $\text{NO}_x \text{AL}_b$ = is the number of NO_x allowances in a NO_x unit's account;

(IV) Geographic flow control.

(a) Banked NO_x allowances made available for use in parts (3)(B)5.B.(II) and (3)(B)5.B.(III) of this rule may be traded from the control region for which paragraph (3)(A)1. of this rule is applicable to the control region for which paragraph (3)(A)2. of this rule is applicable on a one to one (1:1) basis.

(b) Banked NO_x allowances made available for use in parts (3)(B)5.B.(II) and (3)(B)5.B.(III) of this rule may be traded from the control region for which paragraph (3)(A)2. of this rule is applicable to the control region for which paragraph (3)(A)1. of this rule is applicable on a one and one-half to one (1.5:1) basis.

C. Early Reductions. For any affected NO_x unit that reduces its NO_x emission rate in the 2000, 2001 or 2002 control period, the owner or operator of the unit may request early reduction allowances, and the department will allocate ER_c s by January 31 of each year to the unit in accordance with the following requirements.

(I) Each NO_x unit for which the owner or operator requests any early reduction credits under part (3)(B)5.C.(IV) of this rule shall monitor NO_x emissions in accordance with section (4) of this rule for each control period for which such early reduction credits are requested. The unit's monitoring system availability shall be not less than ninety percent (90%) during the control period, and the unit must not have been found to be in violation of any applicable state or federal emissions or emissions-related requirements.

(II) NO_x emission rate and heat input under parts (3)(B)5.C.(III) through (3)(B)5.C.(V) of this rule shall be determined in accordance with section (4) of this rule.

(III) Each NO_x unit for which the owner or operator requests any early reduction credits under part (3)(B)5.C.(IV) of this rule shall reduce its NO_x emission rate, for each control period for which early reduction credits are requested, to less than the applicable requirement of paragraph (3)(A)1. or (3)(A)2. of this rule.

(IV) The NO_x authorized account representative of a NO_x unit that meets the requirements of parts (3)(B)5.C.(I) and (3)(B)5.C.(III) of this rule may submit to the department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the control period for 2000, 2001 or 2002 in accordance with part (3)(B)5.C.(III) of this rule.

(a) In the early reduction credit request, the NO_x authorized account representative may request early reduction credits for such control period using Equation 6 of this rule.

Equation 6:

$$\text{ER}_c = \text{HI}_a \times (\text{NO}_x \text{ER}_r - \text{NO}_x \text{ER}_a) \div 2000$$

where:

ER_c = the early reduction credits accrued rounded to the nearest ton of NO_x ;
 HI_a = the actual control period heat input for each NO_x unit.
 $\text{NO}_x \text{ER}_r$ = the regulated NO_x emission rate as identified in paragraph (3)(A)1. or (3)(A)2. of this rule; and
 $\text{NO}_x \text{ER}_a$ = the actual control period emission rate for each NO_x unit.

(b) The early reduction credit request must be submitted, in a format specified by the department, by October 31 of the year in which the NO_x emission rate reductions are made.

(V) The department will allocate NO_x allowances no later than January 31 to NO_x units meeting the requirements of parts (3)(B)5.C.(I) and (3)(B)5.C.(III) of this rule and covered by early reduction requests meeting the requirements of subpart (3)(B)5.C.(IV)(b) of this rule.

(VI) NO_x allowances recorded under part (3)(B)5.C.(V) of this rule may be deducted for compliance under paragraph (3)(B)3. of this rule for the control periods in 2003 or 2004. Notwithstanding subparagraph (3)(B)5.A. of this rule, the director will deduct as retired any NO_x allowance that is recorded under part (3)(B)5.C.(V) of this rule and is not deducted for compliance in accordance with paragraph (3)(B)3. of this rule for the control period in 2003 or 2004.

(VII) NO_x allowances recorded under part (3)(B)5.C.(V) of this rule are not treated as banked allowances in 2004 for the purposes of subparagraphs (3)(B)5.A. and (3)(B)5.B. of this rule.

(VIII) Compliance set-aside account.

