

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

**PROPOSED AMENDMENT**

**3 CSR 10-10.743 Commercial Establishments.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment would clarify wording in this rule concerning selling fish. There is a period following the word fish, with the phrase "permitted to be sold by this Code" to be deleted.

Resident commercial establishments, when possession is accompanied by a valid invoice or bill of sale, may buy, possess, transport and sell legally purchased and plainly marked dressed or processed pheasants, exotic partridges, quail, game bird eggs, bear, deer except white-tailed and mule deer, elk, moose, caribou, wild boar, live bait and frogs and fish [permitted to be sold by this Code]. Skinned furbearer carcasses may be sold at retail only.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed May 9, 2002.

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

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

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

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

**PROPOSED AMENDMENT**

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

*PURPOSE:* This amendment adds field trials as a restricted activity on department areas.

(1) The following activities are allowed on department areas only where and as authorized by this chapter or by signs and area brochures or by a special use permit issued by the area manager: swimming, sailboarding, sailboating, skateboarding, boating, entry on areas closed to public use, bicycling, camping, shooting, hunting, fishing, trapping, collecting or possessing wild plants and wild animals and unprocessed parts thereof, removal of water, commercial use, vending, fires outside of designated camping areas, rock collecting, digging and other soil disturbance, **field trials**, horseback riding, ranging of horses and other livestock, possession of pets and hunting dogs, caving, rock climbing, rappelling, paint-balling, scuba diving, water skiing, the use and pos-

session of vehicles and aircraft, the use of decoys, and the use or construction of blinds and tree stands.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.

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**PROPOSED AMENDMENT**

**3 CSR 10-11.115 Closings.** The commission proposes to amend subsections (1)(D) and (G) of this rule.

*PURPOSE:* This amendment increases use hours on Bellefontaine Conservation Area.

(1) Department areas are closed to public use from 10:00 p.m. to 4:00 a.m. daily; however, hunting, fishing, trapping, dog training, camping, launching boats and landing boats are permitted at any time in areas where these activities are authorized, except as otherwise provided in this chapter. Any department area may be opened during closed hours for department sponsored events or programs. Parking or storage of watercraft and commercial vehicles is prohibited during the closed hours.

(D) On [Bellefontaine Conservation Area and] Powder Valley Conservation Nature Center, all public use is prohibited from 8:00 p.m. to 6:00 a.m. daily from April 1 through October 31, and from 6:00 p.m. to 6:00 a.m. daily from November 1 through March 31.

(G) On Bellefontaine Conservation Area, Rockwoods Range and Rockwoods Reservation, all public use is prohibited from one-half (1/2) hour after sunset to sunrise daily.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Oct. 1, 2001, effective Oct. 15, 2001. Amended: Filed May 9, 2002.

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

**PROPOSED RULE**

**3 CSR 10-11.125 Field Trials**

*PURPOSE:* This rule establishes provisions for allowing field trials on department areas.

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

- (A) Amarugia Highlands Conservation Area
- (B) August A. Busch Memorial Conservation Area
- (C) Belcher Branch Lake
- (D) Bois D' Arc Conservation Area
- (E) Bushwacker Lake Conservation Area
- (F) Donaldson Point Conservation Area
- (G) Duck Creek Conservation Area
- (H) Eagle Bluff Conservation Area
- (I) Fort Crowder Conservation Area
- (J) Helton Conservation Area
- (K) Maintz Conservation Area
- (L) Nodaway County Community Lake
- (M) Pony Express Conservation Area
- (N) Poosey Conservation Area
- (O) James A. Reed Memorial Wildlife Area
- (P) Rocky Fork Conservation Area
- (Q) Shawnee Trail Conservation Area
- (R) Stockton Reservoir
- (S) Robert E. Talbot Conservation Area
- (T) Whetstone Creek Conservation Area
- (U) White River Trace Conservation Area
- (V) Wilhemina Conservation Area

(2) Field trial participants must comply with 3 CSR 10-7.410 except as otherwise provided by the special use permit.

(3) During field trials, wildlife not prohibited in 3 CSR 10-7.410 may be chased by dogs under control but may be pursued and taken only during the open seasons and only by persons possessing a valid hunting permit, except as provided in section (4) of this rule.

(4) Designated gunners, under the field trial special use permit, may shoot only quail, pheasants, chukars and mallard ducks legally obtained and marked with a permanent avian leg band prior to release.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed May 9, 2002.

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**PROPOSED AMENDMENT**

**3 CSR 10-11.140 Camping.** The commission proposes to amend section (1).

*PURPOSE:* This amendment prevents non-recreational campers from circumventing the current regulation.

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

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.

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

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**PROPOSED AMENDMENT**

**3 CSR 10-11.145 Tree Stands.** The commission proposes to amend provisions of this rule.

*PURPOSE:* This amendment modifies provisions for labeling portable tree stands.

Only portable tree stands are allowed and only from September 15 through January 31. Stands must be identified with the full name and address, or **Conservation Number**, of the owner and be removed from the area before February 1. Use of nails or any material that would damage the tree is prohibited.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.

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**PROPOSED AMENDMENT**

**3 CSR 10-11.155 Decoys and Blinds.** The commission proposes to amend subsection (1)(A) of this rule.

*PURPOSE:* This amendment establishes a requirement for hunters to hunt from designated blinds on portions of Upper Mississippi Conservation Area.

(1) Decoys and blinds are permitted but must be disassembled and removed daily, except as otherwise provided in this chapter. Blinds may be constructed on-site only from willows (*Salicaceae*) and nonwoody vegetation.

(A) On those portions of Upper Mississippi Conservation Area designated as restricted waterfowl hunting areas, blind sites shall be designated and allotted through a system of registration and drawing established by the department. Blinds must be constructed within ten (10) yards of an assigned site before October 1 and meet department specifications. **Waterfowl may be taken only from a designated blind except that hunters may retrieve dead birds and pursue and shoot downed cripples. This rule does not apply during the early teal season.** On portions of the area designated as open, blinds may be constructed without site restrictions. Blinds or blind sites on both restricted and open portions of the area may not be locked, transferred, rented or sold. Boats shall not be left overnight at blind sites. After 6:00 a.m., unoccupied blinds may be used by the first hunter to arrive.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.

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**PROPOSED AMENDMENT**

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

*PURPOSE:* This amendment prohibits the use of personal watercraft on Thomas Hill Reservoir and the Theodosia Arm of Bull Shoals Lake; and, prohibits the use of boats on Bellefontaine Conservation Area.

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

(A) Except as provided below, only electric motors are permitted on lakes and ponds of less than seventy (70) acres. Electric motors and outboard motors are permitted on lakes of seventy (70) or more acres and on certain areas in conjunction with waterfowl hunting, except as otherwise provided in paragraph (1)(A)3. of this rule. Outboard motors in excess of ten (10) horsepower must be operated at slow, no-wake speed, except as otherwise provided in paragraph (1)(A)4. of this rule.

1. On August A. Busch Memorial Conservation Area and James A. Reed Memorial Wildlife Area, only department-owned boats may be used and only electric motors are permitted.

2. On Hunnewell Lake Conservation Area, only department-owned boats may be used.

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

4. On Thomas Hill Reservoir, boating is prohibited on the main arm of the lake above Highway T from October 15 through January 15. *[No horsepower restrictions apply. Boats may be left unattended overnight.]* **No other restrictions in this section apply to this area.**

5. All boating is prohibited from November 15 through February 15 on the Theodosia Arm of Bull Shoals Lake described as: All of Section 13, and south half of Section 12, T22N, R16W; all of Section 17, south half of Sections 7 and 8, and that part of Sections 19 and 20 north of Highway 160 bridge, all in T22N, R15W. **No other restrictions in this section apply to this area.**

**6. On Bellefontaine Conservation Area, boats are prohibited.**

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Oct. 1, 2001, effective Oct. 15, 2001. Amended: Filed May 9, 2002.

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**PROPOSED AMENDMENT**

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

*PURPOSE:* This amendment modifies methods for harvesting bullfrogs and green frogs on Bellefontaine Conservation Area.

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, gig, longbow, snagging, snaring, grabbing or pole and line, only on waters and within dates and hours those waters are open to fishing, except as further restricted in this chapter. Firearms may not be used to take bullfrogs and green frogs.

(A) On Louis H. Bangert Memorial Wildlife Area, Bellefontaine Conservation Area and August A. Busch Memorial Conservation Area, longbows are prohibited for taking frogs.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.

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**PROPOSED AMENDMENT**

**3 CSR 10-11.180 Hunting, General Provisions and Seasons.** The commission proposes to amend sections (5), (7), (8), (20), and (21), and add section (29) to this rule.

*PURPOSE:* This amendment modifies hunting provisions on department areas.

(5) Firearms firing single projectiles are prohibited on the following department areas:

**(V) Liberty Bend Conservation Area**

[(V)] **(W)** Little Bean Marsh Conservation Area

[(W)] **(X)** Little Dixie Lake Conservation Area

[(X)] **(Y)** Little Prairie Conservation Area

[(Y)] **(Z)** Little River Conservation Area

[(Z)] **(AA)** Caroline Sheridan Logan Memorial Wildlife Area

[(AA)] **(BB)** Lone Jack Lake Conservation Area

[(BB)] **(CC)** Lost Valley Fish Hatchery

[(CC)] **(DD)** Alice Ahart Mansfield Memorial Conservation Area

[(DD)] **(EE)** Marais Temps Clair Conservation Area

[(EE)] **(FF)** Mo-No-I Prairie Conservation Area

[(FF)] **(GG)** Mon-Shon Prairie Conservation Area

[(GG)] **(HH)** Pacific Palisades Conservation Area

[(HH)] **(II)** Guy B. Park Conservation Area

[(II)] **(JJ)** Parma Woods Range and Training Center (north portion)

[(JJ)] **(KK)** Reform Conservation Area

[(KK)] **(LL)** Rocky Barrens Conservation Area

[(LL)] **(MM)** Dr. O. E. and Eloise Sloan Conservation Area

[(MM)] **(NN)** Sunbridge Hills Conservation Area

[(NN)] **(OO)** Tipton Ford Access

[(OO)] **(PP)** Treaty Line Prairie Conservation Area

[(PP)] **(QQ)** Valley View Glades Natural Area

[(QQ)] **(RR)** Archie and Gracie VanDerhoef Memorial State Forest

[(RR)] **(SS)** Victoria Glades Conservation Area

[(SS)] **(TT)** Vonaventure Memorial Forest and Wildlife Area

[(TT)] **(UU)** George O. White State Forest Nursery

**(VV) Wolf Bayou Conservation Area**

[(UU)] **(WW)** Young Conservation Area

(7) Firearms firing single projectiles are prohibited, except during managed deer hunts on the following department areas:

**(D) Pelican Island Natural Area**

[(D)] **(E)** Saint Stanislaus Conservation Area

(8) Firearms hunting is prohibited on the following department areas:

**(B) Jim Bridger Urban Conservation Area**

[(B)] **(C)** Jamesport Community Lake

[(C)] **(D)** J. Thad Ray Memorial Wildlife Area

[(D)] **(E)** Lon Sanders Canyon Conservation Area

[(E)] **(F)** Henry Jackson Waters and C.B. Moss Memorial Wildlife Area

(20) On Eagle Bluffs Conservation Area, [B. K. Leach Memorial Conservation Area,] William R. Logan Conservation Area and William G. and Erma Parke White Memorial Wildlife Area, doves may be hunted only in assigned areas from an assigned shooting station on designated days from 1:00 p.m. to 5:00 p.m. during the September portion of statewide season by holders of a valid area daily hunting tag.

(21) On Marais Temps Clair Conservation Area:

(A) [Doves, rails and snipe may be hunted only during that part of the season which falls prior to October 15 by holders of a valid area daily hunting tag, except in areas closed by posting.] Dove hunting is permitted only until 1:00 p.m. daily.

[(B) Deer and rabbits may be hunted only from the end of the area's prescribed duck season through the end of

the statewide seasons by holders of a valid area daily hunting tag, except in areas closed by posting.]

[[C]] (B) Quail, rabbit, pheasant, woodcock, squirrel, groundhog, furbearer, turkey and crow hunting is prohibited.

(C) All hunters must possess a valid daily hunting tag.

(29) On Burr Oak Woods Conservation Area, spring turkey hunting is permitted only by persons under sixteen (16) years of age holding a Managed Turkey Hunting Permit in addition to the prescribed turkey hunting permit; provided, s/he is hunting in the immediate presence of a properly licensed adult who has in his/her possession a valid hunter education certificate card.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.*

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**PROPOSED AMENDMENT**

**3 CSR 10-11.182 Deer Hunting.** The commission proposes to amend sections (1), (2) and to add section (4) to this rule.

*PURPOSE: This amendment provides additional deer management options for department areas.*

(1) Deer may be hunted only during the statewide archery season and the December portion of the firearms season on the department areas listed below. Statewide methods and limits apply.

- [[A]] Belcher Branch Lake Conservation Area
- [[B]] Bethel Prairie Conservation Area
- [[C]] Big Creek Conservation Area
- [[D]] (A) Bilby Ranch Lake Conservation Area
- [[E]] Buffalo Wallow Prairie Conservation Area
- [[F]] Bushwhacker Lake Conservation Area
- [[G]] Clear Creek Conservation Area
- [[H]] Comstock Prairie Conservation Area
- [[I]] Crooked River Conservation Area
- [[J]] Lester R. Davis Memorial Forest
- [[K]] Four Rivers Conservation Area (Unit 4)
- [[L]] Grandfather Prairie Conservation Area
- [[M]] Harmony Mission Lake Conservation Area
- [[N]] Hite Prairie Conservation Area
- [[O]] King Lake Conservation Area
- [[P]] Little Compton Lake Conservation Area
- [[Q]] (B) Loutre Lick Access
- [[R]] (C) Jamerson C. McCormack Conservation Area
- [[S]] (D) Moore's Mill Access
- [[T]] (E) Nodaway County Community Lake

- [[U]] Osage Prairie Conservation Area
- [[V]] Pa Sole Prairie Conservation Area
- [[W]] Paint Brush Prairie Conservation Area
- [[X]] Peabody Conservation Area
- [[Y]] (F) Pigeon Hill Conservation Area
- [[Z]] Pony Express Lake Conservation Area
- [[AA]] (G) Punkin Center Access
- [[BB]] Edward B. and Marie O. Risch Conservation Area
- [[CC]] (H) Rocky Fork Lakes Conservation Area
- [[DD]] (I) Sears Community Lake
- [[EE]] Settle's Ford Conservation Area
- [[FF]] (J) Seven Island Conservation Area
- [[GG]] Shawnee Trail Conservation Area
- [[HH]] Stony Point Prairie Conservation Area
- [[II]] Taberville Prairie Conservation Area
- [[JJ]] Twenty-Five Mile Prairie Conservation Area
- [[KK]] Frank E. Wagner Conservation Area
- [[LL]] Wah-Kon-Tah Prairie (portion north of Highway 82)
- [[MM]] (K) White River Trace Conservation Area
- [[NN]] (L) Worth County Community Lake

(2) Deer may be hunted, under statewide seasons and limits, only by archery methods on the following department areas:

