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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

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

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

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

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

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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 1—OFFICE OF ADMINISTRATION Division 10—Commissioner of Administration Chapter 15—Cafeteria Plan

PROPOSED AMENDMENT

1 CSR 10-15.010 Cafeteria Plan. The Office of Administration is amending the rule on the cafeteria plan by amending section (1), Appendix A, section 2.01, section 3.01, section 3.02, section 3.04, section 3.06, section 3.07, section 4.01, section 6.01, section 8.01 and by adding a new section 3.08; and changing Appendix B, section 4.01; Appendix C, section 3.02, section 3.03, section 4.05, section 6.03, section 7.02 and by adding section 6.04 and section 6.05.

PURPOSE: This rule is being amended for the following reasons: (1) to comply with new federal rules regarding changes in family-status and employment-status for health and life insurance benefits, (2) to provide for changes in the cost of health plan coverage (3) to provide for changes in the election of Dependent Care, (4) to amend the eligibility of a returning employee after separation of service and (5) to delete all references to group-term life insurance benefits and their eligibility under the provisions of the Cafeteria Plan.

(1) The cafeteria plan for state employees, authorized by section 33.103, RSMo shall contain the following items:

(D) A provision authorizing the payment through the cafeteria plan of a participating employee's share of the cost or premium for coverage under any plan or program *[of group term life insurance covering the employee's life, which plan or program is available to the employee by reason of his/her status as an employee;*

(E) A provision authorizing the payment through the cafeteria plan of a participating employee's share of the cost or premium for coverage under any plan or program *[which provides dental benefits or dental insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of his/her status as an employee;*

[(F)](E) A provision authorizing the payment through the cafeteria plan of a participating employee's share of the cost or premium for coverage under any plan or program which provides vision care benefits or vision care insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of his/her status as an employee; and

[(G)](F) A provision authorizing a participating employee to reduce his/her future compensation for purposes of participation in the cafeteria plan.

AUTHORITY: section 33.103, RSMo [Supp. 1999] 2000. Original rule filed March 15, 1988, effective June 1, 1988. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 11, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Feb. 15, 2001.

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 Division of Accounting, Jack Dothage, Assistant Director, Truman State Office Building, 5th Floor, Jefferson City, MO 65101, (573) 751-3289. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

APPENDIX A MISSOURI STATE EMPLOYEES' CAFETERIA PLAN

The State of Missouri through the Office of Administration hereby amends and restates the Missouri State Employees' Cafeteria Plan (hereinafter called the MSECP) effective January 1, *[2000] 2001. [The MSECP shall be in the form of a trust established by the State of Missouri for public employees of the state who participate in the MSECP.]* The provisions of the MSECP, as set forth in this document and the attendant documents

for the Missouri State Employees' Dependent Care Assistance Plan (Appendix B, hereinafter called the MSED CAP) and the Missouri State Employees' Flexible Medical Benefits Plan (Appendix C, hereinafter called the MSEFMBP), shall be applicable to each employee of the State of Missouri who elects to participate in the MSEC beginning with Plan Year [2000] 2001.

ARTICLE TWO STATEMENT OF PURPOSE

2.01 This Plan is intended to qualify as a "cafeteria plan" under Section 125 of the *Internal Revenue Code* of 1986, as amended, and is to be interpreted in a manner consistent with the requirements of Section 125. The purpose of the MSEC is to provide to participants the tax savings opportunities permissible under Section 125 of the *Internal Revenue Code*.

ARTICLE THREE ELIGIBILITY AND PARTICIPATION

3.01 The MSEC does not apply to any individual who terminated employment with the employer prior to the effective date of this amended and restated MSEC (January 1, [2000] 2001) unless such individual becomes reemployed by the employer on or after such effective date.

3.02 Any employee who is on the payroll of the employer as of the effective date is eligible to become a participant at the beginning of each Plan Year. Any eligible employee, except any employee subject to the provisions of the MSEC, section 3.03, who chooses not to become a participant at the beginning of each Plan Year will not again become eligible for participation in the MSEC until the beginning of the next Plan Year, [unless the employee experiences a change in family status] except as provided under the MSEC, section 3.07, [whereby the employee may enroll within sixty (60) days of the occurrence of the allowable change in family status].

3.04 Subject to the provisions of the MSEC, section 3.05, an eligible employee shall become a participant for any Plan Year by specifying on the appropriate election form or in an alternate prescribed manner, agreement to and authorization for the reduction of the participant's compensation by a permissible amount for credit to the participant's account as maintained by the Plan Administrator. For purposes of the first sentence of this paragraph, the term "permissible amount" (unless and until subsequently changed by appropriate action of the Office of Administration and notice of such change is provided to all participants) means an amount(s) determined by the participant which is (are):

(a) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Medical Insurance benefit described in the MSEC, section 4.01(a);

(b) not more than five thousand dollars (\$5,000) in the case of the Flexible Medical Benefits benefit described in the MSEC, section 4.01(b);

(c) not more than five thousand dollars (\$5,000) in the case of the Dependent Care Assistance benefit described in the MSEC, section 4.01(c);

(d) not more than the expected total cost or premium during the Plan Year [for coverage not to exceed applicable *Internal Revenue Service* limits in the case of the State-Sponsored Group Term Life Insurance benefit described in the MSEC, section 4.01(d);

(e) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Dental Insurance benefit described in the MSEC, section 4.01(e); (d); (f); (e) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Vision Care

Insurance benefit described in the MSEC, section 4.01(e); (f); and

(g) not more than the total of maximum amounts set forth previously in the case of the benefit described in the MSEC, section 4.01(g).] In the event of any change in the permissible amount, the resulting new permissible amount must be nondiscriminatory (as defined in Section 125 of the *Internal Revenue Code*) in its application to participants. In the case of the insurance benefits described in the MSEC, sections 4.01(a), 4.01(d), and 4.01(e) [and 4.01(f)], the permissible amount elected by the employee must be consistent with or will automatically be changed to reflect the actual rate in effect at the start of the coverage period.