(a) The department will establish a compliance set-aside account, which will contain fifty percent (50%) of the early reduction credits that are issued in accordance with part (3)(B)5.C.(II) of this rule.

(b) Early reduction credits will be sold from the compliance set-aside pool by the department in the order of request to NO_x authorized account representatives requesting such credits.

(c) A NO_x authorized account representative may request early reduction credits from the compliance set-aside account by submitting a report containing the following on or before October 31, 2003 and 2004 for the 2003 and 2004 control periods, respectively:

- I. The owner and operator;
- II. The NO_x authorized account representative;
- III. The NO_x unit identification number and name;
- IV. The projected control period heat input and projected control period emission rate;
- V. The number of ER_c s being requested; and
- VI. The overdraft or compliance account number.

(d) The department shall set the market rate for early reduction credits on January 1 of each year and shall review the rate quarterly. Market rate shall be established based on the following in the order listed:

- I. The average rate of exchange of NO_x credits for the most recent quarter; and
- II. The most recent control cost data available.

(e) Proceeds from the sale of early reduction credits will be distributed to the owner of units issued ER_c s under part (3)(B)5.C.(V) of this rule by percentage of issuance.

(f) Any ER_c allowances remaining in the compliance set-aside account after October 31, 2004, will be returned to the unit that generated the early reduction credits.

6. Account error. The director may correct any error in any NO_x allowance tracking system account. Within ten (10) business days of making such correction, the director will notify the NO_x authorized account representative for the account.

7. NO_x allowance transfers. The NO_x authorized account representatives seeking the recording of a NO_x allowance transfer shall submit the transfer request to the director. To be considered

correctly submitted, the NO_x allowance transfer shall include the following elements in a format specified by the director:

A. The numbers identifying both the transferor and transferee accounts;

B. A specification by serial number of each NO_x allowance to be transferred; and

C. The printed name and signature of the NO_x authorized account representative of the transferor account and the date signed.

8. Department recording.

A. Within five (5) business days of receiving a NO_x allowance transfer, except as provided in subparagraph (3)(B)9.B. of this rule, the department will record a NO_x allowance transfer by moving each NO_x allowance from the transferor account to the transferee account as specified by the request, provided that—

(I) The transfer is correctly submitted under paragraph (3)(B)8. of this rule;

(II) The transferor account includes each NO_x allowance identified by serial number in the transfer; and

(III) The transfer meets all other requirements of this paragraph.

B. A NO_x allowance transfer that is submitted for recording following the NO_x allowance transfer deadline and that includes any NO_x allowances allocated for a control period prior to or the same as the control period to which the NO_x allowance transfer deadline applies will not be recorded until after completion of the process of recording of NO_x allowance allocations of this rule.

C. Where a NO_x allowance transfer submitted for recording fails to meet the requirements of subparagraph (3)(B)9.A. of this rule, the department will not record such transfer.

9. Notification.

A. Notification of recording. Within five (5) business days of recording of a NO_x allowance transfer under paragraph (3)(B)8. of this rule, the department will notify each NO_x authorized account representative of the transfer in writing.

B. Notification of nonrecording. Within ten (10) business days of receipt of a NO_x allowance transfer that fails to meet the requirements of paragraph (3)(B)7. of this rule, the department will notify in writing the NO_x authorized account representatives of both accounts subject to the transfer of—

(I) A decision not to record the transfer; and

(II) The reasons for such nonrecording.

10. Individual EGU opt-ins. An EGU that is not an affected unit under subsection (1)(A) of this rule that vents all of its emissions to a stack may qualify to become a NO_x opt-in unit under this paragraph of this rule. A NO_x opt-in unit will not be allowed to participate in the NO_x trading program without prior approval.

A. A NO_x opt-in unit shall have a NO_x authorized account representative.

B. Request for initial NO_x opt-in. In order to request to opt-in to the trading program, the NO_x authorized account representative of the unit must submit to the department at any time the following:

(I) The projected NO_x emission rate for each affected unit;

(II) The average of the three (3) most recent years heat input on a monthly basis over the control period for each affected unit; and

(III) A plan detailing the methodology for compliance with subsection (3)(A) of this rule.