- [[SS]] Hite Prairie Conservation Area
- [[SS]] (TT) Hornersville Swamp Conservation Area
- [[TT]] (UU) Horse Creek Prairie Conservation Area
- [[UU]] (VV) Howell Island Conservation Area
- [[VV]] (WW) Hyer Woods Conservation Area
- [[WW]] (XX) Indigo Prairie Conservation Area
- [[XX]] (YY) Jamesport Community Lake
- [[YY]] (ZZ) Anthony and Beatrice Kendzora Conservation Area
- [[ZZ]] (AAA) Kessler Memorial Wildlife Area
- [[AAA]] (BBB) Wilford V. and Anna C. Kneib Memorial Conservation Area
- [[BBB]] (CCC) Lake Girardeau Conservation Area
- [[CCC]] (DDD) B. K. Leach Memorial Conservation Area
- [[DDD]] (EEE) Little Bean Marsh Conservation Area
- [[EEE]] (FFF) Little Dixie Lake Conservation Area
- [[FFF]] (GGG) Little Prairie Conservation Area
- [[GGG]] (HHH) Little River Conservation Area
- [[HHH]] (III) Caroline Sheridan Logan Memorial Wildlife Area
- [[III]] (JJJ) Lon Sanders Canyon Conservation Area
- [[JJJ]] (KKK) Lone Jack Lake Conservation Area
- [[KKK]] (LLL) Lost Valley Fish Hatchery
- [[LLL]] (MMM) Alice Ahart Mansfield Conservation Area
- [[MMM]] Marais Temps Clair Conservation Area

(4) Deer may be hunted, under statewide seasons and limits, only by archery and muzzleloader methods on the department areas listed below:

- (A) Belcher Branch Conservation Area
- (B) Bethel Prairie Conservation Area
- (C) Big Creek Conservation Area
- (D) Buffalo Wallow Conservation Area
- (E) Bushwhacker Lake Conservation Area
- (F) Clear Creek Conservation Area
- (G) Comstock Prairie Conservation Area
- (H) Crooked River Conservation Area
- (I) Four Rivers Conservation Area (Unit 4)
- (J) Grandfather Prairie Conservation Area
- (K) Harmony Mission Conservation Area
- (L) Hi Lonesome Conservation Area
- (M) King Lake Conservation Area
- (N) Lester R. Davis Memorial Forest
- (O) Little Compton Lake Conservation Area
- (P) Osage Prairie Conservation Area
- (Q) Pa Sole Prairie Conservation Area
- (R) Paint Brush Prairie Conservation Area

- (S) Peabody Conservation Area
- (T) Pony Express Lake Conservation Area
- (U) Edward B. and Marie O. Risch Conservation Area
- (V) Settle's Ford Conservation Area
- (W) Shawnee Trail Conservation Area
- (X) Stony Point Prairie Conservation Area
- (Y) Taberville Prairie Conservation Area
- (Z) Twenty-Five Mile Prairie Conservation Area
- (AA) Frank E. Wagner Conservation Area
- (BB) Wah-Kon-Tah Prairie (portion north of Highway 82)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002.*

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**PROPOSED AMENDMENT**

**3 CSR 10-11.183 Managed Deer Hunts.** The commission proposes to add subsection (1)(G) and reletter remaining subsections accordingly.

*PURPOSE: This amendment restricts deer hunting to managed hunts on Marais Temps Clair Conservation Area.*

(1) Deer may be hunted only during managed hunts on the department areas listed below. Participants of managed hunts must possess a Managed Deer Hunting Permit.

- (G) Marais Temps Clair Conservation Area**  
[[G]] (H) Otter Slough Conservation Area
- [[H]] (I) Peck Ranch Conservation Area (fenced portion)
- [[I]] (J) Pelican Island Natural Area
- [[J]] (K) Prairie Fork Conservation Area
- [[K]] (L) James A. Reed Memorial Wildlife Area
- [[L]] (M) Rockwoods Range
- [[M]] (N) Saint Stanislaus Conservation Area (County Park)
- [[N]] (O) Weldon Spring Conservation Area
- [[O]] (P) Whetstone Creek Conservation Area

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.*

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

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-11.186 Waterfowl Hunting.** The commission proposes to delete section (5) of this rule and to amend sections (3) and (10) of this rule.

*PURPOSE: This amendment eliminates redundancy and clarifies hours and times an area is open to hunting waterfowl.*

(3) Waterfowl hunting is prohibited after 1:00 p.m. on designated portions of the following department areas:

- [[L] *Marais Temps Clair Conservation Area*]
- [[M]] (L) Nodaway Valley Conservation Area
- [[N]] (M) Otter Slough Conservation Area
- [[O]] (N) James A. Reed Memorial Wildlife Area
- [[P]] (O) Schell-Osage Conservation Area
- [[Q]] (P) Ted Shanks Conservation Area
- [[R]] (Q) Ten Mile Pond Conservation Area
- [[S]] (R) Yellow Creek Conservation Area

[[5] *On Dehn Marsh and Sac River Marsh of Truman Reservoir Management Lands, waterfowl hunting is prohibited.*]

[[6] (5) On Thomas Hill Reservoir, waterfowl hunting is prohibited on the lands and waters of the main arm between Highway T and county road 462, three and one-half (3 1/2) miles north of Highway T from October 15 through the close of the waterfowl season.

[[7] (6) On Settle's Ford Conservation Area, waterfowl hunters must preregister and check out daily at designated hunter record boxes prior to and immediately after completing the hunt. Nonhunters are prohibited within the waterfowl hunting areas unless they are members of and remain with a party authorized to use the area.

[[8] (7) On Little River Conservation Area, waterfowl hunting is permitted only during managed waterfowl hunts or by holders of a valid area daily hunting tag.

[[9] (8) On Four Rivers Conservation Area, in designated waterfowl hunting areas, waterfowl hunters must register before hunting and check out daily at area headquarters. On the remaining portions of the area, waterfowl hunters must register before hunting at designated hunter record boxes and check out immediately after completion of the hunt. In designated waterfowl hunting areas, hunting is closed on December 25. Nonhunters are prohibited within the designated waterfowl hunting areas unless they are members of and remain with a party authorized to use the area.

[[10] (9) On James A. Reed Memorial Wildlife Area, waterfowl may be hunted by reservation only by holders of a valid area daily hunting tag on designated days and only in designated areas, except that hunters may retrieve dead birds and shoot downed cripples outside designated areas.

[[11]] (10) On Marais Temps Clair Conservation Area, waterfowl hunting is permitted only on Friday, Saturday, Sunday and Monday and only until 1:00 p.m. during the prescribed [waterfowl hunting] duck and Canada goose seasons, except the area is open daily [until 1:00 p.m.] from sunrise to sunset for teal hunting during the early season.

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

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.*

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

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

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

**PROPOSED AMENDMENT**

**3 CSR 10-11.205 Fishing Methods and Hours.** The commission proposes to amend sections (3), (4), (6) and (8).

*PURPOSE: This amendment raises the age of children allowed to fish specially managed ponds on the James A. Reed Memorial Wildlife Area and Lost Valley Fish Hatchery; establishes three catch-and-release fishing lakes and a kids fishing pond on the August A. Busch Memorial Conservation Area; clarifies the seining and trapping restrictions on Mule Shoe Conservation Area; and allows the capture of live bait by seining or trapping on designated ponds on the Atlanta Conservation Area and Long Branch Lake Management Lands.*

(3) On James A. Reed Memorial Wildlife Area:

(C) On Honker Pond, fishing is restricted to persons [twelve (12)] fifteen (15) years of age or younger and not more than one (1) pole and line may be used by any one (1) person at [a] one time.

(4) On August A. Busch Memorial Conservation Area[, ]:

(A) [f]Fishing is permitted only on designated waters from 6:00 a.m. to 9:00 p.m. daily.

(B) On Lakes 16, 31 and 32, only flies, artificial lures and soft plastic baits (unscented) may be used and fish must be returned to the water unharmed immediately after being caught.

(C) On Lake 12, fishing is restricted to persons fifteen (15) years of age or younger and not more than one (1) pole and line may be used by any one (1) person at one time.

(6) On Lost Valley Fish Hatchery, fishing is permitted only on designated waters from 9:00 a.m. to 4:00 p.m. daily. Fishing is

restricted to persons [twelve (12)] fifteen (15) years of age or younger and not more than one (1) pole and line may be used by any one (1) person at [a] one time.

(8) Seining or trapping live bait, including tadpoles, is prohibited on all lakes and ponds, and on streams and [their] the discharge channels [in] of impoundments on Mule Shoe Conservation Area, except as otherwise provided in this chapter.

(A) Seining or trapping live bait, including tadpoles, in compliance with 3 CSR 10-6.605 is permitted on designated lakes and ponds on the following department areas:

1. Atlanta Conservation Area
2. Bob Brown Conservation Area[,]
3. Fountain Grove Conservation Area[,]
4. Grand Pass Conservation Area [and]
5. Long Branch Lake Management Lands
6. Nodaway Valley Conservation Area[,]

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.*

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

**PROPOSED AMENDMENT**

**3 CSR 10-11.210 Fishing, Daily and Possession Limits.** The commission proposes to add section (7) and amend sections (2), (4), (5), (6) and (10).

*PURPOSE: This amendment establishes more restrictive daily limits on various fish species on several department areas.*

(2) The daily limit for black bass shall be two (2) on the following department areas or individually named lakes:

(H) Happy Holler Lake (Happy Holler Lake Conservation Area)

[[H]] (I) Lake Paho Conservation Area

[[I]] (J) Lone Jack Lake Conservation Area

[[J]] (K) Maple Leaf Lake Conservation Area

[[K]] (L) Port Hudson Lake Conservation Area

[[L]] (M) James A. Reed Memorial Wildlife Area

[[M]] (N) Schell Lake (Schell-Osage Conservation Area)

[[N]] (O) Weldon Spring Conservation Area

(4) On Bellefontaine Conservation Area, [Che-Ru Lake (Fountain Grove Conservation Area),] Hazel Hill Lake and Schell-Osage Conservation Area, the daily limit for crappie shall be fifteen (15).

(5) On August A. Busch Memorial Conservation Area, **Harmony Mission Lake (Harmony Mission Conservation Area)** and James A. Reed Memorial Wildlife Area, the daily limit for white bass, striped bass and their hybrids in the aggregate shall be four (4); on James A. Reed Memorial Wildlife Area, the aggregate daily limit for all other fish shall be ten (10).

(6) At Tobacco Hills Lake (Guy B. Park Conservation Area) and **August A. Busch Memorial Conservation Area**, the daily limit for bluegill and other sunfish shall be *[eight (8)]* **ten (10) in the aggregate.**

**(7) On Bushwhacker Lake (Bushwhacker Conservation Area), the daily limit for bluegill and other sunfish shall be fifteen (15) in the aggregate.**

*[[7]]* (8) On Duck Creek Conservation Area, statewide limits shall apply for other fish as designated in 3 CSR 10-6.550.

*[[8]]* (9) On Bellefontaine Conservation Area and Port Hudson Lake Conservation Area, the daily limit for other fish as designated in 3 CSR 10-6.550 shall be ten (10) in the aggregate.

*[[9]]* (10) On Jerry J. Presley Conservation Education Center, except as otherwise provided on the special use permit, fish must be returned to the water unharmed immediately after being caught.

*[[10]]* (11) On **Lake 12 (August A. Busch Memorial Conservation Area)** and Lost Valley Fish Hatchery, the daily limit for all fish shall be two (2) in the aggregate. **On Lost Valley Fish Hatchery, [N]no person shall continue to fish for any species after having two (2) fish in possession.**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002.*

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

**PROPOSED AMENDMENT**

**3 CSR 10-11.215 Fishing, Length Limits.** The commission proposes to amend sections (2) and (3) and add section (7).

*PURPOSE: This amendment changes the length limits on large-mouth bass at Little Compton Lake Conservation Area and Happy Holler Lake; establishes a minimum length on hybrid striped bass at Harmony Mission Lake and establishes a minimum length limit on sunfish at Bushwhacker Lake.*

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

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

1. Amarugia Highlands Conservation Area
  2. Atkinson Lake (Schell-Osage Conservation Area)
  3. Baltimore Bend Conservation Area
  4. Bilby Ranch Lake Conservation Area
  5. Binder Community Lake
  6. Buffalo Bill Lake (Pony Express Lake Conservation Area)
  7. August A. Busch Memorial Conservation Area (except Lakes 33 and 35)
  8. Che-Ru Lake (Fountain Grove Conservation Area)
  9. Jerry P. Combs Lake (Little River Conservation Area)
  10. Deer Ridge Lake (Deer Ridge Conservation Area)
  11. General Watkins Conservation Area
  12. Jamesport Community Lake
  13. Limpp Community Lake
  - [14.]* **Little Compton Lake Conservation Area**
  - [15.]* **14.** Lone Jack Lake Conservation Area
  - [16.]* **15.** Maple Leaf Lake Conservation Area
  - [17.]* **16.** Nodaway County Community Lake
  - [18.]* **17.** Perry County Community Lake
  - [19.]* **18.** Pony Express Lake (Pony Express Lake Conservation Area)
  - [20.]* **19.** Ray County Community Lake
  - [21.]* **20.** James A. Reed Memorial Wildlife Area
  - [22.]* **21.** Rinquelin Trail Community Lake
  - [23.]* **22.** Schell Lake (Schell-Osage Conservation Area)
  - [24.]* **23.** Ted Shanks Conservation Area
  - [25.]* **24.** Tobacco Hills Lake (Guy B. Park Conservation Area)
  - [26.]* **25.** Union Ridge Lake (Union Ridge Conservation Area)
  - [27.]* **26.** Vandalia Community Lake
  - [28.]* **27.** Weldon Spring Conservation Area
  - [29.]* **28.** Worth County Community Lake
- (C) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following department areas or individually named lakes:
1. Bellefontaine Conservation Area
  2. Lakes 33 and 35 (August A. Busch Memorial Conservation Area)
  3. Belcher Branch Lake Conservation Area
  4. Robert G. Delaney Lake Conservation Area
  - 5. Happy Holler Lake (Happy Holler Lake Conservation Area)**
  - [5.]* **6.** Lake Paho Conservation Area
  - [6.]* **7.** Port Hudson Lake Conservation Area

(3) On August A. Busch Memorial Conservation Area, **Harmony Mission Lake (Harmony Mission Conservation Area)** and James A. Reed Memorial Wildlife Area, all white bass, striped bass and their hybrids less than twenty inches (20") total length must be returned to the water immediately after being caught.

**(7) On Bushwhacker Lake (Bushwhacker Lake Conservation Area) the daily limit of bluegill and other sunfish may include no more than five (5) fish more than eight inches (8") in total length.**

*[[7]]* (8) On Lake Girardeau Conservation Area and Henry Sever Lake Conservation Area, muskellunge less than forty-two inches (42") total length must be returned to the water unharmed immediately after being caught.



*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002.*

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**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.110 Use of Boats and Motors.** The commission proposes to amend section (6).

*PURPOSE: This amendment allows the use of outboard motors in excess of ten (10) horsepower on Palmer Lake.*

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

(J) Mark Twain National Forest (Council Bluff Lake, **Palmer Lake**)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002.*

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**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.125 Hunting and Trapping.** The commission proposes to amend section (1).

*PURPOSE: This amendment prohibits waterfowl hunting after 1:00 p.m. on Odessa City Lake and Upper Odessa City Lake.*

(1) Hunting, under statewide permits, seasons, methods and limits, is permitted except as further restricted in this chapter.

**(H) Waterfowl hunting is prohibited after 1:00 p.m. on Odessa (Odessa City Lake, Upper Odessa City Lake).**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.*

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**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.135 Fishing, Methods.** The department proposes to amend section (7).

*PURPOSE: This amendment establishes a seasonal restriction on fishing methods at Jefferson Lake (City of St. Louis).*

(7) 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), **St. Louis City (Jefferson Lake)** and St. Louis County (Tilles Park Lake).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002.*

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**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.140 Fishing, Daily and Possession Limits.** The commission proposes to amend sections (2) and (12).