3.06 [Beginning with Plan Year 1999, a] Any employee duly enrolled and participating in one or more of the insurance benefits described in the MSEC, sections 4.01(a), 4.01(d), or 4.01(e) [or 4.01(f)], shall be considered to have re-enrolled and to have submitted the required authorization to continue participation in the same benefit(s) for the subsequent Plan Year at an amount equal to the total expected annual cost or premium based on the rate in effect as of January 1 of that subsequent Plan Year. A participant who does not wish to continue an insurance benefit under the Cafeteria Plan for a subsequent Plan Year must so specify on the appropriate election form or in an alternate prescribed manner prior to the start of the subsequent Plan Year.

3.07 Permitted Election Changes.

(a) Following the commencement of any Plan Year for which an employee elects to participate in the MSEC, the authorization filed with the Plan Administrator for such Plan Year may neither be changed nor revoked except as provided in this section. An employee may revoke an election during a period of coverage and make a new election for the remainder of the relevant coverage period only as provided in paragraphs (b) through (i) of this section.

(b) Special enrollment rights. An employee may revoke an election for a benefit described under Article Four, section 4.01(a), [4.01(b),] 4.01(d), or 4.01(e), or 4.01(f) and make a new election that corresponds with the special enrollment rights provided in *Internal Revenue Code* Section 9801(f) (HIPPA), whether or not the change in election is permitted under paragraph (c) of this section.

(c) Changes in status [for benefits described under sections 4.01(a), 4.01(b), 4.01(d), 4.01(e), and 4.01(f)].

1. An employee may revoke an election [for a benefit described under Article Four, section 4.01(a), 4.01(d), 4.01(e), or 4.01(f)] and make a new election for the remaining portion of the period if, under the facts and circumstances—

(i) [Following the commencement of any Plan Year a] A change in status occurs; and

(ii) The election change satisfies the consistency requirement in paragraph (c)(3) of this section [(consistency rule for accident or health coverage), (c)(4) of this section (consistency rule for Flexible Medical Benefits) or (c)(5) of this section (consistency rule for group-term life insurance coverage)].

2. Change in status events. The following events are changes in status for purposes of this paragraph (c)—

(i) Legal marital status. Events that change an employee's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment;

(ii) Number of dependents. Events that change an employee's number of dependents (as defined in *Internal Revenue Code* Section 152), including birth, adoption, placement for adoption (as defined in regulations under *Internal Revenue Code* Section 9801), or death of a dependent, or in the case of Dependent Care, a

change in the number of qualifying individuals as defined in Internal Revenue Code Section 21(b)(1);

(iii) Employment status. *[A termination or commencement of employment by the employee, spouse, or dependent;*

(iv) Work schedule. A reduction or increase in hours of employment by the employee, spouse, or dependent, including a switch between part-time and full-time, a strike or lockout, or commencement or return from an unpaid leave of absence;] **Any of the following events that change the employment status of the employee, spouse, or dependent is considered a change in status. A termination, commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence of more than thirty (30) days, change in worksite, or any other employment status change that affects eligibility under this plan or employee benefit plan of the employer of the spouse or dependent;**

[(v)](iv) Dependent satisfies or ceases to satisfy the requirements for unmarried dependents. An event that causes an employee's dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstances as provided in the accident or health plan under which the employee receives coverage; and

[(vi)](v) Residence *[or worksite]*. A change in the place of residence *[or work]* of the employee, spouse, or dependent.

3. Consistency rule *[for accident or health coverage]*—
(i) General rule.

[(A)] An employee's revocation of a Cafeteria Plan election during a period of coverage and new election for the remaining portion of the period (referred to as an "election change") is consistent with a change in status if, and only if—

[(1)](A) The change in status results in the employee, spouse, or dependent gaining or losing eligibility for *[accident or health]* coverage under either the Cafeteria Plan or *[an accident or health]* a plan of the spouse's or dependent's employer; and

[(2)](B) The election change corresponds with that gain or loss of coverage.

(ii) **If the change in status is the employee's divorce, annulment or legal separation from a spouse, the death of a spouse or dependent, or a dependent ceasing to satisfy the eligibility requirements for coverage, an employee's election under the cafeteria plan to cancel accident or health insurance coverage for any individual other than the spouse involved in the divorce, annulment or legal separation, the deceased spouse or dependent, or the dependent that ceased to satisfy the eligibility requirements for coverage, respectively, fails to correspond with that change in status. Thus, if a dependent dies or ceases to satisfy the eligibility requirements for coverage, the employee's election to cancel accident or health coverage for any other dependent, for the employee, or for the employee's spouse fails to correspond with that change in status.**

In addition, if an employee, spouse, or dependent gains eligibility for coverage under a plan provided by the employer of the spouse or dependent as a result of a change in marital status or a change in employment status, the employee may cease or decrease coverage for that individual only if coverage for that individual becomes applicable or is increased under that employer's plan.