C. The department will review the request and respond within ninety (90) days of the date of receipt of the request.

D. Request for opting-in to the NO_x trading program must be received by the department no later than February 1 of the same year as the control period that the NO_x opt-in unit requests to begin participation in the NO_x trading program.

E. After calculating the baseline heat input and the baseline NO_x emissions rate for the unit, the department will notify the NO_x authorized account representative of the unit of the resulting baseline.

F. If at any time before the approval of a NO_x opt-in unit, the department determines that the unit does not qualify as a NO_x opt-in unit under this paragraph, the department will issue a denial of the NO_x opt-in request for the unit.

G. Withdrawal of NO_x opt-in request. A NO_x authorized account representative of a unit may withdraw its request to opt-in at any time prior to the approval for the NO_x opt-in unit. Once the request for a NO_x opt-in unit is withdrawn, a NO_x authorized account representative seeking to reapply must submit a new request for a NO_x opt-in unit under this subsection.

H. Effective date. The effective date of the initial NO_x opt-in shall be May 1 of the first control period starting after the approval of the NO_x opt-in unit by the department. The unit shall be a NO_x opt-in unit and an affected NO_x unit as of the effective date of the approval and be subject to the requirements of this rule.

I. Change in regulatory status. When a NO_x opt-in unit becomes an affected unit, the NO_x authorized account representative shall notify the department in writing of such change in the NO_x opt-in unit's regulatory status within thirty (30) days of such change.

J. Withdrawal from NO_x trading program. A NO_x opt-in unit may withdraw from the NO_x trading program if it meets the following requirements:

(I) To withdraw from the NO_x trading program, the NO_x authorized account representative of a NO_x opt-in unit shall submit to the department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than ninety (90) days prior to the requested effective date of withdrawal.

(II) Before a NO_x opt-in unit may withdraw from the NO_x trading program, the following conditions must be met.

(a) For the control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the department an annual compliance certification report.

(b) If the NO_x opt-in unit has excess emissions for the control period immediately before the withdrawal is to be effective, the department will deduct from the NO_x opt-in unit's compliance account, or the overdraft account of the affected unit where the affected unit is located, the full amount required for the control period.

(III) A NO_x opt-in unit that withdraws from the NO_x trading program shall comply with all requirements under the NO_x trading program concerning all years for which such NO_x opt-in unit was a NO_x opt-in unit, even if such requirements must be complied with after the withdrawal takes effect.

(IV) Notification procedures shall be as follows:

(a) After the requirements for withdrawal under this paragraph have been met, the department will issue a notification to the NO_x authorized account representative of the NO_x opt-in unit of the acceptance of the withdrawal of the NO_x opt-in unit as of a specified effective date that is after such requirements have been met and that is prior to May 1 or after September 30.

(b) If the requirements for withdrawal under this paragraph have not been met, the department will issue a notification to the NO_x authorized account representative of the NO_x opt-in unit that the NO_x opt-in unit's request to withdraw is denied. If the NO_x opt-in unit's request to withdraw is denied, the NO_x opt-in unit shall remain subject to the requirements for a NO_x opt-in unit.

(V) A NO_x opt-in unit shall continue to be a NO_x opt-in unit until the effective date of the withdrawal.

(VI) Once a NO_x opt-in unit withdraws from the NO_x trading program, the NO_x authorized account representative may not submit another application for the NO_x opt-in unit prior to the

date that is four years after the date on which the withdrawal became effective.

11. Output Based Emissions Trading of NO_x. (Reserved)

(4) Reporting and Record Keeping.

(A) Reporting.