*PURPOSE: This amendment increases the daily limit on black bass at Blee Lake (City of Macon) and establishes catch-and-release fishing regulations on trout at Jefferson Lake (City of St. Louis).*

- (2) The daily limit for black bass is two (2) on the following lakes:
- [(O)]* Macon (Blee Lake)
  - [(P)]* (O) Mexico (Teal Lake)
  - [(Q)]* (P) Mineral Area College (Quarry Pond)
  - [(R)]* (Q) Overland (Wild Acres Park Lake)
  - [(S)]* (R) Potosi (Roger Bilderback Lake)
  - [(T)]* (S) St. 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)
  - [(U)]* (T) 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)
  - [(V)]* (U) Unionville (Lake Mahoney)
  - [(W)]* (V) University of Missouri (South Farm R-1 Lake)
  - [(X)]* (W) Warrensburg (Lion's Lake)
  - [(Y)]* (X) Watkins Mill State Park Lake
  - [(Z)]* (Y) Wentzville (Community Club Lake)
  - [(AA)]* (Z) Windsor (Farrington Park Lake)

(12) Trout must be returned to the water unharmed immediately after being caught from November 1 through January 31 on Kirkwood (Walker Lake), Overland (Wild Acres Park Lake), **St. Louis City (Jefferson Lake)** and St. 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. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Aug. 30, 2001, effective Jan. 30, 2002. Amended: Filed May 9, 2002.*

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**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.145 Fishing, Length Limits.** The commission proposes to amend section (2).

*PURPOSE: This amendment changes the minimum length limit on black bass at Blee Lake (City of Macon).*

(2) Black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught, except as follows:

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

1. Arrow Rock State Historic Site (Big Soldier Lake)
  2. Bethany (Old Bethany City Reservoir)
  3. Big Oak Tree State Park (Big Oak Lake)
  4. Butler City Lake
  5. California (Proctor Park Lake)
  6. Cameron (Reservoirs No. 1, 2 and 3, Grindstone Reservoir)
  7. Carthage (Kellogg Lake)
  8. Columbia (Stephens Lake)
  9. Concordia (Edwin A. Pape Lake)
  10. Confederate Memorial State Historic Site lakes
  11. Dexter City Lake
  12. Hamilton City Lake
  13. Harrison County Lake
  14. Higginsville City Lake
  15. Holden City Lake
  16. Iron Mountain City Lake
  17. Jackson (Rotary Park Lake)
  18. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
  19. Jefferson City (McKay Park Lake)
  20. Lancaster (New City Lake)
  - 21. Macon (Blee Lake)**
  - [21.]* **22.** Maysville (Willow Brook Lake)
  - [22.]* **23.** Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake)
  - [23.]* **24.** Mineral Area College (Quarry Pond)
  - [24.]* **25.** Pershing State Park ponds
  - [25.]* **26.** Potosi (Roger Bilderback Lake)
  - [26.]* **27.** University of Missouri (Dairy Farm Lake No. 1 and McCredie Lake)
  - [27.]* **28.** Warrensburg (Lion's Lake)
  - [28.]* **29.** Watkins Mill State Park Lake
  - [29.]* **30.** Windsor (Farrington Park Lake)
- (C) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following lakes:
1. Ballwin (New Ballwin Lake, Vlais Park Lake)
  2. Bridgeton (Kiwans Lake)
  3. Columbia (Twin Lake)
  4. Ferguson (January-Wabash Lake)
  5. Kirksville (Hazel Creek Lake)
  6. Kirkwood (Walker Lake)
  - [7.]* **Macon (Blee Lake)]**
  - [8.]* **7.** Overland (Wild Acres Park Lake)
  - [9.]* **8.** St. 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)
  - [10.]* **9.** 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)
  - [11.]* **10.** Unionville (Lake Mahoney)
  - [12.]* **11.** University of Missouri (South Farm R-1 Lake)
  - [13.]* **12.** Wentzville (Community Club Lake)

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**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 20—Wildlife Code: Definitions**

**PROPOSED AMENDMENT**

**3 CSR 10-20.805 Definitions.** The commission proposes to amend sections (5), (19) and (52) of these definitions.

*PURPOSE: This amendment adds the definitions of cervid and ungulate and revises the definition of field trial.*

**(5) Cervid: All species of the deer family (family Cervidae) including those commonly known as white-tailed, mule, fallow, sika, red, musk, Pere David's deer, moose, caribou, reindeer, elk, or wapiti, and all deer-hybrids.**

**[[5]] (6) Chase or chased:** The act of using dogs to follow wildlife for the purpose of recreation or dog training, but not for the purpose of catching or taking that wildlife.

**[[6]] (7) Circus:** A scheduled staged event in which entertainment includes performances by trained wildlife, either native or nonnative to the continental United States, and in which physical contact between wildlife and humans is restricted to the handlers, performers or other circus employees.

**[[7]] (8) Closed season:** That period of time during which the pursuit or taking of wildlife is prohibited by this Code.

**[[8]] (9) Commercial establishment:** Any place of business, owned or operated by any person or group of persons, or business concern of any kind, where ordinary trade or business practices are conducted. This term shall include, but is not restricted to, any club, association or society where meals, lodging or other services or facilities are furnished for a consideration, price or fee.

**[[9]] (10) Commercial fish:** All fish except shovelnose sturgeon more than thirty inches (30") in length (measured from tip of snout to fork of tail), pallid and lake sturgeon and game fish as defined in this rule. Includes those species for which sale is permitted when legally obtained. For purposes of this Code, packaged salt water species or freshwater species not found in waters of this state, when the processed fish are truly labeled as to content, point of origin and name and address of the processor, are exempt from restrictions applicable to native commercial fish. Commercial fish include common snapping and soft-shelled turtles and crayfish taken from waters open to commercial fishing. In the Mississippi

River and that part of the St. Francis River which forms the boundary between the states of Arkansas and Missouri, commercial fish also include channel, blue and flathead catfish at least fifteen inches (15") in total length. In the Mississippi River only, commercial fish include paddlefish at least twenty-four inches (24") in length (measured from eye to fork of tail).

**[[10]] (11) Commercial waters:** The flowing portions of the Missouri River, the Mississippi River except in Sand Chute below the mouth of the Salt River in Pike County, and that part of the St. Francis River which forms a boundary between the states of Arkansas and Missouri, and also waters which exist temporarily through overflow from the Mississippi River east of the Missouri Pacific Railroad between Cape Girardeau and Scott City, and east of the Mississippi River mainline and setback levees between Commerce and the Arkansas state line.

**[[11]] (12) Commission:** The Conservation Commission as specified in Section 3, Reorganization Act of 1974, pursuant to Article IV, Section 40(a) of the *Constitution of Missouri* (see also Article IV, Section 12).

**[[12]] (13) Crossbow:** A device for discharging quarrels or bolts, formed of a bow set crosswise on a stock, usually drawn by means of a mechanism and discharged by release of a trigger.

**[[13]] (14) Days or dates:** All days and dates shall be inclusive. A day shall begin or end at midnight, unless otherwise specified.

**[[14]] (15) Department:** The Department of Conservation as specified in Section 3, Reorganization Act of 1974, pursuant to Article IV, Section 40(a) of *Constitution of Missouri* (see also Article IV, Section 12).

**[[15]] (16) Director:** The director of the Department of Conservation.

**[[16]] (17) Ditch:** Any artificial drainageway, tributary to a stream or body of water, and containing sufficient water to support fish.

**[[17]] (18) Domicile:** The place where a person has his/her true, fixed and permanent home and principal establishment and to which whenever s/he is absent s/he has the intention of returning. It is his/her legal residence, as distinguished from his/her temporary place or abode; or his/her home, as distinguished from a place to which business or pleasure may temporarily call him/her.

**[[18]] (19) Field [or retriever] trial[s]:** An organized event, contest, demonstration or trial of dogs [where] whether or not prizes or awards of any kind are offered, and where dogs [under control are] may be used to chase, locate, pursue or retrieve wildlife.

**[[19]] (20) Firearms:** Pistols, revolvers and rifles propelling a single projectile at one (1) discharge including those powered by spring, air or compressed gas, and shotguns not larger than ten (10) gauge.

**[[20]] (21) Flies, lures and baits:** The following are authorized for use except where restricted in 3 CSR 10-6.415, 3 CSR 10-6.535, 3 CSR 10-11.205, and 3 CSR 10-12.135.

(A) Fly—A lure constructed on a single-point hook, of feathers, tinsel, chenille, yarn, fur, hair, silk, rayon or nylon thread or floss, with or without spinner.

(B) Artificial lure—A manufactured lure other than a fly or soft plastic bait (unscented).

(C) Soft plastic bait (unscented)—Synthetic eggs, synthetic worms, synthetic grubs and soft plastic lures.

(D) Natural and scented baits—A natural fish food such as bait fish, crayfish, frogs permitted as bait, grubs, insects, larvae, worms, salmon eggs, cheese, corn and other food substances not containing any ingredient to stupefy, injure or kill fish. Does not include flies or artificial lures. Includes dough bait, putty or paste-type bait, any substance designed to attract fish by taste or smell and any fly, lure or bait containing or used with such substances.

[[21]] (22) Furbearing animals: Furbearers: Mink, muskrat, opossum, river otter, striped skunk, spotted skunk, badger, beaver, raccoon, long-tailed weasel, red fox, gray fox, bobcat, mountain lion, black bear and coyote.

[[22]] (23) Game birds: Geese, ducks, ring-necked pheasant, gray partridge, ruffed grouse, wild turkey, northern bobwhite quail, Virginia rail, sora rail, American coot, American woodcock, common snipe, mourning dove and crows.

[[23]] (24) Game fish: Shall include the following in which the common names are to be interpreted as descriptive of, but not limiting, the classification by Latin names:

(A) *Ambloplites*, all species of rock bass, commonly known as goggle-eye, redeye, shadow bass, Ozark bass.

(B) *Lepomis gulosus*, commonly known as warmouth bass.

(C) *Esox*, all species commonly known as muskellunge, tiger muskie, muskie-pike, hybrid, northern pike, chain pickerel, grass pickerel.

(D) *Ictalurus*, all species except bullheads, commonly known as channel catfish, blue catfish, Mississippi cat, Fulton cat, spotted cat, white cat, willow cat, fiddler cat.

(E) *Micropterus*, all species of black bass and their hybrids, commonly known as largemouth bass, lineside bass, smallmouth bass, brown bass, Kentucky bass, spotted bass.

(F) *Polyodon*, all species, commonly known as paddlefish, spoonbill.

(G) *Pomoxis*, all species, commonly known as crappie, white crappie, black crappie.

(H) *Pylodictis*, commonly known as flathead catfish, goujon, yellow cat, river cat.

(I) *Morone*, all species and their hybrids, commonly known as white bass, yellow bass, striped bass.

(J) *Oncorhynchus* and *Salmo*, all species commonly known as salmon and trout.

(K) *Stizostedion*, all species and their hybrids, commonly known as walleye, pike perch, jack salmon, sauger.

[[24]] (25) Game mammals: Deer, fox squirrel, gray squirrel, groundhog (woodchuck), cottontail rabbit, swamp rabbit, jack rabbits, and furbearers as defined.

[[25]] (26) Grab: The act of snagging or attempting to snag a fish by means of a pole, line and hook manipulated by hand.

[[26]] (27) Hook: Single- or multiple-pronged hooks and the ordinary artificial lures with attached single- or multiple-pronged hooks and dropper flies. A multiple-pronged hook or two (2) or more hooks employed to hold a single bait, shall be considered a single hook in counting the allowable total in use.

[[27]] (28) 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.

[[28]] (29) 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.

[[29]] (30) 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.

[[30]] (31) 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.

[[31]] (32) 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).

[[32]] (33) 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.

[[33]] (34) 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.

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

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

[[36]] (37) 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.

[[37]] (38) Open season: That time when the pursuing and taking of wildlife is permitted.

[[38]] (39) Other fish: All species other than those listed as endangered in 3 CSR 10-4.111 or defined in this rule as game fish.

[[39]] (40) Poisons, contaminants, pollutants: Any substances that have harmful effect upon wildlife.

[[40]] (41) Pole and line: Fishing methods using tackle normally held in the hand, such as a cane pole, casting rod, spinning rod or fly rod, to which not more than three (3) hooks with bait or lures are attached. This fishing method does not include snagging, snaring, grabbing or trotlines or other tackle normally attached in a fixed position.

[[41]] (42) Possessed and possession: The actual and constructive possession and control of things referred to in this Code.

[[42]] (43) Public roadway: The right of way which is either owned in fee or by easement by the state of Missouri or any county or municipal entity, or which is used by the general public for travel and is also regularly maintained by Department of Transportation, federal, county or municipal funds or labor.

[(43)] (44) Pursue or pursued: Includes the act of trying to find, to seek or to diligently search for wildlife for the purpose of taking this wildlife.

[(44)] (45) 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 share holders who reside on lands held by the corporation.

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

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

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

[(48)] (49) 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.

[(49)] (50) 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.

[(50)] (51) 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.

**(52) Ungulate: Hoofed animals.**

[(51)] (53) 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.

[(52)] (54) 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. This rule previously filed as 3 CSR 10-II.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO*

*Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 23—Technician Certification Program**

**PROPOSED RULE**

**7 CSR 10-23.010 Definitions**

*PURPOSE: This rule provides definitions of terms applicable to the Missouri Department of Transportation's technician certification program.*

(1) Apprentice certification. Temporary certification usually used for qualifying new hires, summer students, and seasonal workers.

(2) District coordinator. Missouri Department of Transportation (MoDOT) employee responsible for coordinating the Technician Certification Program (TCP) training activities within a district.

(3) Evaluator. An individual who has been approved by the materials qualification engineer (MQE) to administer performance evaluations.

(4) Materials qualification engineer (MQE). Missouri Department of Transportation employee responsible for coordinating the TCP training activities statewide.

(5) Review board. A board chaired by the State Project Operations Engineer that is responsible for oversight of the TCP and who makes decisions regarding decertification.

(6) Technician. An individual trained to perform sampling and acceptance testing of materials used in transportation construction projects.

(7) Technician Certification Program (TCP). A program administered by MoDOT to certify technicians who perform sample and acceptance testing of certain materials used in transportation construction projects.

(8) Trainer. An individual who has been approved by the MQE to perform classroom instruction and administer written examinations and performance evaluations.

*AUTHORITY: sections 226.020, 226.130 and 227.030, RSMo 2000 and 23 CFR Ch. 1, Part 637. Original rule filed May 7, 2002.*

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 23—Technician Certification Program**

**PROPOSED RULE**

**7 CSR 10-23.020 Certification/Recertification for Qualified Sampling and Testing Technician**

*PURPOSE: This rule provides for individuals to become certified or recertified as qualified sampling and testing technicians as required by federal regulation at Title 23 Code of Federal Regulations, Ch. 1, Part 637.*

(1) Applicability. This rule applies to all individuals seeking an initial certification or recertification from Missouri Department of Transportation (MoDOT) as a qualified sampling or testing technician.

(2) Applications. Any individual seeking an initial certification, recertification, or apprentice certification status shall complete either an Application for the MoDOT Technician Certification Program or Application Form—Apprentice Technician. The application forms can be obtained from the Internet at the MoDOT website at <http://www.modot.state.mo.us> or by contacting the materials qualification engineer (MQE). Completed applications are to be forwarded to the MQE.

(3) Initial Certification Requirements. Any individual seeking to be certified shall—

(A) Complete an Application for MoDOT Technician Certification Program in accordance with section (2) of this rule;

(B) Attend the required classroom instruction;

(C) Pass the written and performance examination given at the end of the classroom instruction;

(D) Certifications will be valid for three (3) years. Certification may be renewed in accordance with section (4) of this rule; and

(E) Certifications may be revoked pursuant to 7 CSR 10-23.030.