[(B)](iii) A change in status results in an employee, spouse, or dependent gaining (or losing) eligibility for coverage under a plan only if the individual becomes eligible (or ineligible) to participate in the plan. An individual is considered to gain or lose eligibility for coverage if the individual becomes eligible (or ineligible) for a particular benefit package option under a plan (e.g., a change in status results in an individual becoming eligible for a managed care option or an indemnity option). If, as a result of a change in status, the individual gains eligibility for elective

coverage under a plan of the spouse's or dependent's employer, the consistency rule of this paragraph (c)(3)(i) is satisfied only if the individual elects the coverage under the spouse's or dependent's employer.

[(iii)](iv) Exception for COBRA. Notwithstanding paragraph (c)(3)(i) of this section, if the employee, spouse, or dependent becomes eligible for continuation coverage under *[the employer's group health plan as provided in section 4980B]* **any of the employer's health plans described in sections 4.01(a), 4.01(d), or 4.01(e) as provided under COBRA** or any similar state law, the employee may elect to increase payments under the Cafeteria Plan in order to pay for the continuation coverage.

[4. Consistency rule for flexible medical benefits.] (v) Except as provided in this paragraph the provisions of paragraph (c) apply to an election change under a benefit described under Article 4.01(b). A participant may reduce an election for a benefit described under 4.01(b) **due to a change in status** if and only if the employee's legal marital status changes due to death, divorce, annulment, or legal separation, or there is a reduction in the number of dependents of the employee (as defined in section 152 of the Internal Revenue Code) due to death *[, or the commencement of a leave under the Family and Medical Leave Act]*.

5. *Consistency rule for group-term life insurance coverage.* Except as provided in this paragraph (c)(5), the provisions of paragraph (c)(3)(i) of this section apply to group-term life insurance coverage. *In the case of marriage, birth, adoption, or placement for adoption, an employee may make an election change to increase (but not to reduce) the amount of the employee's life insurance coverage. In the case of divorce, legal separation, annulment, or death of a spouse or dependent, an employee may make an election change to reduce (but not to increase) the amount of the employee's life insurance coverage.]*

(d) Judgment, decree, or order ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in section 609 of the Employee Retirement Income Security Act of 1974) that requires accident or health coverage for an employee's child. Notwithstanding the provisions of paragraph (c) of this section, an employee may—

1. Make an election change to a benefit described under sections 4.01(a), 4.01(b), **4.01(d), or 4.01(e)** *[, or 4.01(f)]* to provide coverage for the child if the order requires coverage under the employee's plan; or

2. Make an election change to a benefit described under sections 4.01(a), **4.01(b), 4.01(d), or 4.01(e)** *[, or 4.01(f)]* to cancel coverage for the child if the order requires the former spouse to provide coverage.

(e) Entitlement to Medicare or Medicaid. If an employee, spouse, or dependent becomes entitled to coverage (i.e., enrolled) under Part A or Part B of Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928 of the Social Security Act (the program for distribution of pediatric vaccines), an employee may make an election change to a benefit described under sections 4.01(a), **4.01(d), or 4.01(e)** *[, or 4.01(f)]* to cancel coverage of that employee, spouse, or dependent under the accident or health plan. **In addition, if an employee, spouse, or dependent who has been entitled to such coverage under Medicare or Medicaid loses eligibility for such coverage, an employee may make an election change to commence or increase coverage under a benefit described under sections 4.01(a), 4.01(d), or 4.01(e).**

[(f) Election Changes for Dependent Care. An employee may revoke an election for a benefit described under Article Four, section 4.01(c) and make a new election for

the remaining portion of the period if, under the facts and circumstances a change in status occurs; and the revocation and new election are consistent with and on account of the change in status. Examples of changes in status are:

1. *Legal marital status.* Events that change an employee's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment;

2. *Number of dependents.* Events that change an employee's number of dependents (as defined in section 152), including birth, adoption, placement for adoption (as defined in regulations under section 9801), or death of a dependent; or

3. *Employment status.* A termination or commencement of employment by the employee or spouse or the commencement of or a return from an unpaid leave of absence.]

(f) **Coverage or cost changes.** Changes allowed under this section are not applicable to Flexible Medical Benefits as described in section 4.01(b). Therefore, no changes to an election for Flexible Medical Benefits is allowed due to events described in this section (f).

1. **Cost changes.** A participant's election for a benefit described under Article 4.01(a), 4.01(d), or 4.01(e) will automatically be changed to reflect a change in the cost of coverage. Alternatively, if the premium amount significantly increases a participant may revoke an election and, in lieu thereof, to receive on a prospective basis, coverage under another health plan with similar coverage.

2. **Coverage changes.** If the coverage under a plan is significantly curtailed or ceases during a period of coverage, affected employees may revoke their election under the plan and may make a new election on a prospective basis for coverage under another benefit package option providing similar coverage. Coverage under an accident or health plan is significantly curtailed only if there is an overall reduction in coverage provided to participants under the plan so as to constitute reduced coverage to participants generally. For example, the loss of a participant's primary care physician would not be a significant curtailment because it does not affect participants in general.

Addition (or elimination) of benefit package option providing similar coverage. If during a period of coverage the plan adds a new benefit package option or other coverage option (or eliminates an existing benefit package option or other coverage option) affected employees may elect the newly-added option (or elect another option if an option has been eliminated) prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage.