1. A compliance certification report for each affected unit shall be submitted to the department by October 31 following each control period. The report shall include:

- A. The owner and operator;
- B. The NO_x authorized account representative;
- C. NO_x unit name, compliance and overdraft account numbers;

D. NO_x emission rate limitation (lb/mmBtu);
E. Actual NO_x emission rate (lb/mmBtu) for the control period;

F. Actual heat input (mmBtu) for the control period. The unit's total heat input for the control period in each year will be determined in accordance 40 CFR part 75 if the NO_x unit was otherwise subject to the requirements of 40 CFR part 75 for the year, or will be based on the best available data reported to the department for the unit if the unit was not otherwise subject to the requirements of 40 CFR part 75 for that year; and

G. Actual NO_x mass emissions (tons) for the control period.

2. Reporting shall be based on the test methods identified in section (5) of this rule. Any unit with valid CEMS data for the control period must use that data to determine compliance with the provisions of this rule. The owner or operator for each affected unit which performs non-CEMS testing to demonstrate compliance of a unit subject to section (3) of this rule shall submit:

A. A control period report identifying monthly fuel usage and monthly total heat input by December 31 of the same year as the control period; and

B. A written report of all stack tests completed after controls are effective to the department within sixty (60) days after completion of sample and data collection.

(B) Record Keeping.

1. Each owner or operator of an affected unit subject to section (3) of this rule shall maintain records of the following:

- A. Total fuel consumed during the control period;
- B. The total heat input for each emissions unit during the control period;

C. Reports of all stack testing conducted to meet the requirements of this rule;

D. All other data collected by a CEMS necessary to convert the monitoring data to the units of the applicable emission limitation;

E. All performance evaluations conducted in the past year;

F. All monitoring device calibration checks;

G. All monitoring system, monitoring device and performance testing measurements;

H. Records of adjustments and maintenance performed on monitoring systems and devices; and

I. A log identifying each period during which the CEMS or alternate procedure was inoperative, except for zero and span checks, and the nature of the repairs and adjustments performed to make the system operative.

2. All records must be kept on-site for a period of five (5) years and made available to the department upon request.

(5) Test Methods. For units subject to section (3) of this rule, an owner or operator of an affected unit shall install, calibrate, maintain and operate a CEMS or use an alternate procedure for measuring or estimating NO_x emissions approved by the department and the U.S. Environmental Protection Agency. For units operating CEMS or an alternate procedure for estimating NO_x emissions, the following requirements shall apply:

(A) Compliance shall be measured during the control period;

(B) All valid data shall be used for calculating NO_x emissions rates;

(C) The procedures under 40 CFR 60.13(d), (e) and (f) and 40 CFR part 60 Appendix B, Performance Specification 2 shall be followed or other procedures approved by the director; for the installation, evaluation and operation of CEMS;

(D) Quarterly accuracy and daily calibration drift tests shall be performed in accordance with 40 CFR part 60 Appendix F, or other tests approved by the director;

(E) CEMS installed, certified and operated in accordance with 40 CFR part 75 are deemed to be approved by the department to meet the monitoring and quality assurance requirements of this subsection; and

(F) If a CEMS is not applicable, an alternate procedure listed in 40 CFR part 75 Appendix E shall be performed every three thousand (3,000) operating hours or every five (5) years whichever is more frequent. Identical units may use procedures identified in 40 CFR part 75.19 for purposes of testing.

AUTHORITY: section 643.050, RSMo Supp. 1999. Original rule filed Feb. 15, 2000.

PUBLIC COST: The proposed rule will cost \$1,245,575 in FY2001. The aggregate cost is estimated to be \$15,735,619 for the life of the rule. Note the attached fiscal note for assumptions that apply.

PRIVATE COST: This proposed rule will cost \$42,276,690 in FY2001. The proposed rule is estimated to cost private entities \$450,299,424 in the aggregate for the life of the rule. Note the attached fiscal note for assumptions that apply.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., April 27, 2000. The public hearing will be held at the Ramada Inn, 1510 Jefferson Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., May 4, 2000. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBERTitle: 10 - Department of Natural ResourcesDivision: 10 - Air Conservation CommissionChapter: 6- Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control
Regulations for the Entire State of MissouriType of Rulemaking: Proposed RuleRule Number and Name: 10 CSR 10-6.350 Emissions Limitations and Emissions Trading of Oxides of Nitrogen**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
City of Columbia	\$ 318,589
City of Springfield	\$ 4,500,383
City of Independence	\$ 773,860
City of Sikeston	\$ 7,217,395
City of Moberly	\$ 75,000
Chillicothe Municipal Utilities	\$ 600,000
City of Mexico	\$ 75,000
MDNR Air Pollution Control Program	\$ 2,175,392
Total	\$15,735,619

III. WORKSHEET

The public entity costs are divided into the following categories:

1. public entities required to implement emissions controls,
2. public entities electing to meet exemption requirements in lieu of controls, and
3. additional staff requirements.