(4) Recertification Requirements. Any technician seeking to be recertified shall—

(A) Complete an Application for MoDOT Technician Certification Program in accordance with section (2) of this rule;

(B) Attend a classroom instruction in the subject which certification is due to expire;

1. To qualify for recertification, the classroom instruction must be attended within ninety (90) days after the current certification expiration date;

(C) Pass the written and performance examination given at the end of the classroom instruction;

(D) Recertification shall be valid for three (3) years from the date of recertification; and

(E) Recertifications may be revoked pursuant to 7 CSR 10-23.030.

(5) Apprenticeship Requirements. Any individual seeking apprentice certification shall—

(A) Complete an Application for MoDOT Technician Certification Program in accordance with section (2) of this rule;

(B) Attend classroom instruction in the test methods which certification is being requested;

(C) Pass the written and performance examination given at the end of the classroom instruction;

(D) Apprentice certification shall be valid until March 1 of the following year from the date of examination; and

(E) Certifications may be revoked pursuant to 7 CSR 10-23.030.

(6) Classroom Instruction. Classroom instruction is required for certification and recertification.

(A) Course Schedule. The course schedule and list of locations shall be available to any interested person. It is available on the Internet at the MoDOT website at <http://www.modot.state.mo.us> or by contacting the MQE.

(B) Application. To apply for a course, an application must be completed and submitted pursuant to section (2) of this rule.

(C) Costs. A fee schedule for courses can be found at the MoDOT website at <http://www.modot.state.mo.us> or by contacting the MQE. Charges for the courses will be invoiced upon acceptance of enrollment. Fees are forfeited if cancellation is not made within the time prescribed below in subsection (6)(D).

(D) Cancellation Policy. Cancellations must be made within ten (10) calendar days prior to the scheduled course date.

(7) Written Examination Requirements.

(A) Individuals seeking an initial certification in a course are required to achieve a score for the course taken as defined in subsection (7)(C). If the required score is not achieved they are granted a retest, which must be completed within sixty (60) days of the course date.

(B) Technicians seeking recertification in a course are required to achieve a score for the course taken as defined in subsection (7)(C). If the required score for recertification is not achieved a retest is not granted. If the technician fails the written exam for recertification, the technician must complete the initial certification requirements described in subsection (3)(A) and achieve a score as defined in subsection (7)(C) of this section to maintain their certification.

(C) Scores required for passing the written exam are—

1. For Level 1 Technician, the passing score shall be at least eighty-five percent (85%).

2. For Level 2 Soils, Aggregate or Concrete, the passing score shall be at least eighty-five percent (85%).

3. For Level 2 Bituminous, the passing score shall be at least eighty percent (80%).

4. For Profilograph, Aggregate Specific Gravity or Low Slump, the passing score shall be at least eighty-five percent (85%).

(D) Individuals seeking apprenticeship status must achieve a score of seventy percent (70%) for each test method.

(E) The reported information for the written examination will be Pass or Fail. Actual exam scores are not provided. Exam review is not allowed.

(8) Performance Examinations. The performance examinations given are demonstrations of the test procedure by the individual in the presence of an evaluator or trainer. To pass the performance examination the individual must present a demonstration of all critical items of the test procedure. Individuals are allowed two (2) opportunities to demonstrate the test procedure. If both performance examinations are failed, the individual must complete the initial certification requirements in section (3).

(9) Reciprocity. Any individual certified by any other state may be considered as meeting the Technician Certification Program requirements of MoDOT. Requests for reciprocity shall be submitted in writing to the MQE for consideration. The MQE consideration of granting reciprocity rests with the MQE and his/her interpretation of the program content in which the individual was certified.

*AUTHORITY: sections 226.020, 226.130 and 227.030, RSMo 2000 and 23 CFR Ch. 1, Part 637. Original rule filed May 7, 2002.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Transportation \$1,096,709 in the aggregate. A fiscal note is attached.*

*PRIVATE COST: This proposed rule is estimated to cost private individuals or industries two hundred thirty-six thousand seven hundred twenty dollars (\$236,720) in the aggregate. A fiscal note is attached.*

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

**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	7 CSR 10-23.020, Certification/Recertification for Qualified Sampling and Testing Technician
Type of Rulemaking	Proposed Rulemaking

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision.	Estimated Cost in the Aggregate.
Missouri Department of Transportation (MoDOT)	\$ 1,096,709

**III. WORKSHEET**

For Courses taught by MoDOT staff:

<u>Number of Courses</u>	<u>Course</u>	<u>Cost/Course</u>	<u>Total</u>
19	L1	\$4,860	\$ 92,340
57	L1R	3,650	208,050
11	L2A	2,600	28,600
20	L2AR	1,750	35,000
17	L2C	2,600	44,200
49	L2CR	1,750	85,750
9	L2S	2,600	23,400
45	L2SR	1,750	78,750
21	Profile	700	14,700
5	Low Slump	2,100	10,500
4	ASG	3,500	14,000

Coordinator Salary = \$59,245 x 8 hrs x 257 courses 121,807

Total MoDOT expenses for courses taught by MoDOT **\$757,097**

For Courses taught at University of MO - Rolla

<u>MoDOT Employees</u>	<u>Course</u>	<u>Cost/Course</u>	<u>Total</u>
50	L2B	\$ 800	\$ 40,000
130	L2BR	445	57,850

Travel expenses = 50 x 5 days @ \$100/day 25,000  
130 x 2 days @ \$100/day 26,000

Total MoDOT expenses for Courses taught by University of MO, Rolla **\$ 148,850**

Materials Qualification Engineer **\$ 96,908**  
Clerk for the program **\$ 44,451**  
Supplies and equipment **\$ 37,633**  
Meals **\$ 11,770**

**Total** **\$1,096,709**



#### IV. ASSUMPTIONS

1. The above assumptions are for the FY 2003 and are based upon the FY 2000.
2. Any salary figures are based upon the present pay grade of employees involved in the operation of the Technician Certification Program.
3. MoDOT anticipates that as a result of this program, it will cost an approximate total of \$1,096,709 to pay for the instructor salaries, Materials Qualification Engineer salary, Coordinator salaries, and clerical salaries. In addition the expenses by MoDOT include travel, lodging and other costs to send MoDOT employees to courses held by the University of Missouri – Rolla, to pay for meals served at the courses conducted by MoDOT and to cover costs for equipment and supplies( a budgeted amount to the program).
4. MoDOT anticipates providing a certain number of courses during FY 2003. The cost of courses provided by MoDOT were figured using the salary grade of the trainers (\$43.39/hr.) multiplied by the number of trainers multiplied by the number of hours spent on a specific course.
5. MoDOT anticipates paying the cost for 180 MoDOT employees to attend training at University of Missouri - Rolla. Fifty employees will attend a course costing \$800/student and 130 employees will attend a course costing \$445/student. Travel expenses for MoDOT employees are calculated at \$100/day. Five day course for 50 employees = \$25,000 and 2 day course for 130 employees = \$26,000.
6. Meals were calculated based upon the number of classes multiplied by the average number of students per class (12) multiplied by the number of days the class is held (number of days for each class varies.) The total number of meals anticipated using this calculation equaled 4,708 and a value of \$5/meal given. (\$23,540). However, approximately only half of the districts provide meals and the amount of \$23,540 was divided by 2 to equal \$11,770.
7. Any other costs not identified in this fiscal note are unforeseeable and unquantifiable as the exact cost of the program cannot be predicted.

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	7 CSR 10-23.020, Certification/Recertification for Qualified Sampling and Testing Technician
Type of Rulemaking	Proposed Rulemaking

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be effected by the adoption of the proposed rule:	Classification by types of the business entities which would be effected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities
125	Firms (Contractors/Consultants)	\$236,720

**III. WORKSHEET**

For Courses taught by MoDOT staff:

<u>Number of Students</u>	<u>Course</u>	<u>Cost/Course</u>	<u>Total</u>
160	L1	\$ 200	\$ 32,000
99	L1R	100	9,900
60	L2A	200	12,000
99	L2AR	100	9,900
150	L2C	200	30,000
0	L2CR	100	0
50	L2S	200	10,000
0	L2SR	100	0
122	Profile	100	12,200
0	Low Slump	100	0
36	ASG	100	3,600

Total for courses taught by MoDOT

**\$119,600**

For Courses taught at University of Missouri – Rolla

<u>Number of Students</u>	<u>Course</u>	<u>Cost-Course</u>	<u>Total</u>
50	L2B	\$800	\$40,000
66	L2BR	445	29,370

Travel Expenses = 50 students x 5days @ \$125/day	31,250
66 students x 2 days @ \$125/day	16,500

Total for courses taught by University of MO, Rolla

**\$117,120**

**TOTAL**

**\$236,720**

**IV. ASSUMPTIONS**

- The above assumptions are for the FY 2003 and are based upon FY 2000 numbers with respect to total students to get an estimated total cost. The total number of firms employing the students is estimated at 125. It is further estimated that each firm will provide between one to three technicians.
- Any other costs not identified in this fiscal note are unforeseeable and unquantifiable as the exact number of students cannot be predicted.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 23—Technician Certification Program**

**PROPOSED RULE**

**7 CSR 10-23.030 Decertification Procedures and the Appeal  
Process for Technicians**

*PURPOSE:* This rule provides for the Missouri Department of Transportation to suspend or revoke a technician's certification status and the technician's right to appeal the suspension or revocation.

(1) Decertification.

(A) Any technician may have his/her certification suspended or revoked by the review board where:

1. The technician fails to renew their certification after three (3) years or fails to attend and pass the recertification course within ninety (90) days after the expiration date; or

2. The technician is found to have committed fraud, abuse, willful negligence, or has demonstrated incompetence identified by the technician's supervisor or a certified technician, verified by a second certified technician; and

3. Upon written notice by the district coordinator to the review board through the materials qualification engineer (MQE).

(B) At a minimum, if the review board finds that the technician has failed to renew his/her certification or, has failed to obtain recertification in the required time period, or is found to have committed acts described in paragraph (1)(A)2. above, the following actions may be taken:

1. First offense may result in a written reprimand.

2. Second offense may result in a minimum thirty (30)-day suspension of all certifications held by the technician. The review board reserves the right to establish in each case the effective date of any suspension. A technician who has incurred a suspension may also be required to attend a recertification course or courses prior to the reinstatement of his/her certification.

3. Third offense may result in a permanent revocation of certifications.

(C) The MQE must notify the technician in writing within ten (10) working days of any suspension or decertification determinations made by the review board.

(D) Any decertification action taken, other than permanent revocation of certifications, will be removed from technician's record three (3) years after the date of decertification.

(2) Appeal.

(A) Request for Informal Hearing. When the MQE notifies a technician of a decision made by the review board to suspend or revoke its certification, the technician will have the opportunity to present information and arguments and request an informal hearing by the review board. Such request must be submitted in writing to the review board through the MQE within thirty (30) days of the decertification determination made by the review board.

(B) Procedure. If the technician requests a timely informal hearing, the review board, through the MQE, shall advise the technician of the time, date and place of the informal hearing. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the informal hearing.

(C) Recourse. The decision of the review board after an informal hearing is considered final.

*PUBLIC COST:* This proposed rule is estimated to cost MoDOT four thousand five hundred dollars (\$4,500) in the aggregate. See attached fiscal note.

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

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

*AUTHORITY:* sections 226.020, 226.130 and 227.030, RSMo 2000 and 23 CFR Ch. 1, Part 637. Original rule filed May 7, 2002.

**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	7 CSR 10-23.030, Decertification Procedures and the Appeal Process for Technicians
Type of Rulemaking	Proposed Rulemaking

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision.	Estimated Cost in the Aggregate.
Missouri Department of Transportation (MoDOT)	\$ 4,500

**III. WORKSHEET**

An estimated three (3) decertifications/suspensions per year @ \$1,000 each. = \$3,000  
(20 working hours x \$50/hr.)

An estimated three (3) appeals per year @ \$500 each = 1,500  
(10 working hours x \$50/hr.)

**Total** \$4,500

**IV. ASSUMPTIONS**

1. The above assumptions are for the FY 2003 and are based upon the number of decertifications for FY 2001.
2. Any salary figures are based upon the present pay grade medium of employees involved in the decertification or appeal process under the operation of the Technician Certification Program.
3. MoDOT anticipates that as a result of this proposed rule regarding the decertification and appeal process, it will cost MoDOT an estimated four thousand five hundred dollars ( \$4,500) per year in the aggregate. The cost includes the identification of the need for action, verification of need for action, district coordinator review regarding need for action, written notice to the review board to take action, and the review of any information or argument presented by the technician during the appeal.
4. Any other costs not identified in this fiscal note are unforeseeable and unquantifiable as the exact number of decertifications/suspensions or number of appeals cannot be predicted.

**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 10-5.380 Motor Vehicle Emissions Inspection.** The commission proposes to amend sections (1) through (8). 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 revises the inspection requirements for 1996 and newer model year vehicles equipped with OBD technology and requires that an improvement in tailpipe emissions be made in order for a compliance waiver to be issued. The evidence supporting the need for this proposed rulemaking, per section 536.016, is the Final Federal Rule published by the EPA on April 5, 2001, the letter from the Missouri Department of Natural Resources to the EPA Region VII dated January 10, 2002 and the letter from the Alliance of Automotive Service Providers of Missouri to the Missouri Air Conservation Commission dated May 21, 2001. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.*

**(1) Applicability.**

(A) Except as provided in subsection (1)(B) of this rule, subject vehicles include all vehicles operated on public roadways in the geographical area containing the City of St. Louis and the counties of St. Louis, St. Charles, and Jefferson and which are—

1. Registered in the area with the state of Missouri Department of Revenue;
2. Leased, rented, or privately owned and are not registered in the geographical area but are primarily operated in the area. A vehicle is primarily operated in the area if at least fifty-one percent (51%) of the vehicle's annual miles are in the area;
3. Owned or leased by federal, state, or local government agencies, and are primarily operated in the geographical area, but are not required to be registered by the state of Missouri; or
4. Owned, leased, or operated by civilian and military personnel on federal installations located within the geographical area, regardless of where the vehicles are registered.

(B) The following vehicles are exempt from this rule:

1. Model year vehicles prior to 1971;
2. Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) in excess of eight thousand five hundred (8,500) pounds;
3. Diesel powered vehicles;
4. Hydrogen powered vehicles;
5. Vehicles powered solely by electric motors;
6. Vehicles powered solely by alternative fuels without test procedures established by federal regulation;
7. Motorcycles and motortricycles;
8. New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two (2) years of such calendar year, which have an odometer reading of less than six thousand (6,000) miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user;
9. Motor vehicles registered in the applicable area covered by this section of the rule which are domiciled and operated

exclusively in an area of the state not subject to the provisions of this section of the rule for a duration covering the next twenty-four (24) months. The owner of the vehicle shall present the director a sworn affidavit that the vehicle will be based and operated outside the covered area;

10. Tactical military vehicles; and

11. Visitor, employee, or military personnel vehicles on federal installations provided appointments do not exceed sixty (60) calendar days per calendar year.

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

[(1)] (2) Definitions.

(A) [Definitions for key words used in this rule may be found in 10 CSR 10-6.020(2).] **Compliance cycle**—The two (2)-year duration during which a subject vehicle in the enhanced emission inspection program area is required to comply with sections 643.300–643.355, RSMo.

1. For private entity vehicles, the compliance cycle begins sixty (60) days prior to the subject vehicle's registration expiration.

2. For public entity vehicles, the compliance cycle begins on January 1 of each even-numbered calendar year.

[(B) Additional definitions specific to this rule are as follows:

[1.] (B) **Contractor**—The state contracted company who shall implement and operate the **centralized, enhanced** motor vehicle emission/s/ inspection program as specified in sections 643.300–643.355, RSMo/;].