3. **Change in coverage of spouse or dependent under other employer's plan.** An employee may make a prospective election change to a benefit described under sections 4.01(a), 4.01(d), and 4.01(e) that is on account of and corresponds with an election made under the plan of the spouse's, former spouse's or dependent's employer if the period of coverage under the cafeteria plan or qualified benefits plan of the spouse's, former spouse's, or dependent's employer only allows elections for periods of coverage different than the Plan Year for the MSECP.

[(g) *Significant coverage or cost changes.*

1. *Employer's plan.* A participant's election for a benefit described under Article 4.01(a), 4.01(e), or 4.01(f) will automatically be changed to reflect a change in the cost of coverage attributable to an independent third party provider. Alternatively, if the premium amount significantly increases or coverage is significantly curtailed a participant may revoke an election and, in lieu thereof, to receive on

a prospective basis, coverage under another health plan with similar coverage.

2. A participant may revoke an existing election for a benefit described in section 4.01(a), 4.01(e), or 4.01(f) and make a new election due to a significant change in the health coverage of the participant or the participant's spouse attributable to the spouse's employment. A participant may increase an existing election for a benefit described in section 4.01(b) due to a significant change in the health coverage of the participant or the participant's spouse attributable to the spouse's employment. Any change must be consistent with and on account of the change in health coverage attributable to the spouse's employment.]

[(h)](g) Special requirements concerning the Family and Medical Leave Act.

An employee taking FMLA leave may revoke an existing election [of a benefit described under 4.01(a), 4.01(b), 4.01(e), or 4.01(f)] for the remaining portion of the coverage period. Upon returning from FMLA leave, an employee may choose to be reinstated in any benefit described under this plan if such coverage was terminated during the FMLA leave (either by revocation or nonpayment of premiums). Such reinstatement will be on the same terms as prior to taking FMLA leave. However, the employee has no greater right to benefits for the remainder of the Plan Year than an employee who has been continuously working during the Plan Year. In addition to the rights granted under FMLA, such an employee has the right to revoke or change elections [(e.g., because of changes in status or significant cost or coverage changes imposed by a third-party provider)] under the same terms and conditions as are available to employees participating in the Cafeteria Plan who are not on FMLA leave.

If an employee's coverage under a benefit described in section 4.01(b) or 4.01(c) terminates while the employee is on FMLA leave, the employee is not entitled to receive reimbursements for claims incurred during the period when the coverage is terminated. If that employee subsequently elects to be reinstated in a benefit previously terminated upon return from FMLA leave for the remainder of the Plan Year, the employee may not retroactively elect coverage for claims incurred during the period when the coverage was terminated. Further, the employee is not entitled to greater benefits relative to premiums paid than an employee who has been continuously working during the Plan Year. Therefore, if an employee elects to be reinstated in a benefit described above upon return from FMLA leave, the employee's coverage for the remainder of the Plan Year is equal to the employee's election for the 12-month period of coverage (or such shorter period as provided under section 3.03 or this section 3.07), prorated for the period during the FMLA leave for which no premiums were paid, and reduced by prior reimbursements.

[An employee on FMLA leave has the right to revoke or change elections (e.g., because of changes in family status) under the same terms and conditions that apply to employees participating in the Cafeteria Plan who are not on FMLA leave.]

[(i)] (h) Effective date of election changes.

Any increase in the election amount designated by a participant made due to a change in status may include only those expenses which the participant expects to incur at a time during the period of coverage subsequent to the effective date of the increase. Any increase or decrease to an election amount for a program described in the Plan document under Article Four, section 4.01(b) or 4.01(c) shall be effective with the first day of the month coincident with or next following the Plan Administrator's receipt and approval of written notification of the new election. Any increase or decrease to an election amount for a program described in the Plan document under Article Four, section 4.01(a), 4.01(d), or 4.01(e)/, or 4.01(f)] shall be effective with the first required premium payment

after the event. *[Any provider initiated increase in the premium for a program described in the Plan document under Article Four, section 4.01(d) may be added to the participant's election amount only during the first month that the premium increase becomes effective and only to the extent as allowed under applicable Internal Revenue Service regulations.]*

3.08 If participation terminates due to a separation of service and the individual returns to eligible employment within thirty (30) days in the same Plan Year, then the participant's election will be reinstated as it was immediately prior to the separation of service. If participation terminates due to a separation of service and the individual returns to eligible employment after thirty (30) days in the same Plan Year, then the participant may make a new election for the remainder of the Plan Year. If salary reduction contributions were not made during the separation of service, the participant will not be able to be reimbursed for expenses incurred under benefits described under sections 4.01(b) and 4.01(c) during the separation.