1. Costs for public entities required to implement emissions controls

Table 1
Fiscal Impact on Publicly Owned NO_x Budget Units Affected by Proposed Rule 10 CSR 10-6.350

System	NO _x Emission Reductions	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
City of Columbia	33	\$ 22,144	\$ 22,144	\$ 22,144	\$ 22,144	\$ 22,144	\$ 22,144
City of Springfield	574	\$ 381,853	\$ 381,853	\$ 381,853	\$ 381,853	\$ 381,853	\$ 381,853
City of Independence	106	\$ 70,351	\$ 70,351	\$ 70,351	\$ 70,351	\$ 70,351	\$ 70,351
City of Sikeston	986	\$ 656,127	\$ 656,127	\$ 656,127	\$ 656,127	\$ 656,127	\$ 656,127
Total	1,699	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475
	FY2007	FY2008	FY2009	FY2010	FY2011	Aggregate Cost	
City of Columbia	\$ 22,144	\$ 22,144	\$ 22,144	\$ 22,144	\$ 22,144	\$ 243,589	
City of Springfield	\$ 381,853	\$ 381,853	\$ 381,853	\$ 381,853	\$ 381,853	\$ 4,200,383	
City of Independence	\$ 70,351	\$ 70,351	\$ 70,351	\$ 70,351	\$ 70,351	\$ 773,860	
City of Sikeston	\$ 656,127	\$ 656,127	\$ 656,127	\$ 656,127	\$ 656,127	\$ 7,217,395	
Total	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$12,435,227	

2. Costs for public entities electing to meet exemption requirements in lieu of controls

Table 2
Units Expected to Comply with 25 Ton Per Control Period Exemption

System	Plant	Generating Capacity	2003 NO _x Emissions
City of Mexico	MEXICO	60.7	22.36
City of Columbia	COLUMBIA	35	1.36
City of Springfield	JAMES RIVER	70	22.69
City of Springfield	JAMES RIVER	70	23.54
City of Springfield	SOUTHWEST	44	5.21
City of Springfield	SOUTHWEST	44	5.28
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	5.30
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	0.05
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	5.30
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	0.05
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	0.09
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	0.03
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	2.05
City of Chillicothe	CHILLICOTHE MUNICIPAL UTILITIES	46.5	0.04
City of Moberly	MOBERLY	60.6	24.46
		Total	117.80

Annual cost per unit to comply with twenty-five (25) ton per control period exemption is \$7,500 per year. Total number of units expected to comply with twenty-five (25) ton per control period exemption is fifteen (15). Fifteen (15) units at \$7,500 per unit per year = \$112,500 per year for all units. Compliance will occur annually beginning in FY 2002

3. Additional staff

Missouri Department of Natural Resources
Air Pollution Control Program (APCP)

3.0 FTE

One FTE is expected to be classified as Environmental Engineer I/II (EEI/II).

One FTE will be classified as Environmental Engineer III (EEIII).

One FTE will be classified as a Planner I/II.

The Planner I/II will be employed in the Administration Section of the APCP and the duties will begin in FY2001.

The EE III will be employed in the Permitting Section of the APCP. APCP Permitting Section duties will begin in FY2001.

One EEI/II will be employed in the Enforcement Section of the APCP. Enforcement Section duties will begin in FY2002.