[2.] (C) **Control chart**—[Statistical method of showing graphically, determining, forecasting, and maintaining performance conditions and parameters in the pursuit of appropriate quality control;] The graphical presentation of the results of statistical process control methods applied to emission inspection test equipment and personnel for the purposes of assuring the quality control of each emission inspection performed. Such charts identify situations that are “out of control” and enable trend analysis useful to pinpointing the need for improvements in quality control. The U.S. Environmental Protection Agency (EPA)-defined control charts are listed in April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, section 2234, subsection (g), which is incorporated by reference.

[3.] (D) **Department**—The Missouri Department of Natural Resources/;].

(E) **Diagnostic Trouble Code (DTC)**—An alphanumeric code consisting of five (5) characters which is stored by a vehicle's On-Board Diagnostics system if a vehicle malfunctions or deteriorates in such a way as to potentially raise the vehicle's tailpipe or evaporative emissions more than 1.5 times the federal test procedure certification limits.

(F) **Emission inspection**—A series of tests performed on a vehicle in order to evaluate whether the mass or concentration of pollution that the vehicle emits exceeds a given standard or used to evaluate whether the vehicle's emission control components are present and properly functioning.

[4.] (G) **Gross Vehicle Weight Rating (GVWR)**—The value specified by the manufacturer as the maximum design loaded weight of a single vehicle/;].

(H) **Hybrid Electric Vehicle (HEV)**—Any vehicle that is designed with two (2) means of propulsion, one being a gasoline-powered internal combustion engine, the other being an electric motor powered by batteries.

(I) **Idle test**—An engine exhaust emissions test in which the engine of a vehicle remains at a relatively uniform number of revolutions per minute.

[5.] (J) **Initial emission inspection**—An emission inspection consisting of the test series that occurs the first time a vehicle is inspected in [an inspection] a compliance cycle. [The required test fee is collected upon an initial inspection;].

[6.] (K) **Light Duty Truck (LDT)**—Any motor vehicle rated at eight thousand five hundred [pounds] (8,500) pounds GVWR or less which has a vehicle curb weight of six thousand [pounds] (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

1. [d/Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; /or]

2. [d/Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or

3. [a/Available with special features enabling off-street or off-highway operation and use;/.]

[7.] (L) **Light Duty Vehicle (LDV)**—A passenger car or passenger car derivative capable of seating twelve (12) passengers or less that is rated at six thousand (6,000) pounds GVWR or less[;].

(M) **Malfunction Indicator Lamp (MIL)**—A warning light located on the dashboard of vehicles equipped with On-Board Diagnostics systems indicating to the vehicle operator that the vehicle either has a malfunction or has deteriorated enough to cause at least one (1) DTC to be stored.

(N) **On-Board Diagnostics (OBD)**—A vehicle emissions early-warning system required by federal law to be installed on all light-duty 1996 and newer model year vehicles for sale in the United States. The OBD system monitors sensors attached to all emission-control related components on a vehicle to ensure that the emission control system operates properly throughout a vehicle's lifetime.

(O) **On-Board Diagnostics (OBD) test**—A test in which a vehicle's OBD system is connected to a hand-held tool or computer capable of determining:

1. If the OBD system's readiness flags have been set;

2. If the MIL is functioning correctly; and

3. If the OBD system has stored any DTCs that are commanding the MIL to be illuminated.

[8.] (P) **Qualifying repair**—Any repair or adjustment performed on a vehicle's emission control system after failing an initial emission[s] inspection, that is [appropriate] reasonable to the test method failure. The qualifying repair must be performed within ninety (90) days of the date of initial emission inspection.[Qualifying repairs shall include the repair or adjustment of emission control devices such that the requirements of parts (3)(H)1.B(IV)–(3)(H)1.B(XI) of this rule are satisfied;] The qualifying repair may consist of either—

1. The parts costs, spent by a vehicle owner or charged to a vehicle owner by a repair technician, that are appropriate for the type of emission inspection failure; or

2. The parts and recognized labor costs, charged to a vehicle owner by a Recognized Repair Technician, that are appropriate for the type of emission inspection failure.

(Q) **Readiness flag**—A design feature of On-Board Diagnostics systems. If a readiness flag has been set, then the OBD system has completed a diagnostic check on that component. If a readiness flag has not been set, then the OBD system has not completed a diagnostic check on that component.

(R) **Recognized labor costs**—The labor costs that a Recognized Repair Technician charges for emission repair services rendered to a vehicle that fails its emission inspection;

[9.] (S) **Recognized [r/Repair [t/Technician—[a/Any person who—**

[A.] 1. Is professionally engaged full-time in vehicle repair or employed by an ongoing business whose purpose is vehicle

repair. A Recognized Repair Technician may only be recognized by the department at one place of employment;

[B.] 2. Has valid certifications [in] from the National Institute for Automotive Service Excellence (ASE) in Electrical Systems (A6), Engine Performance (A8), and Advanced Engine Performance Specialist (L1) that have not expired; [and]

[C.] 3. Has satisfactorily completed an independent or vehicle manufacturer's training course, approved by the department, or has passed a nationally-recognized test, approved by the department, which course or test covers the emissions test[s given] methods used, diagnosis of the causes for failures, and repair work most frequently done for vehicles failing the transient emission test. Recognized Repair Technicians whose recognition expires or is revoked by the department must comply with paragraph (2)(S)3. of this rule again before being re-recognized by the department;

4. Has satisfactorily completed at least one (1) four (4)-hour continuing education course per calendar year offered by the department; and

5. Has not been reported by the department to the Attorney General for unlawful merchandising practices according to subsection 643.330.5, RSMo.

[10. **Steady state emission test**—an engine exhaust emissions test in which the engine of a vehicle remains at a relatively uniform number of revolutions per minute;

11. Tier 1—new gaseous, particulate tailpipe, and emission standards established by United States Environmental Protection Agency (EPA) for use in certifying new light duty vehicles and light duty trucks phased in beginning with the 1994 model year;]

[12.] (T) **Transient emission test**—[a/An engine exhaust emissions test in which the engine of a vehicle is put under changing load requirements intended to simulate actual driving conditions; and]

[13.] (U) **Unsafe condition**—[t/The mechanical and physical condition of a motor vehicle which an emission[s] inspector believes has the potential to cause harm to persons, vehicles, or property during the course of an emission[s] inspection.

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

[(2) **Applicability.**

(A) *Except as provided in subsection (2)(B) of this rule, subject vehicles include all vehicles operated on public roadways in the geographical area containing the City of St. Louis and the counties of St. Louis, St. Charles, and Jefferson and which are:*

1. Registered in the area with the state of Missouri Department of Revenue; or

2. Leased, rented, or privately owned and are not registered in the geographical area but are primarily operated in the area; or

3. Owned or leased by federal, state, or local government agencies, and are primarily operated in the geographical area, but are not required to be registered by the state of Missouri; or

4. Owned, leased, or operated by civilian and military personnel on federal installations located within the geographical area, regardless of where the vehicles are registered.

(B) *The following vehicles are exempt from this rule:*

1. Model year vehicles prior to 1971;

2. Motor vehicles with a manufacturer's GVWR in excess of eight thousand five hundred (8,500) pounds;

3. Diesel powered vehicles;

4. Hydrogen powered vehicles;

5. Electrically powered vehicles;

6. *Alternative-fueled vehicles without test procedures established by federal regulation;*

7. *Motorcycles and motortricycles;*

8. *New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two (2) years of such calendar year, which have an odometer reading of less than six thousand (6,000) miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user;*

9. *Motor vehicles registered in the applicable area covered by this section which are domiciled and operated exclusively in an area of the state not subject to the provisions of this section for a period covering the next twenty-four (24) months. The owner of the vehicle shall present the director a sworn affidavit that the vehicle will be based and operated outside the covered area;*

10. *Tactical military vehicles; and*

11. *Visitor, employee, or military personnel vehicles on federal installations provided appointments do not exceed sixty (60) calendar days per calendar year.*

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

### (3) General *[Requirements]* Provisions.

#### (A) Subject Vehicle Compliance.

1. **Private entity vehicle** *[C]*compliance with emission standards.

A. Motor vehicles subject to this rule shall demonstrate compliance with emission standards in this rule. Such demonstration shall be made through the test~~[ing procedures]~~ **methods specified in section (5) of this rule** and be completed *[on the schedule]* according to the compliance cycle specified in *[this rule]* paragraph (2)(A)1., the inspection intervals specified in subsection (3)(B), and the inspection periods specified in subsection (3)(C) of this rule.

B. Completion of the *[scheduled demonstration]* **emission inspection requirements** is necessary for vehicle initial registration, registration renewal, or registration transfer.

C. Failure to complete a *[scheduled]* vehicle emission inspection **during the compliance cycle or before vehicle registration** shall be a violation of this rule. *[and t/]*These violations are subject to penalties specified in subsection 643.355.5, RSMo.

2. *[Proof of]* **Public entity vehicle compliance with emission standards.** *[Federal, state, and local government agencies shall provide documentation of proof of compliance with this section to the department. The agencies shall use the following methods to establish proof of compliance:]*

A. *[Present a list on a quarterly basis of all vehicles owned by the agency or operated by agency personnel subject to this section;]* All subject vehicles owned by federal, state and local governments shall be emission inspected within the first twenty-four (24) months of the effective date of the enhanced emission inspection program.

B. After the first compliance cycle, all subject vehicles owned by federal, state and local governments shall be emission inspected according to the compliance cycle specified in paragraph (2)(A)2. and the inspection intervals specified in subsection (3)(B) of this rule.

C. All federal agencies shall ensure employee and military personnel vehicles meet the requirements of this subsection according to the December 1999 *Interim Guidance for Federal Facility Compliance With Clean Air Act Sections 118(c) and 118(d) and Applicable Provisions of State Vehicle Inspection*

*and Maintenance Programs, which is incorporated by reference.*

*[B.] D. All public entities shall [P]provide department [inspection] personnel access to vehicle parking lots, garages, and areas otherwise used to store vehicles in order to examine vehicles for the presence of [emission inspection] windshield stickers. [All federal agencies shall ensure employee and military personnel vehicles meet the requirements of this subsection; and*

*C. All subject vehicles owned by federal, state and local governments shall be emission inspected within the first twenty-four (24) months of the effective date of the enhanced inspection and maintenance program in compliance with the model year requirement.]*

E. Failure to complete a vehicle emission inspection within the compliance cycle specified in paragraph (2)(A)2. of this rule shall be a violation of this rule. These violations are subject to penalties specified in subsection 643.355.5, RSMo.

#### 3. Vehicle fleets of five hundred (500) vehicles or more.

A. Vehicle fleets of five hundred (500) vehicles or more may be officially emission inspected outside of the centralized emission inspection stations designated for the general public, if the fleet inspection facilities are approved by the department. Owners or operators of such vehicle fleets shall use the state contractor to conduct the emission inspections.

B. Vehicle fleets using such inspection facilities shall be subject to the same inspection requirements as nonfleet vehicles.

C. Fleet inspection facilities shall be subject to quality assurance evaluations at least as stringent as those performed at public inspection stations.

D. Owners or operators may make repairs to fleet vehicles on-site.

4. Vehicle fleets of fewer than five hundred (500) vehicles. The department shall require operators of emission inspection facilities to accommodate fleets of ten (10) vehicles or greater with special hours, scheduling appointments during hours not open to the public, and providing a voucher payment system.

#### (B) *[Vehicle]* Emission Inspection Intervals.

1. Vehicles subject to this rule, manufactured as an odd-numbered model year vehicle are required to be inspected *[and approved]* by the enhanced emission inspection program in each odd-numbered calendar year. *[and as/]*Subject vehicles manufactured as an even-numbered model year vehicle *[is]* are required to be inspected *[and approved]* by the enhanced emission inspection program in each even-numbered calendar year.

2. At the time of registration transfer, subject vehicles are required by section 643.315.1, RSMo to be inspected *[and approved]* by the enhanced emission inspection program, regardless of the vehicle model year. At the time of registration transfer, prior to the sale of a vehicle, sellers of vehicles are required to provide the purchaser with an emission inspection compliance certificate or compliance waiver that is valid for registering the vehicle according to inspection period requirements of subsection (3)(C) of this rule.

#### (C) Emission Inspection Periods.

1. An emission inspection performed at an inspection station on a subject vehicle via the vehicle inspection process described in subsections (3)(F)–(J) of this rule is valid, for the purposes of obtaining registration or registration renewal, for a *[period]* duration of sixty (60) days from the date of passing inspection or waiver issuance.

2. Reinspections occurring fewer than ninety (90) days after the initial emission inspection are subject to subsections (3)(H)–(J) of this rule.

3. Reinspections occurring more than ninety (90) days after the initial emission inspection shall be considered to be an

initial emission inspection as defined in subsection (2)(J) and are subject to subsections (3)(F) and (G) of this rule.

4. An emission inspection performed on a subject vehicle via the clean screening inspection process described in paragraph (3)(K)1. of this rule and subsection (3)(L) of this rule are valid, for the purposes of obtaining registration or registration renewal, for a duration of sixty (60) days from the date the clean screening inspection payment is processed.

[(D) Fleets.

1. Fleet test facilities. Vehicle fleets of five hundred (500) vehicles or greater may be officially inspected outside of the centralized emission inspection stations designated for the general public, if the fleet test facilities are approved by the department. Vehicle fleets using such fleet testing facilities shall be subject to the same test requirements and quality control standards as nonfleet vehicles. Owners or operators of such vehicle fleets shall use the state contractor to conduct the emission inspection tests. Owners or operators may make repairs to fleet vehicles on site. Fleet test facilities shall be subject to at least as stringent quality assurance evaluations as public inspection stations.

2. Vehicle fleets less than five hundred (500). Vehicle fleets of ten (10) vehicles or greater shall be given special consideration at public test facilities. The department shall require operators of emission inspection test facilities to accommodate fleets with special hours, scheduling appointments during hours not open to the public, and providing a voucher payment system.]

[(E)] (D) Emission Inspection Fee.

1. At the time of an initial emission inspection, [T]the vehicle owner or driver shall pay twenty-four dollars (\$24) to the [centralized] emission inspection station, payable by cash, check or credit card.

2. This emission inspection fee shall [also] include free reinspections, provided the vehicle owner or driver complies with all reinspection requirements as required in subsection (3)/(G)/(H) of this rule, and the reinspections are conducted within thirty (30) days of the initial emission inspection.

3. If an emission inspection fee is required, [T]the [required test]emission inspection fee shall be reduced on days of operation, other than the last three (3) days of operation in each calendar month, by an amount [proportional to] that corresponds with the time that the vehicle owner or driver is required to wait before the inspection begins. The emission inspection fee shall be reduced as follows:

A. If the wait time is greater than thirty (30) minutes, the fee shall be reduced by ten dollars (\$10); or

B. If the wait time is greater than one (1) hour, the fee shall be reduced by twenty dollars (\$20).

4. The fee for a clean screening inspection compliance certificate and windshield sticker shall be twenty-four dollars (\$24), payable by check, credit card or money order.

[4.] 5. The fee reimbursed to the state by the contractor shall be two dollars and fifty cents (\$2.50) for each individual emission inspection fee paid by a vehicle owner or driver at an inspection station or for a clean screening compliance certificate. The fee shall be remitted to the Director of Revenue on a weekly basis. The Director of Revenue shall deposit the fee into the "Missouri Air Emission Reduction Fund" as established by section 643.350, RSMo.

(E) Emission Test Equipment.