**ARTICLE FOUR
AVAILABLE SELECTION OF BENEFITS**

4.01 In general, employees may choose to participate in any one or more of the following benefit categories offered under the MSECP:

(a) State-Sponsored Medical Insurance—This benefit category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides medical benefits or health insurance to or on behalf of any employee or spouse or dependent in the event of illness or personal injury to the employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid and is not duplicative of any other plan provided by the MCHCP. This article shall expressly include any Health Maintenance Organization (HMO) to which the employer makes a contribution on behalf of a participant;

(b) Flexible Medical Benefits—This benefit category provides for payment to the participant of the cost of medical care for the participant or spouse or dependents of the participant. Such expenses must be incurred pursuant to the terms of the separate but related MSEFMBP (Appendix C), established in conjunction with the MSECP;

(c) Dependent Care Assistance—This benefit category provides for payment to the participant of employment-related expenses for the care of the spouse or dependents of the participant. Such expenses must be incurred pursuant to the terms of the separate but related MSED CAP (Appendix B) established concurrently with the MSECP;

[(d) State-Sponsored Group Term Life Insurance—This benefit category provides for the direct payment to the insurance provider for the participant's share of the cost or premium for coverage under any plan or program which provides group term life insurance covering the participant's life, which plan or program is available to the employee by reason of status as an employee;]

[(e)] (d) State-Sponsored Dental Insurance—This benefit category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides dental benefits or dental insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of

this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid and is not duplicative of any other plan provided by the MCHCP;

[(f)](e) State-Sponsored Vision Care Insurance—This benefit category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides vision care benefits or vision care insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid and is not duplicative of any other plan provided by the MCHCP; and
[(g)](f) Cash.

**ARTICLE SIX
CONTRIBUTIONS TO PARTICIPANT ACCOUNTS**

6.01 Except as provided in the MSEFMBP, section *[3.02, 4.04,]* 6.03 or Article VII, contributions to the account of each participant shall be made only by the employer and shall be made as follows: On the participant's regular pay date during each Plan Year, the employer shall cause to be contributed for credit to the account of said participant an amount equal to the sum of the permissible amounts elected by the participant for all benefits selected for the Plan Year divided by the number of the participant's regular pay dates in the Plan Year subsequent to the participant's effective date of participation.

**ARTICLE EIGHT
MISCELLANEOUS**

8.01 No participant shall have any right to or interest in any assets of the MSECP upon termination or otherwise except as provided under the MSECP, and then only to the extent of the benefits payable under the MSECP to such participant. All payments of benefits provided under the MSECP shall be made solely out of the assets of the *[MSECP]* employer.

**APPENDIX B
MISSOURI STATE EMPLOYEES' DEPENDENT CARE
ASSISTANCE PLAN**

**ARTICLE FOUR
LIMITATIONS AND RESTRICTIONS ON PAYMENTS
FROM THE PLAN**

4.01 No direct payment to a participant or reimbursement to a participant for Dependent Care Assistance may be made from the MSED CAP unless the total assistance amount, including all other amounts paid to the participant for Dependent Care Assistance during the same Plan Year, does not exceed the lesser of: (a) five thousand dollars (\$5000) (twenty-five hundred dollars (\$2500) in the case of a married individual filing a separate return), or (b) the wages, salaries and other employee compensation of the participant if unmarried or if the participant is married does not exceed the lesser of such employee compensation of the participant or that of the participant's spouse. For purposes of this paragraph, employee compensation shall not include the total of the permissible amounts selected under the related MSECP. For each month during which a spouse is a full-time student or incapable of independent self-care, said spouse shall be deemed to be gainfully employed and to have employee compensation of two hundred dollars (\$200) if there is only one (1) child or dependent and four hundred dollars (\$400) if there are two (2) or more children or dependents. A spouse is a student only if during each of five (5) calendar months

during the Plan year said spouse is a full-time student at an education organization described in *Internal Revenue Code* Section 170(b)(1)(A)(ii).

APPENDIX C
MISSOURI STATE EMPLOYEES' FLEXIBLE MEDICAL
BENEFITS PLAN

ARTICLE THREE
ELIGIBILITY

3.02 Participants who elect to participate in this MSEFMBP shall elect to participate for the full Plan Year. Participants may arrange to have contributions made to the Plan as specified in the MSECP, section 6.01[.], so long as the participant remains an employee of the employer. *[Upon termination of employment with the employer, payment of claims shall cease if required contributions are not received by the date the next required contribution is due.] Participation and coverage shall cease upon separation of service as of the last day of the month in which the last contribution was received.*

3.03 No participant in this MSEFMBP may modify or revoke an election with respect to the Plan Year, except under the conditions specified in MSECP, section [307]3.07. *[In addition, no participant may decrease the amount elected during a Plan Year except for a change due to the death of a spouse or dependent of the participant, divorce or legal separation, or for the participant taking a FMLA leave.]* In no case may a decrease in the amount of election result in a return of contributions to the participant.

ARTICLE FOUR
LIMITATIONS AND RESTRICTIONS ON PAYMENTS
FROM THE PLAN

4.05 Payments to participants shall be suspended whenever the designated contribution amount is not received by the time the next required payment is due. Payments will resume when the required contribution amounts are paid in full.

ARTICLE SIX
CONTINUATION COVERAGE

6.03 A premium may be charged to the participant, spouse or dependent, as the case may be, for any period of continuation coverage equal to not more than one hundred two percent (102%) of the cost of providing coverage for the period to similarly situated participants, spouses or dependents. Any additional premium amount in excess of one hundred percent (100%) of the cost of providing coverage for the period to similarly situated participants, spouses or dependents, shall not be credited to the participant's account and shall be treated as an additional administrative charge. Continuation coverage will not extend beyond the end of the current plan year. However, coverage may terminate earlier if:

(a) The employer ceases to provide any medical reimbursement plans to any *[employer]* employee;

(b) The premiums described above are not paid within thirty (30) days of their due date; or

(c) A party electing continuation coverage becomes covered under another group health plan or entitled to Medicare benefits.