Table 3
MDNR Staff Costs

	FY2001			FY2002			FY2003		
	Planner I/II	EE I/II	EE III	Planner I/II	EE I/II	EE III	Planner I/II	EE I/II	EE III
Salary	\$34,992	\$0	\$57,034	\$36,392	\$47,737	\$59,315	\$37,847	\$49,647	\$61,688
Equipment (PC)	\$ 4,944	\$0	\$ 4,944	\$ 4,944	\$ 4,944	\$ 4,944	\$ 4,944	\$ 4,944	\$ 4,944
Travel & Expense	n/a	\$0	\$ 2,400	n/a	\$ 2,400	\$ 2,400	n/a	\$ 2,400	\$ 2,400
Office Expense	\$ 1,070	\$0	\$ 1,070	\$ 1,070	\$ 1,070	\$ 1,070	\$ 1,070	\$ 1,070	\$ 1,070
Communication Expense	\$ 900	\$0	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900	\$ 900
Inst. & Psych. Plant Expense	\$ 2,440	\$0	\$ 2,440	\$ 2,440	\$ 2,440	\$ 2,440	\$ 2,440	\$ 2,440	\$ 2,440
Inst. & Psych. Plant Equipment	\$ 170	\$0	\$ 170	\$ 170	\$ 170	\$ 170	\$ 170	\$ 170	\$ 170
Data Processing Expense	\$ 173	\$0	\$ 173	\$ 173	\$ 173	\$ 173	\$ 173	\$ 173	\$ 173
Professional Services	n/a	\$0	\$ 256	n/a	\$ 256	\$ 256	n/a	\$ 256	\$ 256
Other Expense	\$ 512	\$0	\$ 512	\$ 512	\$ 512	\$ 512	\$ 512	\$ 512	\$ 512
Total	\$45,201	\$0	\$69,899	\$46,601	\$60,602	\$72,180	\$48,056	\$62,512	\$74,553

	FY2001		FY2002		FY2003*	
	# of FTEs	Cost	# of FTEs	Cost	# of FTEs	Cost
Planner I/II	1	\$ 45,201	1	\$ 46,601	1	\$ 48,056
EE I/II	0	\$0	1	\$60,602	1	\$62,512
EE III	1	\$ 69,899	1	\$ 72,180	1	\$ 74,553
Total	2	\$115,110	3	\$179,383	3	\$185,121

* These positions will exist for the life of the rule and the salaries are expected to increase four percent (4%) annually.

Table 4
Aggregate Cost

	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
MDNR Costs	\$ 115,100	\$ 179,383	\$ 185,121	\$ 191,088	\$ 197,055	\$ 203,023
Costs from Table 1	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$ 1,130,475	\$ 1,130,475
Costs from Table 2	\$ 0	\$ 112,500	\$ 112,500	\$ 112,500	\$ 112,500	\$ 112,500
Total	\$1,245,575	\$1,422,358	\$1,428,096	\$1,434,063	\$ 1,440,030	\$ 1,445,998
	FY2007	FY2008	FY2009	FY2010	FY2011	Aggregate
MDNR Costs	\$ 208,990	\$ 214,957	\$ 220,924	\$ 226,892	\$ 232,859	\$ 2,175,392
Costs from Table 1	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$1,130,475	\$12,435,225
Costs from Table 2	\$ 112,500	\$ 112,500	\$ 112,500	\$ 112,500	\$ 112,500	\$ 1,125,000
Total	\$1,451,965	\$1,457,932	\$1,463,899	\$1,469,867	\$1,475,834	\$15,735,619

IV. ASSUMPTIONS

1. The rule lifetime is assumed to be ten (10) years.
2. The date on which affected electric generating unit (EGU) must be in compliance with this regulation is May 1, 2003.
3. NO_x reductions are only required during the control period, which is May 1 through September 30.
4. Potential controls on which costs are based for EGUs include selective catalytic reduction.
5. Salaries are assumed to increase four percent (4%) annually.
6. For Table 1, assuming a ten (10) year depreciation rate and a fifteen percent (15%) interest rate. Monitoring, record keeping and reporting costs are assumed to be twenty percent (20%) of the capital cost. Capital costs are assumed to be equal to \$1,667 per ton of NO_x reduced.
7. All cost savings from Early Reduction Credits are included in the private entity fiscal note.
8. Estimated cost of compliance in the aggregate includes salary costs for the fiscal years of 2001-2011.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