1. Performance features of emission test equipment. Computerized test systems are required for performing any measurement on subject vehicles. The test equipment shall be certified to meet EPA requirements. Newly acquired emission test systems shall be subjected to department acceptance test

procedures to ensure compliance with enhanced emission inspection program specifications.

A. Emission test equipment shall be capable of testing all subject vehicles and will be updated as needed to accommodate new technology vehicles as well as changes to the program.

B. At a minimum, emission test equipment shall be:

(I) Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;

(II) Secure from tampering and/or abuse;

(III) Based upon written specifications; and

(IV) Capable of simultaneously sampling dual exhaust vehicles.

2. Functional characteristics of computerized test systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

A. The test system shall automatically:

(I) Make pass/fail decisions for all measurements;

(II) Record test data to an electronic medium;

(III) Conduct regular self-testing of recording accuracy;

(IV) Perform electrical calibration and system integrity checks before each test, as applicable; and

(V) Initiate system lockouts for—

(a) Tampering with security aspects of the test system;

(b) Failing to conduct or pass periodic calibration or leak checks;

(c) Failing to conduct or pass the constant volume sampler flow rate check;

(d) Failing to conduct or pass any of the dynamometer checks, including coast-down, roll speed and roll distance, power absorption capability, and inertia weight selection checks;

(e) Failing to conduct or pass the pressure monitoring device check; and

(f) A full data recording medium or one that does not pass a cyclical redundancy check.

B. Test systems shall include a data link to the department computer as specified in the contract between the department and the contractor(s).

C. The test system shall ensure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

3. Evaporative system pressure test equipment. Evaporative system pressure test equipment shall be as specified by EPA in April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, section 2227, which is incorporated by reference.

4. Single-speed and two (2)-speed idle test equipment. Idle test equipment requirements shall be as specified by EPA in 40 CFR part 51, subpart S, Appendix A, section (I) and Appendix D, section (I), which are incorporated by reference.

5. Transient emission test equipment. Transient emission test equipment shall meet standards specified by EPA in April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, section 2226, which is incorporated by reference.

6. On-Board Diagnostics (OBD) test equipment. OBD test equipment shall meet the standards specified by EPA in 40 CFR part 85, subpart W, section 2231, which is incorporated by reference.

(F) [Vehicle] Emission Inspection [Process] Procedures. The emission inspection shall [consist of emission tests and functional tests which shall be subject to] meet the following requirements:



1. Prior to entering the inspection station queuing area, the vehicle owner or driver shall be presented a time card for the verification of arrival time. Wait time shall be determined by the difference in time between the time of arrival and the time that emission inspection begins;

[1.] 2. If a subject vehicle is targeted for a voluntary or mandatory manufacturer's emission recall notice issued after July 1, 1995, the vehicle owner or operator shall present to the emission inspection station proof of compliance with the recall notice;

[2.] 3. A vehicle shall not be [tested] inspected if all or part of the vehicle manufacturer's original exhaust system is missing, leaking, or if the vehicle is in an unsafe condition as defined in subsection (2)(U) of this rule and determined by either the inspector or the department representative. If a motor vehicle is refused for inspection, then the [inspector] station manager, assistant station manager, or department representative shall give the motorist a form that identifies the reasons for inspection refusal. The reasons for inspection refusal include, but are not limited to, the safety, driveability, and test procedure concerns as determined by the station manager, assistant station manager, or department representative. No fee shall be charged for this inspection;

[3. Upon entering the inspection station queuing area and prior to inspection commencement, the vehicle owner or driver shall be presented a time card for the verification of arrival time and wait time;]

4. The vehicle owner or driver shall have access to an area in the inspection station that permits observation of the entire official inspection procedure of the vehicle [tested] being inspected. This access may be limited, but it shall not prevent observation;

5. Vehicles shall be [tested] inspected in as-received condition. An official [test] inspection, once initiated, shall be performed in its entirety regardless of immediate outcome, except in the case of an invalid test condition, unsafe conditions, or test completion via fast pass algorithms;

6. The initial emission inspection shall be performed according to the test methods described in subsections (5)(A)-(G) of this rule without repair or adjustment at the emission inspection station prior to commencement of any tests, except as provided for in the evaporative system pressure [and purge] test[s]. Emission inspections performed [after] within ninety (90) days of the initial emission inspection [in an inspection cycle] shall be considered a reinspection and are subject to provisions of subsection (3)(G)/(H) of this rule;

7. If a subject vehicle passes all emission inspection requirements within [a complete inspection] the compliance cycle described in subsection (2)(A) of this rule and the inspection period described in paragraph (3)(C)1. of this rule according to the standards described in subsection (3)(G) of this rule, the emission inspection station shall issue the vehicle owner or driver [an emission inspection] a compliance certificate [of compliance] certifying that the vehicle has passed the emission inspection, and place [an emission inspection] a windshield sticker on the windshield of the subject vehicle according to subsection (4)(A) of this rule. The positioning of the windshield sticker on the windshield of the vehicle shall take place on the premises of the emission inspection station;

8. If a subject vehicle fails any [phase] of the [emission inspection requirements] test methods described in subsections (5)(A)-(G) of this rule, the emission inspection station shall provide the vehicle owner or driver with [an emission inspection] a vehicle test report indicating which [part(s)] test method(s) of the emission inspection that the vehicle failed, a [list of repair facilities employing at least one (1) recognized repair technician] repair facility performance report, a repair data sheet, and a copy of the customer complaint procedure according to subsection (4)(B) of this rule; and

9. If a subject vehicle fails any [part] of the [emission inspection] test methods described in subsections (5)(A)-(G) of this rule, the vehicle owner must have the vehicle repaired and complete a repair data sheet before submitting the vehicle for reinspection; and]. The vehicle shall be reinspected according to the appropriate inspection period as determined by paragraphs (3)(C)2. and 3. of this rule and the reinspection procedures described in subsection (3)(H) of this rule.

[10. If the subject vehicle fails a reinspection, the vehicle owner can apply for a compliance waiver. If all waiver requirements as prescribed in subsections (3)(H) of this rule are met, a waiver shall be issued by the department-approved inspector at the emission inspection station.]

(G) Initial Emission Inspection Standards. Subject vehicles shall fail the emission inspection if the tailpipe emissions exceed the following measured values or if the vehicle does not meet the OBD test standards:

1. Single-speed idle test standards for Light Duty Vehicles and Trucks.

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

2. Maximum exhaust dilution shall be measured as no less than six percent (6%) carbon monoxide (CO) plus carbon dioxide (CO<sub>2</sub>) by volume on vehicles subject to a single-speed idle test as described in 40 CFR part 51, subchapter S, Appendix B, paragraph (I)(a)(3), which is incorporated by reference;

3. Phase-in transient emission test standards. For transient emission tests performed through the first twenty-four (24) months after the effective date of the enhanced emission inspection program, the following test standards, measured in grams per mile (gpm), apply to all subject vehicles:

A. Light Duty Vehicles.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1982	2.0	60	3.0
1983-1990	2.0	30	3.0
1991-1995	1.2	20	2.5
1996 and newer	0.8	15	2.0

B. Light Duty Trucks less than or equal to six thousand (6,000) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	7.5	100	7.0
1984-1987	3.2	80	7.0
1988-1990	3.2	80	3.5
1991-1995	2.4	60	3.0
1996 and newer	1.0	20	2.5

C. Light Duty Trucks greater than six thousand (6,000) pounds GVWR but less than or equal to eight thousand five hundred (8,500) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	7.5	100	7.0
1984-1987	3.2	80	7.0
1988-1990	3.2	80	5.0
1991-1995	2.4	60	4.5
1996 and newer	2.4	60	4.0

4. Final transient emission test standards. For transient emission tests performed after the first twenty-four (24) months of implementation of the enhanced emission inspection

program, the following test standards, measured in grams per mile (gpm), apply to all subject vehicles:

A. Light Duty Vehicles.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1982	0.8	30	2.0
1983-1995	0.8	15	2.0
1996 and newer	0.6	10	1.5

B. Light Duty Trucks less than or equal to six thousand (6,000) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	3.4	70	4.5
1984-1987	1.6	40	4.5
1988-1995	1.6	40	2.5
1996 and newer	0.8	13	1.8

C. Light Duty Trucks greater than six thousand (6,000) pounds GVWR but less than or equal to eight thousand five hundred (8,500) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	3.4	70	4.5
1984-1987	1.6	40	4.5
1988-1995	1.6	40	3.5
1996 and newer	0.8	15	2.0

5. Two (2)-speed idle test standards for Light Duty Vehicles and Trucks that cannot be tested with the transient emission test equipment.

Model Year	HC (PPM)	CO %
1981 and newer	220	1.2

6. Single-speed idle test standards for vehicles registered by the Department of Revenue as specially constructed vehicles.

Model Year	HC (PPM)	CO %
1971 and newer	500	5.0

7. On-Board Diagnostics (OBD) test standards for 1996 and newer model year Light Duty Vehicles and Trucks. 1996 and newer model year Light Duty Vehicles and Trucks shall fail the emission inspection if they do not meet the OBD test standards specified by EPA in 40 CFR part 85, section 2207, which is incorporated by reference.

[[G]] (H) Emission Reinspection Procedures.

1. Emission reinspection fee.

A. To qualify for free reinspections, the vehicle owner or driver shall present the previous vehicle test report and the completed repair data sheet to the emission inspection station within thirty (30) calendar days of the initial emission inspection.

B. Reinspections occurring more than thirty (30) calendar days after the initial emission inspection shall only be performed upon payment of the emission inspection fee to the emission inspection station.

2. Repair data sheet. For a reinspection, the vehicle owner or driver shall present the previous vehicle test report and the completed repair data sheet to the inspection station. Whether repairs were performed by the owner, a Recognized Repair Technician, or someone other than a Recognized Repair Technician, the repair data sheet must be completed and presented to the inspector at the emission inspection station prior to the start of the emission reinspection.

[[1.]] 3. Reinspection procedure for 1971-1995 model year subject vehicles and, before January 1, 2003, for 1996 and

newer model year subject vehicles. *[All vehicles that require a reinspection are required to receive a visual emission control device inspection.]*

A. Vehicles that fail any *[part initial inspection or a reinspection]* of the test methods described in subsections (5)(A)-(G) of this rule shall be reinspected after repairs, using the test methods described in subsections (5)(A)-(G) of this rule to determine if the repairs were effective for correcting failures on the previous inspection, thereby reducing or preventing an increase in tailpipe or evaporative emissions.

B. To the extent that repairs done to correct a previous failure could lead to failure of another *[portion]* test method of the inspection, that *[portion]* test method shall also be *[retested]* repeated. Evaporative system repairs performed as a result of a vehicle failing *[either]* the evaporative system *[purge or]* pressure test will be cause for a complete reinspection covering all the initial emission inspection requirements contained in subsection (3)(F) of this rule.

C. The reinspection shall be performed without repair or adjustment at the emission inspection station prior to tests, except as provided for in the evaporative system pressure *[and purge]* tests.

[[2.]] *Repair data sheet. For a reinspection, the vehicle owner or driver shall present the previous emission inspection test results report and the completed repair data sheet to the inspection station. Whether repairs were performed by the owner, a recognized repair technician, or someone other than a recognized repair technician, the repair data sheet must be completed and presented to the department-approved inspector at the emission inspection station.*

3. *Reinspection fees. To qualify for free reinspections, the vehicle owner or driver shall present the emission inspection test report and the completed repair data sheet to the emission inspection station within thirty (30) calendar days of the initial emission inspection. Reinspections after the thirty (30)-day period shall only be performed upon payment of the full emission inspection test fee to the emission inspection station.*

4. Reinspection procedure for 1996 and newer model year vehicles between January 1, 2003, and December 31, 2004.

A. Vehicles that fail the OBD test described in subsection (5)(E) of this rule and the transient emission test described in subsection (5)(C) of this rule shall be reinspected according to subsections (5)(A) and (5)(C)-(G) of this rule, to determine if the repairs were effective for correcting failures on the previous inspection, thereby reducing or preventing an increase in tailpipe or evaporative emissions.

B. The reinspection shall be performed without repair or adjustment at the emission inspection station prior to tests, except as provided for in the evaporative system pressure tests.

5. Reinspection procedure for 1996 and newer model year vehicles after December 31, 2004.

A. Vehicles that fail the OBD test described in subsection (5)(E) of this rule shall be reinspected according to subsections (5)(A) and (5)(E)-(G) of this rule, to determine if the repairs were effective for correcting failures on the previous inspection, thereby reducing or preventing an increase in tailpipe or evaporative emissions.

B. The reinspection shall be performed without repair or adjustment at the emission inspection station prior to tests, except as provided for in the evaporative system pressure tests.

6. If the subject vehicle passes a reinspection according to paragraphs (3)(H)3.-5. of this rule, then the procedures in paragraph (3)(F)7. of this rule shall be followed.

7. If the subject vehicle fails a reinspection according to paragraphs (3)(H)3.-5. of this rule, the vehicle owner may either:

A. Have more repairs performed on the vehicle and bring the vehicle back for another reinspection; or

B. Apply for a compliance waiver according to the requirements in subsection (3)(I) of this rule.

*[(H)] (I) [Issuance of a] Emission Inspection Waivers.*

1. *[The department, assistant station manager, or station manager at the emission inspection station shall issue an emission inspection certificate of compliance, with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver, and an emissions inspection sticker shall be affixed to the subject vehicle provided the following waiver requirements are met] A vehicle shall be issued a compliance waiver under the following conditions:*

A. The subject vehicle has failed the initial emission inspection, **has had** *[and has failed a reinspection(s) after all] qualifying repairs [have been completed. As prescribed in paragraph (3)(G)2. of this rule, a completed repair data sheet for the failed initial inspection and for all failed re-inspections in the applicable inspection cycle must also be presented to the department-approved inspector at the emission inspection station when applying for a waiver], and has failed an emission reinspection;*

B. The vehicle operator has taken the vehicle to an emission inspection station or a state quality assurance/waiver facility and presented to the station manager, assistant station manager, or the department representative the vehicle test report, stating that the vehicle presented has failed the initial emission inspection and all subsequent emission reinspections;

C. The subject vehicle has shown a reduction in tailpipe emissions according to one (I) of the following requirements:

(I) If the measured tailpipe emissions of the preceding emission inspection were above the standards set in subsection (3)(J) of this rule, the measured tailpipe emissions of the reinspection must be equal to or below the standards set in subsection (3)(J) of this rule; or

(II) If the measured tailpipe emissions of the preceding emission inspection were equal to or below the standards set in subsection (3)(J) of this rule, the measured tailpipe emissions of the reinspection must show a reduction in the tailpipe emissions that caused the vehicle to fail the preceding emission inspection, and all of the measured tailpipe emissions must be equal to or below the standards set in subsection (3)(J) of this rule; or

(III) If the department representative at the state quality assurance/waiver facility verifies that the estimated cost, as described on an official estimate invoice signed and dated by a Recognized Repair Technician, of qualifying repairs necessary to reduce the measured emissions according to parts (3)(H)2.C.(I)–(II) of this rule would exceed the minimum limits specified in subparagraphs (3)(I)2.A.–C. of this rule by more than fifty percent (50%), then the department representative shall waive only the requirements of this subparagraph;

D. The subject vehicle has all of its emission control components correctly installed and operating as designed by the vehicle manufacturer. Used or aftermarket emission control components will not be accepted for compliance waiver purposes by the station manager, assistant manager, or department representative unless the vehicle owner presents to the station manager, assistant manager, or department representative written certification from the supplier or aftermarket manufacturer that the component(s) function as well as the originally designed component;

E. The vehicle operator has presented to the station manager, assistant station manager, or the department representative all itemized receipts of qualifying repairs. The qualifying repairs must meet the requirements of paragraph (3)(I)2. of this rule. The itemized receipts must meet the requirements of paragraph (3)(I)3. of this rule; and

F. The station manager, assistant station manager, or the department representative has, to the extent practical, visually verified that repairs were made and parts were repaired/replaced as claimed and that all emission control components originally installed on the vehicle by the manufacturer are present and operating as designed.