6.04 Payments for expenses incurred during any period of continuation shall not be made until the contributions for that period are received by the MSECP.

6.05 Continuation coverage shall be provided in accordance with the requirements of Section 42 U.S.C. 300bb, all of which requirements are incorporated herein by reference.

ARTICLE SEVEN
FAMILY AND MEDICAL LEAVE

7.02 An employee who continues coverage while on FMLA leave may choose from one or more of the following payment options. These options are referred to in this section as pre-pay, pay-as-you-go and catch-up. The catch-up option is only available while the employee is on an unpaid FMLA leave.

(a) Pre-pay.

(1) Under the pre-pay option, an employee may pay, prior to commencement of the FMLA leave period, the amounts due for the FMLA leave period.

(2) Contributions under the pre-pay option may be made on a pre-tax salary reduction basis from any taxable compensation.

(3) Contributions under the pre-pay option may also be made on an after-tax basis.

(b) Pay-as-you-go.

(1) Under the pay-as-you-go option, employees may pay their premium payments on the same schedule as payments would be made if the employee were not on leave or under any other payment schedule permitted by the Labor Regulations at 29 CFR 825.210(c) (i.e., on the same schedule as payments are made under the Consolidated Omnibus Reconciliation Act of 1985, Public Law 99-272; under the employer's existing rules for payment by employees on leave without pay; or under any other system voluntarily agreed to between the employer and the employee that is not inconsistent with this section or with 29 CFR 825.210(c)).

(2) Contributions under the pay-as-you-go option may be made on a pre-tax basis to the extent that the contributions are made from taxable compensation that is due the employee during the leave period, and provided that all cafeteria plan requirements are satisfied.

(3) Coverage under *[a benefit described in section 4.01(b)]* the MSEFMBP will be terminated for any employee who fails to make required premium payments while on FMLA leave.

(c) Catch-up.

(1) An employee on an unpaid FMLA leave may elect to use the catch-up option to pay premiums advanced on his or her behalf by the state during the FMLA leave. The state and the employee must agree in advance of the coverage period that: the employee elects to continue coverage while on unpaid FMLA leave; the state will assume responsibility for advancing payment of the premiums on the employee's behalf during the FMLA leave; and these advance amounts must be paid by the employee when the employee returns from FMLA leave.

(2) Contributions under the catch-up option may be made on a pre-tax salary reduction basis when the employee returns from FMLA leave from any available taxable compensation. These contributions will not be included in the employee's gross income, provided that all Cafeteria Plan requirements are satisfied.

(3) Contributions under the catch-up option may also be made on an after-tax basis.

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)(A)6. and 7. and (2)(D)3. and 7.

PURPOSE: This amendment changes outboard motor regulations on Labelle City Lake and Monroe (Route J Reservoir), closes Chillicothe R-2 School District (Litton Center Pond) to public fishing and changes the length limit on largemouth bass at Maryville (Mozingo Lake).

(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.

(A) Boats and Motors. Boats with electric motors may be used except as follows:

1. Boats are prohibited on the following areas:

- A. Bridgeton (Kiwanis Lake)
- B. California (Proctor Park Lake)
- C. Cole County (Jaycee Park Lake)
- D. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods)

- E. Dexter City Lake
- F. Farmington City Lake
- G. Jackson (Rotary Park Lake)
- H. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Scherer Lake, Wyatt Lake)

- I. Jefferson City (McKay Park Lake)
- J. Mexico (Kiwanis Lake)
- K. Mineral Area College (Quarry Pond)
- L. Mount Vernon (Williams Creek Park Lake)
- M. Overland (Wild Acres Park Lake)
- N. Rolla (Schuman Park Lake)
- O. St. Louis County (Bee Tree Lake)
- P. Sedalia (Clover Dell Park Lake, Liberty Park Lake)
- Q. The James Foundation (Scioto Lake)
- R. University of Missouri (South Farm R-1 Lake)

2. Only boats without motors may be used on Columbia (Twin Lake).

3. Outboard motors must be operated at slow, no-wake speed on Concordia (Edwin A. Pape Lake).

4. No boat motor restrictions apply on Harrison County Lake and Maryville (Mozingo Lake).

5. Outboard motors not in excess of forty (40) horsepower may be used on Springfield City Utilities (Fellows Lake).

6. Outboard motors not in excess of ten (10) horsepower may be used on the following areas:

- A. Bethany (North Bethany City Reservoir)
- B. Fayette (D.C. Rogers Lake, Fayette City Lake No. 2)
- /C./* LaBelle City Lake
- /D./* C. LaPlata City Lake
- /E./* D. Macon City Lake
- /F./* E. Moberly (Rothwell Park Lake, Water Works Lake)
- /G./* F. Odessa (City Lake)
- /H./* G. Springfield City Utilities (Lake Springfield)
- /I./* H. Unionville City Lake

7. Outboard motors in excess of ten (10) horsepower may be used but must be operated at slow, no-wake speed on the following areas:

- A. Brookfield City Lake
- B. Cameron (Grindstone Reservoir)
- C. Fredericktown City Lake
- D. Higginsville City Lake
- E. Holden City Lake
- F. Iron Mountain City Lake
- G. LaBelle City Lake**
- /G./* H. Marceline City Lake
- /H./* I. Memphis (Lake Showme)
- /I./* J. Milan (Elmwood Lake)
- K. Monroe (Route J Reservoir)**

(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 Chillicothe R-2 School District (Litton Center Pond).