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

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 10-6.350 Emissions Limitations and Emissions Trading of Oxides of Nitrogen

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the Proposed Rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
6	Electricity Generating Facilities	\$450,299,424

III. WORKSHEET

Table 1: Fiscal Impact NO_x Budget Units Affected by Proposed Rule 10 CSR 10-6.350

	Total emission reductions	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
AECI	18,005	\$11,983,341	\$11,983,341	\$11,983,341	\$11,983,341	\$11,983,341	\$11,983,341
Ameren U.E.	8,475	\$22,000,000	\$22,000,000	\$22,000,000	\$22,000,000	\$22,000,000	\$22,000,000
Empire Energy Center	1,757	\$ 4,007,878	\$ 4,007,878	\$ 4,007,878	\$ 4,007,878	\$ 4,007,878	\$ 4,007,878
KCP&L	-219	\$ -145,962	\$ -145,962	\$ -145,962	\$ -145,962	\$ -145,962	\$ -145,962
St. Joseph Light & Power	945	\$ 628,924	\$ 628,924	\$ 628,924	\$ 628,924	\$ 628,924	\$ 628,924
UtiliCorp United	5,443	\$ 3,622,510	\$ 3,622,510	\$ 3,622,510	\$ 3,622,510	\$ 3,622,510	\$ 3,622,510
Total	34,405	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690
		FY2007	FY2008	FY2009	FY2010	FY2011	Total Cost
AECI		\$11,983,341	\$11,983,341	\$11,983,341	\$11,983,341	\$11,983,341	\$131,816,749
Ameren U.E.		\$22,000,000	\$22,000,000	\$22,000,000	\$22,000,000	\$22,000,001	\$242,000,001
Empire Energy Center		\$4,007,878	\$ 4,007,878	\$ 4,007,878	\$ 4,007,878	\$ 4,007,878	\$ 44,086,658

KCP&L		\$ -145,962	\$ -145,962	\$ -145,962	\$ -145,962	\$ -145,962	\$ -1,605,587
St. Joseph Light & Power		\$ 628,924	\$ 628,924	\$ 628,924	\$ 628,924	\$ 628,924	\$ 6,918,163
UtiliCorp United		\$ 3,622,510	\$ 3,622,510	\$ 3,622,510	\$ 3,622,510	\$ 3,622,510	\$ 39,847,605
Total		\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,691	\$463,063,589

Table 2: Units Expected to Comply with 25 Ton Per Control Period Exemption

Company	Facility	Boiler Capacity	Estimated 2003 NO _x Emissions
St. Joseph Light & Power	LAKE ROAD	25	0.52
St. Joseph Light & Power	LAKE ROAD	25	10.87
St. Joseph Light & Power	LAKE ROAD	25	8.60
St. Joseph Light & Power	LAKE ROAD	25	2.51
Ameren U.E.	AMEREN - VIADUCT	30.6	10.37
Empire Energy District	MOREAU	60.9	23.36
Empire Energy District	FAIRGROUNDS	68.3	16.91
KCP&L	NORTHEAST STATION	50	9.84
KCP&L	NORTHEAST STATION	64	8.33
KCP&L	NORTHEAST STATION	50	14.79
KCP&L	NORTHEAST STATION	64	8.03
KCP&L	NORTHEAST STATION	64	15.59
KCP&L	NORTHEAST STATION	64	15.39
KCP&L	NORTHEAST STATION	64	16.15
KCP&L	NORTHEAST STATION	64	14.62
Utilicorp United	GREENWOOD ENERGY CTR	84	6.91
Utilicorp United	GREENWOOD ENERGY CTR	84	10.04
Utilicorp United	GREENWOOD ENERGY CTR	84	13.59
Utilicorp United	GREENWOOD ENERGY CTR	84	15.60
Utilicorp United	KCI ENERGY CNTR. MO PUBLIC SERVICE	260	6.12
Utilicorp United	KCI ENERGY CNTR. MO PUBLIC SERVICE	310	8.14
Ameren U.E.	MERAMEC	68.3	23.37
Ameren U.E.	HOWARD BEND COMBUSTION TURBINE	47.4	14.30
	Total		273.96