(I) The station manager, assistant station manager, or department representative shall use the visual emission control device test described in subsection (5)(G) of this rule to fulfill the requirement of this subparagraph.

(II) If the vehicle fails the emission control device visual test described in subsection (5)(G) of this rule, then the vehicle will be denied a compliance waiver.

*[B.] 2. The amount spent on qualifying repairs shall [–] :*

*[(I)] A. Exceed seventy-five dollars (\$75) for pre-1981 model year vehicles;*

*[(II)] B. Exceed two hundred dollars (\$200) for 1981 to 199[6]5 model year vehicles;*

*[(III)] C. Exceed four hundred fifty dollars (\$450) for 199[7]6 and [later] all subsequent model year vehicles;*

*[(IV)] D. [Include parts costs and labor costs paid for qualifying emission repair services performed on the vehicle if paid by the vehicle owner and if the qualifying repairs were performed or supervised by a recognized repair technician as prescribed in part (3)(H)1.C.(IV) of this rule.] Be inclusive of parts costs paid for emission repair services. Recognized labor costs shall be applied toward a compliance waiver. For qualifying [emission repair services] repairs performed by someone other than a [r/Recognized [r/Repair [t/Technician, parts costs, but not labor costs, shall be [counted] applied toward [the minimum cost to qualify for] a compliance waiver;*

*[(V)] E. [Be appropriate to the test failure] Not include the fee for an emission inspection;*

F. Not include charges for obtaining a written estimate of needed repairs;

G. Not include charges for checking for the presence of emission control devices;

H. Not include costs for repairs performed on the vehicle before the initial emission inspection failure or more than ninety (90) days before the reinspection;

*[(VI)] I. Not include expenses which are incurred for the repair of emission control devices which have been found to be tampered with, rendered inoperative, or removed; and*

*[(VII)] J. Not include costs for emissions repairs or adjustments covered by an automobile manufacturer's warranty, insurance policy, or contractual maintenance agreement. The emissions repair costs covered by warranty, insurance, or maintenance agreements shall be separated from other emissions repair costs and shall not be applied toward the compliance waiver cost limitations. The operator of a vehicle within the statutory age and mileage coverage under subsection 207(b) of the federal Clean Air Act shall present a written denial of warranty coverage, with a complete explanation, from the manufacturer or authorized dealer in order for this provision to be waived[;].*

*[(VIII)] Not include the fee for an emission inspection;*

*[(IX)] Not include charges for obtaining a written estimate of needed repairs;*

*[(X)] Not include charges for checking for the presence of emission control devices; and*

*[(XI)] Not include costs for repairs performed on the vehicle before the initial inspection failure;]*

*[C.] 3. The vehicle [owner or driver] operator shall present the original of all itemized repair receipts at [the] an emission inspection station or a state quality assurance/waiver facility to demonstrate compliance with the qualifying dollar amount. [The department-approved inspector issuing a waiver shall*

verify emission-related repairs by visually inspecting the vehicle and reviewing repair receipts.] The itemized repair receipt(s) shall[-]:

[(I)] A. Include the name[, address, and phone number] of the repair facility and the model year, make, model and vehicle identification number of the vehicle being repaired;

[(III)] B. Describe the diagnostic test(s) performed to identify the reason the vehicle failed an emission inspection, the emission repair(s) that were indicated by the diagnostic test(s), the emission repairs that were authorized by the vehicle owner or driver and performed by the repair technician, the vehicle part(s) that were serviced or replaced, and the diagnostic test(s) performed after the repairs were completed to verify that the vehicle's emissions were reduced or that the vehicle's emission control system is now operating as it was designed to operate by the manufacturer;

[(III)] C. [State] Clearly list the labor costs, if the vehicle was repaired by a repair technician, [(where applicable)] and parts costs separately for each repair. Unclear repair receipts that do not identify the vehicle that was repaired, do not itemize the actual cost of the parts that were serviced, do not list the labor costs separately from the parts costs, or contain fraudulent information or parts costs as determined by the station manager, assistant station manager, or department representative shall not be accepted for the purpose of obtaining a compliance waiver; [and]

[(IV)] D. Include the repair technician's name (printed or typed), [and] signature [of] and, if applicable, the [r]Recognized [r]Repair [t]Technician ID number of the repair technician that performed [or supervised] the repair work [(where applicable)]; and

E. Confirm that payment was collected for the services rendered and/or parts replaced as listed on the itemized repair receipt(s).

[D. The vehicle owner or driver shall present a completed, signed waiver affidavit provided by the contractor to department-approved inspector at the emission inspection station indicating the costs of repairs and stating that the repairs were made in an attempt to meet the appropriate emission standards. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]

4. If the conditions of paragraphs (3)(I)1.-3. of this rule have been met, the station manager, the assistant station manager, or the department representative shall issue a compliance waiver and affix the windshield sticker to the vehicle. The windshield sticker shall meet the requirements of subparagraph (4)(A)2.A. of this rule.

[2.] 5. The department[-approved inspector] shall issue an emission inspection compliance certificate [of compliance], with an indicator to show that the vehicle has received an out of area waiver to the vehicle owner or driver, and [an emissions inspection] a windshield sticker shall be affixed to the subject vehicle, provided the vehicle owner or driver presents a completed, signed waiver affidavit to the department[-approved inspector] indicating that the vehicle will be operated exclusively in an area outside of the inspection area but within the state for a [period] duration of at least the next twenty-four (24) months.

[3.] 6. The department[-approved inspector] shall issue an emission inspection compliance certificate [of compliance] with an indicator to show that the vehicle has received a reciprocity waiver to the vehicle owner or driver, and [an emissions inspection] a windshield sticker shall be affixed to the subject vehicle, provided the vehicle owner or driver presents proof, acceptable to the department[-approved inspector], that the subject vehicle has successfully passed an emission inspection of another state

within the previous twelve (12) months which has been deemed equivalent to Missouri's emission inspection by the department.

(J) Compliance Waiver Emission Standards. Subject vehicles shall be permitted to receive a compliance waiver according to paragraph (3)(I)1. of this rule if, after receiving qualifying repairs, the tailpipe emissions are equal to or below the following measured emission values:

1. Single-speed idle test waiver standards for Light Duty Vehicles and Trucks.

Model Year	HC (PPM)	CO %
1971-1974	900	9.0
1975-1979	800	8.0
1980	500	5.0

2. Maximum exhaust dilution will be measured as no less than six percent (6%) carbon monoxide (CO) plus carbon dioxide (CO<sub>2</sub>) by volume on vehicles subject to a steady-state test as described in 40 CFR part 51, subchapter S, Appendix B, paragraph (I)(a)(3), which is incorporated by reference;

3. Transient emission test waiver standards.

A. Light Duty Vehicles.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1982	2.0	60	3.0
1983-1990	2.0	30	3.0
1991-1995	1.2	20	2.5

B. Light Duty Trucks less than six thousand (6,000) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	7.5	100	7.0
1984-1987	3.2	80	7.0
1988-1990	3.2	80	3.5
1991-1995	2.4	60	3.0

C. Light Duty Trucks greater than six thousand (6,000) pounds GVWR but less than eight thousand five hundred (8,500) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	7.5	100	7.0
1984-1987	3.2	80	7.0
1988-1990	3.2	80	5.0
1991-1995	2.4	60	4.5

4. Two (2)-speed idle test waiver standards for Light Duty Vehicles and Trucks that cannot be tested with the transient emission test equipment.

Model Year	HC (PPM)	CO %
1981 and newer	300	2.0

5. Single-speed idle test waiver standards for vehicles registered by the Department of Revenue as specially constructed vehicles.

Model Year	HC (PPM)	CO %
1971 and newer	700	7.0

6. On-Board Diagnostics (OBD) test waiver standards for 1996 and newer model year Light Duty Vehicles and Trucks.

A. Between January 1, 2003 and December 31, 2004, vehicles that fail the OBD test described in subparagraph (5)(E)3.C. of this rule shall be eligible to receive a compliance waiver, provided the vehicle's tailpipe emissions are equal to or below the permanent transient test standards described in paragraph (3)(G)4. of this rule.

**B. Beginning January 1, 2005, vehicles that fail the OBD test described in subparagraph (5)(E)4.C. of this rule shall not be eligible to receive a compliance waiver.**

*[(I)] (K) Clean Screening Emission Inspection Requirements.* Clean screening shall be used to exempt the cleanest subject vehicles from emission/s testing/ inspections at centralized emission inspection stations. All subject vehicles including federal, state, and local government agency vehicles shall be eligible for clean screening. Motorist participation shall be strictly voluntary.

1. All clean screening plans must be approved by the state agency. Clean screening plans shall meet at least one (1) of the following requirements:

A. Remote Sensing Device (RSD) *[Requirements method. [The cutpoints shall be determined corresponding to vehicle model year and measure vehicle emission concentrations for hydrocarbons (HC), carbon monoxide (CO), and nitrogen oxides (NO<sub>x</sub>) according to the EPA guidelines in "Description and Documentation for Interim Vehicle Clean Screening Credit Utility" (Draft Report) May 1998. The cutpoints should minimize the potential of dirty vehicles being falsely identified as clean. The use of speed and acceleration analysis to define a valid test should also be used.]* Remote sensing data collection shall occur during each month of the year, weather permitting, so that clean screening exemptions due to remote sensing are distributed throughout the year.

(I) Remote sensing units shall be designed, programmed, maintained, calibrated, and quality assured in keeping with good engineering practice.

(II) Two (2) valid RSD tests with all three (3) pollutants and appropriate speed and acceleration values on each test are required to exempt a vehicle with a clean screening determination. If a vehicle's record lacks any of the three (3) pollutant concentrations, that vehicle shall not be eligible for exemption based upon that record.

(III) The two (2) valid RSD tests must be recorded no more than twelve (12) months before the subject vehicle's *[emission test] registration expiration. RSD [T]test results must be recorded on two (2) different days. If the vehicle database accumulates more than two (2) records during the twelve (12)-month period described in this part of the rule, the two (2) most recent tests must be used for clean screening evaluation.*

(IV) Remote sensing sites must be selected and rotated to achieve broad vehicle fleet coverage. Remote sensing sites must also be selected using good engineering practice in terms of traffic flow, road grade, acceleration, speed, and other appropriate items. Sites should be selected that avoid vehicles still in cold start mode.

(V) Record gathering for more recent RSD data shall cease *[one (1) month] at least fifteen (15) days ahead of the beginning of each vehicle's [registration month] compliance cycle.* This cutoff allows time to match RSD tests, identify which vehicles can be exempted, and notify vehicle owners before the vehicle registration deadline according to subsections (4)(C) and (5)(H) of this rule.

*[(VI) Owners of eligible vehicles shall be notified one (1) month prior to the vehicle's registration month that the clean screening database contains two (2) valid records meeting the required cutpoints.*

*(a) The notification shall be sent to the subject vehicle owner's most current address on record.*

*(b) The notification shall include the dates, locations and the two (2) valid test results compared to the appropriate cutpoints.]*

*[(VII) (VI) A two percent (2%) random sample of the vehicles that would be excused from an emission/s testing/ inspection at an inspection station based on [their remote sensing records] the RSD method shall undergo the emissions [test] inspection at an inspection station during the [normal*

*inspection frequency] compliance cycle. [The EPA shall approve the size of the random sample.] To assure these vehicles are truly random and not specially altered for the emission/s/ [testing] inspection, owners of these vehicles shall not be informed of their vehicle's clean screening [exemption] eligibility status;*

*[B. Vehicle Emissions Profiling Requirements. Low Emitter Profiling (LEP) shall be used to exempt the cleanest subject vehicles according to the EPA guidelines in "Description and Documentation for Interim Vehicle Clean Screening Credit" (Draft Report) May 1998. RSD and emissions testing information may be used to supplement the profiling process.*

*(I) An LEP database shall be developed for the subject vehicles using sufficient information from both the Department of Revenue Motor Vehicle Bureau database and fleets in other states according to the EPA guidelines. The database shall have at least one (1) million vehicle records spanning a one (1) to two (2)-year period.*

*(II) The vehicle profiles shall identify all subject vehicles required to undergo emissions testing grouped by engine family, defined as vehicle model year, make, model, engine size, and fuel metering system, and the probability that a particular vehicle in each grouping would fail the relevant emissions test.*

*(III) The LEP database shall be updated on a regular interval based on data gathered from the subject vehicles.*

*(IV) Owners of eligible vehicles that meet the LEP requirements shall be notified one (1) month prior to the vehicle's registration month.*

*(a) The notification shall be sent to the subject vehicle owner's most current address on record.*

*(b) The notification shall list the LEP requirements for that engine family.*

*(V) A random sample of the vehicles that would be excused from emissions testing based on their LEP shall undergo the emissions test during the normal inspection frequency; or*

*C. Alternative Methods Requirements.]*

**B. Hybrid method.**

(I) The EPA and the department shall approve the use of *[any alternative] the Hybrid method [or new technologies]* used for clean screening.

(II) *[Owners of eligible vehicles that meet the department-approved clean screen requirements shall be notified one (1) month prior to the vehicle's registration month.] One (1) valid RSD test with all three (3) pollutants and appropriate speed and acceleration values is required to exempt a vehicle with a clean screening determination. If a vehicle's record lacks any of the three (3) pollutant concentrations, that vehicle shall not be eligible for exemption based upon that record.*

*(III) [The notification shall include information approved by the department. The notification shall be sent to the subject vehicle owner's most current address on record.] The one (1) valid RSD test must be recorded no more than twelve (12) months before the end of the subject vehicle's registration expiration. If the vehicle database accumulates more than one (1) record during the twelve (12)-month period described in this part, the most recent test must be used for clean screening evaluation.*

(IV) A Low Emitter Index (LEI) database shall be developed for the subject vehicles using sufficient information from both the Department of Revenue Division of Motor Vehicle and Drivers Licensing database and fleets in other states according to the EPA guidelines. The database shall have

at least one (1) million vehicle records spanning a one (1) to two (2)-year duration.

(V) The LEI database shall identify all subject vehicles required to undergo emission inspections grouped by engine family, defined as vehicle model year, make, model, engine size, and fuel metering system, and the probability that a particular vehicle in each grouping would fail the relevant emissions tests.

(VI) The LEI database shall be updated on a regular interval with data gathered from the vehicles subject to this rule.

(VII) Record gathering for more recent RSD data shall cease at least fifteen (15) days ahead of the beginning of each vehicle's compliance cycle. This cutoff allows time to identify which vehicles can be exempted, and notify vehicle owners before the vehicle registration deadline according to subsections (4)(C) and (5)(H) of this rule.

(VIII) The one (1) valid RSD test described in part (3)(K)1.B.(II) of this rule shall be matched with a LEI database record that corresponds with the engine family of the subject vehicle. In order for a subject vehicle to be eligible to receive a clean screening notification document, both of the following conditions must be met:

(a) The RSD test must be below the clean screening standards described in subsection (3)(L) of this rule; and

(b) The LEI record must indicate that the subject vehicle has a low probability of failing the corresponding emission tests described in subsections (5)(A)-(E) of this rule.

[(IV)] (IX) A two percent (2%) random sample of the vehicles that would be excused from an emission/s testing/ inspection at a inspection station based on the [alternative] Hybrid method shall undergo the emissions [test] inspection at an inspection station during the [normal inspection frequency] compliance cycle. To assure these vehicles are truly random and not specially altered for the emission inspection, owners of these vehicles shall not be informed of their vehicle's clean screening eligibility status.