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, Vlasik 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)] (XVII) Maysville (Willow Brook Lake)~~

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

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

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

~~[(XXII)] (XXI) Unionville City Lake~~

~~[(XXIII)] (XXII) University of Missouri (Dairy Farm Lake No. 1 and 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, Vlasis 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 to 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 through 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. 6, 2001.

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, PO 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 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Definitions**

PROPOSED AMENDMENT

3 CSR 10-11.805 Definitions. The department proposes to delete section (27), add new sections (36) and (44) and renumber the remaining sections.

PURPOSE: This amendment creates a new nonresident landowner definition for the purpose of offering qualifying persons permits for hunting deer and turkeys at reduced prices, compared to nonresident deer and turkey hunting permits. In addition, this rule clarifies there are now two landowner definitions (resident and nonresident).

[(27) Landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) continuous tract, or any member of the immediate household whose legal residence or domicile is the same as the landowner's for at least thirty (30) days last past. Except as provided in 3 CSR 10-7.435, in the case of corporate ownership, this definition shall apply only to those corporate shareholders who reside on lands held by the corporation.]

[(28)] (27) Length of fish: Total length is measured from the tip of the snout to the end of the tail, with the fish laid flat on the rule with mouth closed and tail lobes pressed together. The length of paddlefish is measured from the eye to the fork of the tail. The length of sturgeon is measured from the tip of the snout to the fork of the tail.

[(29)] (28) Lessee: Any Missouri resident who resides on at least five (5) acres of land in one (1) continuous tract owned by others, or any member of the immediate household whose legal residence and domicile is the same as the lessee's for at least thirty (30) days last past.

[(30)] (29) Limit: The maximum number or quantity, total length, or both, of any wildlife permitted to be taken or held in possession by any person within a specified period of time according to this Code.

[(31)] (30) Longbow: A bow drawn and held by hand and not fastened to a stock nor to any other device which maintains the bow in a drawn position. This definition includes compound bows.

[(32)] (31) Managed deer hunt: A prescribed deer hunt conducted on a designated area for which harvest methods, harvest quotas and numbers of participants are determined annually and presented in the deer hunting rule (3 CSR 10-7.435).

[(33)] (32) Mouth of stream or ditch: The point at which a line projected along the shore of a main stream or ditch at the existing water level at time of measurement crosses any incoming stream or ditch.

[(34)] (33) Mussels: All species of freshwater mussels and clams. Includes all shells and alive or dead animals. Two (2) shell halves (valves) shall be considered one (1) mussel.

[(35)] (34) Muzzleloading firearm: Any firearm capable of being loaded only from the muzzle.

[(36)] (35) Night vision equipment: Optical devices (that is, binoculars or scopes) using light amplifying circuits that are electrical or battery powered.

(36) Nonresident landowner: Any nonresident of Missouri who is the owner of at least seventy-five (75) acres in one (1) continuous tract in the state of Missouri, or any member of the immediate household whose legal residence and domicile is the same as the nonresident landowner's for at least thirty (30) days last past. Corporate ownerships do not apply under this definition.

(44) Resident landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) continuous tract, or any member of the immediate household whose legal residence or domicile is the same as the landowner's for at least thirty

(30) days last past. Except as provided in 3 CSR 10-7.435, in the case of corporate ownership, this definition shall apply only to those corporate shareholders who reside on lands held by the corporation.

[[44]] **(45) Sell:** To exchange for compensation in any material form and the term shall include offering for sale.

[[45]] **(46) Speargun:** A mechanically powered device that propels a single- or multiple-pronged spear underwater.

[[46]] **(47) Store and storage:** Shall also include chilling, freezing and other processing.

[[47]] **(48) Take or taking:** Includes killing, trapping, snaring, netting or capturing in any manner, any wildlife, and also refers to pursuing, molesting, hunting, wounding; or the placing, setting or use of any net, trap, device, contrivance or substance in an attempt to take; and every act of assistance to every other person in taking or attempting to take any wildlife.

[[48]] **(49) Transport and transportation:** All carrying or moving or causing to be carried or moved from one (1) point to another, regardless of distance, vehicle or manner, and includes offering or receiving for transport or transit.

[[49]] **(50) Underwater spearfishing:** The taking of fish by a diver while underwater, with the aid of a manually or mechanically propelled, single- or multiple-pronged spear.

[[50]] **(51) Waters of the state:** All rivers, streams, lakes and other bodies of surface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned or leased by a single person or by two (2) or more persons jointly or as tenants in common or by corporate shareholders, and including waters of the United States lying within the state. Waters of the state will include any waters which have been stocked by the state or which are subject to movement of fishes to and from waters of the state.

[[51]] **(52) Zoo:** Any publicly-owned facility, park, building, cage, enclosure or other structure or premises in which live animals are held and exhibited for the primary purpose of public viewing.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 6, 2001.

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, PO 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services. The division is adding subparagraph (4)(A)1.H.

PURPOSE: This amendment outlines how the State Fiscal Year 2001 trend factor will be applied to adjust per-diem rates for ICF/MRs participating in the Medicaid program.

(4) Prospective Reimbursement Rate Computation.

(A) Except in accordance with other provisions of this rule, the provisions of this section shall apply to all providers of ICF/MR services certified to participate in Missouri's Medicaid program.