Annual cost per unit to comply with twenty-five (25) ton per control period exemption = \$7,500 per year

Total number of units expected to comply with twenty-five (25) ton per control period exemption = 21

Compliance will occur annually beginning in FY2002

24 units * \$7,500/unit = \$180,000 per year

Table 3: Cost Savings Due to Early Reduction Credits

FY2003	FY2004	FY2005
\$2,939,249	\$7,372,082	\$4,432,833

Table 4: Total Aggregate Costs

	FY2001	FY2002	FY2003	FY2004	FY2005
Capital, Recordkeeping, and Monitoring Costs	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690
ERC Savings	\$ 0	\$ 0	\$ -2,939,249	\$ -7,372,082	\$ -4,432,833
Cost of Compliance with 25 Ton Exemption	\$ 0,000	\$ 180,000	\$ 80,000	\$ 180,000	\$ 180,000
Annualized Aggregate	\$42,276,690	\$42,276,690	\$39,337,441	\$34,904,608	\$37,843,857
	FY2006	FY2007	FY2008	FY2009	FY2010
Capital, Recordkeeping, and Monitoring Costs	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690	\$42,096,690
ERC Savings	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Cost of Compliance with 25 Ton Exemption	\$ 180,000	\$ 80,000	\$ 180,000	\$ 180,000	\$ 180,000
Annualized Aggregate	\$42,276,690	\$42,276,690	\$42,276,690	\$42,276,690	\$42,276,690
	FY2011	Aggregate			
Capital, Recordkeeping, and Monitoring Costs	\$42,096,690	\$463,063,590			
ERC Savings	\$ 0	\$ -14,744,164			
Cost of Compliance with 25 Ton Exemption	\$ 180,000	\$ 1,980,000			
Annualized Aggregate	\$42,276,690	\$450,299,426			

IV. ASSUMPTIONS

1. The rule lifetime is assumed to be ten (10) years.
2. Cost estimates are based on a capital cost assumption of \$1,667 per ton of NO_x reduction, monitoring and recordkeeping of twenty percent (20%) of the capital cost, and fifteen percent (15%) interest rate. The annualized costs are a compounded interest rate of depreciation. Cost figures used in this rule are consistent with those used in the development of the EPA's NO_x SIP call. The department believes that these cost figures adequately represent the installation of controls listed in assumption 9.
3. Cost estimates for Ameren U.E. and Empire Energy Center were supplied by the companies.
4. Ameren U.E. costs reflect control that have already been installed in order to comply with this rule. The department has not included similar controls at other installations due to the lack of data.
5. The department projects that 5,078 tons per year of early reduction NO_x credits will be generated in the years 2000, 2001, and 2002. This was project to account for seventeen and one-half (17.5) percent of the year 2003 and 2004 emission. The department has reduced the compliance costs for control periods 2003 and 2004 by seventeen and one-half (17.5) percent in order to account for the additional trading allowances.
6. The date on which affected EGU must be in compliance with this regulation is May 1, 2003.
7. NO_x reductions are only required during the control period which is May 1 through September 30.
8. The NO_x emissions numbers used in this fiscal note for EGUs are not intended to be the actual allowances for each affected unit. The NO_x emissions numbers are for cost calculations only and are based on the NO_x emissions inventory used in the St. Louis Ozone Nonattainment Area Attainment Demonstration. The actual NO_x allowance allocations will be identified by the department as required by this rule.

9. Potential controls on which costs are based for EGUs include selective catalytic reduction, selective non-catalytic reduction, natural gas reburn and combustion controls.
10. Costs that appear as negatives in Table 1 reflect facilities that have already made changes that resulted in significant emission reductions. The cost related to these changes have not been reported to the department and are not reflected in this fiscal note.