1. ICF/MR facilities.

A. Except in accordance with other provisions of this rule, the Missouri Medical Assistance Program shall reimburse providers of these LTC services based on the individual Medicaid-recipient days of care multiplied by the Title XIX prospective per-diem rate less any payments collected from recipients. The Title XIX prospective per-diem reimbursement rate for the remainder of state Fiscal Year 1987 shall be the facility's per-diem reimbursement payment rate in effect on October 31, 1986, as adjusted by updating the facility's allowable base year to its 1985 fiscal year. Each facility's per-diem costs as reported on its Fiscal Year 1985 Title XIX cost report will be determined in accordance with the principles set forth in this rule. If a facility has not filed a 1985 fiscal year cost report, the most current cost report on file with the department will be used to set its per-diem rate. Facilities with less than a full twelve (12)-month 1985 fiscal year will not have their base year rates updated.

B. For state FY-88 and dates of service beginning July 1, 1987, the negotiated trend factor shall be equal to two percent (2%) to be applied in the following manner: Two percent (2%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1987, shall be added to each facility's rate.

C. For state FY-89 and dates of service beginning January 1, 1989, the negotiated trend factor shall be equal to one percent (1%) to be applied in the following manner: One percent (1%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1988 shall be added to each facility's rate.

D. For state FY-91 and dates of service beginning July 1, 1990, the negotiated trend factor shall be equal to one percent (1%) to be applied in the following manner: One percent (1%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1990, shall be added to each facility's rate.

E. FY-96 negotiated trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning January 1, 1996, of six dollars and seven cents (\$6.07) per patient day for the negotiated trend factor. This adjustment is equal to four and six-tenths percent (4.6%) of the weighted average per-diem rates paid to nonstate-operated ICF/MR facilities on June 1, 1995, of one hundred and thirty-one dollars and ninety-three cents (\$131.93).

F. State FY-99 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 1998, of four dollars and forty-seven cents (\$4.47) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 1998, of one hundred forty-eight dollars and ninety-nine cents (\$148.99).

G. State FY-2000 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 1999, of four dollars and sixty-three cents (\$4.63) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on April 30, 1999, of one hundred fifty-four dollars and forty-three cents (\$154.43). This increase shall only be used for

increases for the salaries and fringe benefits for direct care staff and their immediate supervisors.

H. State FY-2001 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 2000, of four dollars and eighty-one cents (\$4.81) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on April 30, 2000, of one hundred sixty dollars and twenty-three cents (\$160.23). This increase shall only be used for increases for salaries and fringe benefits for direct care staff and their immediate supervisors.

2. Adjustments to rates. The prospectively determined reimbursement rate may be adjusted only under the following conditions:

A. When information contained in a facility's cost report is found to be fraudulent, misrepresented or inaccurate, the facility's reimbursement rate may be reduced, both retroactively and prospectively, if the fraudulent, misrepresented or inaccurate information as originally reported resulted in establishment of a higher reimbursement rate than the facility would have received in the absence of this information. No decision by the Medicaid agency to impose a rate adjustment in the case of fraudulent, misrepresented or inaccurate information in any way shall affect the Medicaid agency's ability to impose any sanctions authorized by statute or rule. The fact that fraudulent, misrepresented or inaccurate information reported did not result in establishment of a higher reimbursement rate than the facility would have received in the absence of the information also does not affect the Medicaid agency's ability to impose any sanctions authorized by statute or rules;

B. In accordance with subsection (6)(B) of this rule, a newly constructed facility's initial reimbursement rate may be reduced if the facility's actual allowable per-diem cost for its first twelve (12) months of operation is less than its initial rate;

C. When a facility's Medicaid reimbursement rate is higher than either its private pay rate or its Medicare rate, the Medicaid rate will be reduced in accordance with subsection (2)(B) of this rule;

D. When the provider can show that it incurred higher cost due to circumstances beyond its control and the circumstances are not experienced by the nursing home or ICF/MR industry in general, the request must have a substantial cost effect. These circumstances include, but are not limited to:

(I) Acts of nature, such as fire, earthquakes and flood, that are not covered by insurance;

(II) Vandalism, civil disorder, or both; or

(III) Replacement of capital depreciable items not built into existing rates that are the result of circumstances not related to normal wear and tear or upgrading of existing system;

E. When an adjustment to a facility's rate is made in accordance with the provisions of section (6) of this rule; or

F. When an adjustment is based on an Administrative Hearing Commission or court decision.

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo [1994] 2000. This rule was previously filed as 13 CSR 40-81.083. Original rule filed Aug. 13, 1982, effective Nov. 11, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 14, 2001.

PUBLIC COST: This proposed amendment is estimated to cost state agencies \$163,275.45 in State Fiscal Year 2001.

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 Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

13 -- Department of Social Services
 Title: _____
 70 -- Division of Medical Services
 Division: _____
 10 -- Nursing Home Program
 Chapter: _____
 Proposed Amendment
 Type of Rulemaking: _____
 13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-
 Rule Number and Name: _____
 Operated Facilities for ICF/MR Services

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual Estimated Cost:\$163,275.45 State Fiscal Year 2001

III. WORKSHEET

Weighted average rate @ 4/30/00 \$160.23
 Trend Factor 3%
 Per Diem Trend \$ 4.81

IV. ASSUMPTIONS

Patient days for Nonstate-operated ICF/MR facilities will remain constant with patient days in state fiscal year 2000. The trend factor will be arrived at through use of the April 2000 weighted average of all Nonstate-operated ICF/MR facilities.