[2. The fee for a clean screen compliance certificate and sticker shall be twenty-four dollars (\$24) provided the requirements of paragraph (3)(I)1. of this rule are met.

3. The fee reimbursed to the state by the contractor shall be two dollars and fifty cents (\$2.50) per paid clean screen certificate. The fee shall be remitted to the Director of Revenue on a weekly basis. The Director of Revenue shall deposit the fee into the "Missouri Air Emission Reduction Fund" as established by 643.350, RSMo.]

[4.] 2. An on-road testing program shall provide information about the emission performance of in-use subject vehicles by measuring on-road emissions through the use of remote sensing devices [or roadside pullovers including tailpipe emission testing]. The program shall collect and analyze on-road testing data. On-road testing is not required every season or on every vehicle but shall evaluate the emission performance of at least 0.5% of the subject fleet. [Owners of subject vehicles that have previously been through the normal periodic emission inspection and passed the final retest that are found to be high emitters shall be notified that the vehicles are required to pass an out-of-cycle follow up emission inspection.]

(L) Clean Screening Emission Inspection Standards. Subject vehicles shall be eligible to receive a clean screening notification document according to paragraph (3)(K)1. and subsection (5)(H) of this rule if the on-road tailpipe emissions are equal to or below the following measured emission values:

Model Year	HC (PPM)	CO (%)	NO <sub>x</sub> (PPM)
1971 and newer	200	0.5	2000

[(J)] (M) Vehicle Registration. After a subject vehicle has passed the emission inspection according to either subsection (3)(F) or (H) of this rule, [or] received a waiver according to subsection (3)(I) of this rule, or been clean screened according to subsection (3)(K) of this rule, the emission inspection compliance certificate [of compliance] issued by the emission inspection station or the clean screening compliance certificate mailed to the vehicle owner shall be submitted with registration documents by the vehicle owner or representative to the Missouri Department of Revenue at the time of vehicle registration. [This requirement shall not apply to vehicles registered during the transitional period under subsection (7)(C) of this rule.]

[(K) Any person who owns Missouri Analyzer System emission inspection equipment as defined by 11 CSR 50 Chapter 2, used to provide emissions inspections under 307.366, RSMo, at an emission inspection facility may, within twelve (12) months of the implementation of an emissions inspection program under sections 643.300 to 643.355, RSMo, sell such equipment, to the department. The emission inspection equipment shall be fully functional, maintained according to all applicable manufacturer's specifications and procedures and in use, as verified by department audit records. The department shall select an independent appraiser to determine the current market value of the emission inspection equipment. If any person has a lease entered into prior to January 1, 1992, the department will take possession of such equipment and assume all payment obligations if such obligations are not in excess of one hundred and twenty-five percent (125%) of current market value as determined by the independent appraiser.]

[(L)] (N) Violations and Penalties. Persons violating this rule shall be subject to penalties contained in section 643.355, RSMo.

(O) Quality Control.

1. Quality control requirements for the contractor(s).

A. Contractor conduct.

(I) The department shall appoint only entities under contractual agreement with the department to operate official emission inspection stations, which includes conducting emission inspections and issuing compliance certificates.

(II) Conducting the business of the official emission inspection station shall be performed in such a way that it satisfies the intent of the enhanced emission inspection program by effectively identifying vehicles that fail to meet acceptable emission standards.

(III) Failure to comply with the provisions of this rule and the contract shall be considered a violation of this rule and shall be sufficient cause for suspension of emission inspection privileges and authority to issue compliance certificates.

B. Emission inspectors.

(I) The contractor shall provide to the department an education and training plan, to be approved by the department, for designated emission inspectors.

(II) All contractor personnel who perform emission inspections at each emission inspection station shall be designated by the contractor as emission inspectors.

(III) The contractor shall be responsible for the conduct of emission inspectors.

(IV) Designation as an emission inspector may be suspended by a department quality assurance officer immediately at any time due to a violation of this rule or a provision of the contract.

(V) The contractor shall maintain for the department a registry of designated emission inspectors, that at a minimum includes the inspector's name, beginning date of inspection duties, ending date of inspection duties and description of inspection performance.

C. Inspection records.

(I) All inspection records, calibration records, and control charts shall be accurately created, recorded, and maintained by the contractor.

(II) The contractor and all employees of the contractor shall make available all records and information requested by the department and shall fully cooperate with department personnel and other authorized state representatives or agents who conduct audits and other quality assurance procedures.

(III) All contractors subject to this rule shall maintain emissions inspection records, including repair information as well as all inspection results.

(a) These records shall be kept for at least three (3) years after the date of an initial emissions inspection.

(b) These records shall be made available immediately upon request for review by department personnel.

(c) These records shall also be made available to the department on a continual basis through the use of an automated communication system approved by the department.

2. General requirements. General requirements for quality control practices for all test equipment shall be as follows:

A. At a minimum, the practices described in this section, in the contract, in 40 CFR part 51, subpart S, Appendix A, and in April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, sections 2234 and 2235, which are incorporated by reference, shall be followed;

B. Preventive maintenance on all emission inspection equipment shall be performed on a periodic basis, as provided by the contract between the department and the contractor(s) and consistent with EPA and the equipment manufacturer's requirements;

C. To assure quality control, computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering and any circumstances which require a service representative to work on the equipment;

D. To assure test accuracy, equipment shall be maintained according to demonstrated good engineering procedures;

E. Computer control of quality assurance checks and quality control charts shall be used whenever possible; and

F. The emission inspection station shall transmit the emission inspection results and the quality control results to the department as prescribed in the contract between the department and the contractor(s).

3. Evaporative system pressure test equipment quality control requirements. Calibration and maintenance procedures shall be as specified by EPA in April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, section 2235, which is incorporated by reference.

4. Single-speed and two (2)-speed idle test equipment quality control requirements. Calibration and maintenance procedures shall be as specified by EPA in 40 CFR part 51, subpart S, Appendix A, paragraph (I), which is incorporated by reference.

5. Transient emission test equipment quality control requirements. Calibration and maintenance procedures shall be as specified by EPA in April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, section 2234, which is incorporated by reference.

*[(4) Emission Standards. Subject vehicles shall fail the steady-state (idle test) or the transient emission test if they exceed the following measured emission values:*

*(A) Idle test standards for light duty vehicles and trucks less than eight thousand five hundred (8,500 lbs.) pounds GVWR.*

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

*(B) Maximum exhaust dilution will be measured as no less than six percent (6%) carbon monoxide (CO) plus carbon dioxide (CO<sub>2</sub>) by volume on vehicles subject to a steady-state test as described in July 1998, Title 40 CFR part 51, subchapter S, Appendix B, which is adopted by reference;*

*(C) Phase-In Transient Test Emission Standards. For transient emission inspection tests performed through the first twenty-four (24) months after the effective date of the enhanced inspection and maintenance program, the following test standards, measured in grams per mile (gpm), apply to all subject vehicles:*

*1. Light duty vehicles.*

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1982	2.0	60	3.0
1983-1990	2.0	30	3.0
1991-1993	1.2	20	2.5
<i>Non-Tier I Vehicle</i>			
1994-1995	1.2	20	2.5
<i>Tier I Vehicle</i>			
1994 and Newer	0.8	15	2.0

*2. Light duty trucks less than six thousand (6,000 lbs.) pounds GVWR*

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	7.5	100	7.0
1984-1987	3.2	80	7.0
1988-1990	3.2	80	3.5
1991-1993	2.4	60	3.0
<i>Non-Tier I Vehicle</i>			
1994-1995	2.4	60	3.0
<i>Tier I Vehicle</i>			
1994 and Newer	0.8	15	2.0

*3. Light duty trucks greater than six thousand (6,000) pounds GVWR but less than eight thousand five hundred (8,500) pounds GVWR.*

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	7.5	100	7.0
1984-1987	3.2	80	7.0
1988-1990	3.2	80	5.0
1991-1993	2.4	60	4.5
<i>Non-Tier I Vehicle</i>			
1994-1995	2.4	60	4.5
<i>Tier I Vehicle</i>			
1994 and Newer	1.0	20	2.5

*(D) Permanent Transient Test Emission Standards. For transient emission tests performed after the first twenty-four (24) months of implementation of the program, the following test standards apply to all subject vehicles:*

1. Light duty vehicles.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1982	0.8	30	2.0
1983-1993	0.8	15	2.0
Non-Tier I Vehicle			
1994-1995	0.8	15	2.0
Tier I Vehicle			
1994 and Newer	0.6	10	1.5

2. Light duty trucks less than six thousand (6,000) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	3.4	70	4.5
1984-1987	1.6	40	4.5
1988-1993	1.6	40	2.5
Non-Tier I Vehicle			
1994-1995	1.6	40	2.5
Tier I Vehicle			
1994 and Newer	0.6	10	1.5

3. Light duty trucks greater than six thousand (6,000) pounds GVWR but less than eight thousand five hundred (8,500) pounds GVWR.

Model Year	HC (GPM)	CO (GPM)	NO <sub>x</sub> (GPM)
1981-1983	3.4	70	4.5
1984-1987	1.6	40	4.5
1988-1993	1.6	40	3.5
Non-Tier I Vehicle			
1994-1995	1.6	40	3.5
Tier I Vehicle			
1994 and Newer	0.8	13	1.8

(E) Two-speed idle test standards for light duty vehicles and trucks less than eight thousand five hundred (8,500) pounds GVWR that cannot be transient tested.

Model Year	CO (%)	HC (PPM)
1981 and newer	1.2	220

(F) Vehicles registered by the Department of Revenue as specially constructed vehicles shall be subject to emission standards applicable to the EPA certified engine configuration with which the vehicle is equipped.]

(4) Reporting and Record Keeping.

(A) The contractor shall provide the owners or drivers of vehicles that pass the emission inspection, or are issued a compliance waiver, an emission inspection compliance certificate and windshield sticker. After the effective date of this rule, any revision to the contractor supplied forms shall be presented to the regulated community for a forty-five (45)-day comment period.

1. The compliance certificate shall contain:

A. A vehicle description, including license plate number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of inspection;

C. The applicable test standards;

D. The applicable test results, including exhaust quantities, if applicable, a pass indicator for the evaporative system pressure test(s), and a pass indicator for the visual emission control device test;

E. The results of the recall provisions check, if applicable, including the recall campaign number and the date the recall repairs were completed;

F. A certification that tests were performed in accordance with the regulations;

G. A waiver indicator, if applicable; and

H. The statement: "This inspection is mandated by your United States Congress."

2. The windshield sticker shall:

A. Be affixed by the emission inspector to each vehicle which is subject to and passes the emission inspection, or has been issued a waiver on the inside of the vehicle's front windshield in the lower left hand corner. A windshield sticker affixed to a vehicle that has been issued a waiver shall have a waiver indicator clearly visible on the sticker. Previous windshield stickers affixed to the windshield shall be removed. Destroyed, damaged, or lost windshield stickers can only be replaced after a satisfactory explanation of the details of the incident has been furnished to the department. Windshield stickers are valid for two (2) calendar years; and

B. Contain the statement: "This inspection is mandated by your United States Congress."

(B) The contractor shall provide the vehicle owner or driver of a vehicle that fails an emission inspection with a vehicle test report. Also provided shall be a repair facility performance report, a repair data sheet, and a copy of the customer complaint procedure. The contractor shall not refer vehicle owners to a particular repair station(s) that may or may not be included in the repair facility performance report. After the effective date of this rule, any revision to the contractor supplied forms shall be presented to the regulated community for a forty-five (45)-day comment period.

1. The vehicle test report shall include:

A. A vehicle description, including license plate number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of inspection;

C. The identification number of the individual(s) performing the test and the location of the inspection station and lane number;

D. The type of tests performed, including emission tests, visual checks for the presence of emission control components, and functional evaporative system tests;

E. The applicable test standards;

F. The test results, including exhaust quantities, pass/fail results for the evaporative system pressure test(s), and which emission control devices visually tested were passed, failed, or not applicable;

G. If the vehicle is subject to the OBD test described in subsection (5)(E) of this rule, the information required by 40 CFR part 85, subpart W, section 2223, which is incorporated by reference;

H. To the extent possible, a description of the nature of the failure and the components responsible, recommended repair and adjustment procedures, and an estimated cost for those repairs;

I. A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act;

J. The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed;



K. A statement that the vehicle test report is not valid for vehicle registration purposes; and

L. A statement that the vehicle may be reinspected for free according to subparagraph (3)(H)1.A. of this rule.

2. The repair facility performance report shall list facilities employing at least one (1) Recognized Repair Technician in the area which perform emission related repairs on vehicles and information on the results of emission repairs performed by these facilities. This information shall include:

A. Statistics on the number of vehicles submitted for an emission reinspection after repairs by the repair facility;

B. The percentage of vehicles repaired by the repair facility that passed a reinspection; and

C. The percentage of vehicles repaired by the repair facility that were granted compliance waivers.

3. A repair data sheet must be completed prior to an emission reinspection beginning. The repair data sheet shall include:

A. The total cost of repairs, divided into parts and labor costs;

B. The printed name and signature of the person who performed the repairs and, if applicable, the Recognized Repair Technician's ID number;

C. If applicable, the name of the repair facility and, if the repair facility employs a Recognized Repair Technician, the repair facility's ID number;

D. The type of inspection failure the vehicle was being repaired for and the emission-related repairs performed;

E. If applicable, the signature of the repair technician to indicate if all of the emission-related repairs that they recommended to the motorist were completed; and

F. If applicable, the printed name and signature of the vehicle owner if the owner is seeking a compliance waiver.

4. The contractor shall collect all repair data sheets submitted at the emission inspection stations. The information contained on the repair data sheets shall be electronically entered into a database and made available to the department according to the contract.

5. The customer complaint procedure shall include the telephone number of the department's quality assurance facility. Any challenge regarding the performance or results of the emission inspection must be made in writing within ten (10) business days of the failure of the emission inspection.

(C) The contractor shall send the owners of vehicles that pay for a clean screening inspection according to paragraph (3)(D)4. and subsection (5)(H) of this rule a clean screening inspection compliance certificate and windshield sticker.

1. If the subject vehicle is eligible for clean screening via the RSD method described in subparagraph (3)(K)1.A. of this rule, the compliance certificate shall include the dates and locations of the two (2) valid test results. The RSD test results shall be compared to the clean screening test standards.

2. If the subject vehicle is eligible for clean screening via the Hybrid method described in subparagraph (3)(K)1.B. of this rule, the compliance certificate shall include the date and location of the one (1) valid RSD test result. The RSD test result shall be compared to the clean screening test standards.

3. The windshield sticker shall—

A. Be affixed by the vehicle owners that pay for a clean screening inspection to the inside of the vehicle's front windshield in the lower left hand corner. A clean screening indicator shall be clearly visible on the sticker. Previous windshield stickers affixed to the windshield shall be removed. Destroyed, damaged, or lost windshield stickers can only be replaced after a satisfactory explanation of the details of the incident has been furnished to the department. Windshield stickers are valid for two (2) calendar years; and

B. Contain the statement: "This inspection is mandated by your United States Congress."

(D) Federal, state, and local government agencies shall provide documentation of compliance with this rule to the department. On a quarterly, or every three (3) months, basis, the agencies shall present a list of all vehicles owned by the agency or operated by agency personnel that are subject to this rule. These quarterly lists shall be submitted to the department by January 15, April 15, July 15, and October 15 for the corresponding preceding quarter. If the fifteenth is a weekend day or state holiday, the quarterly lists shall be submitted to the department by the following business day.

(5) Test *[Procedures]* Methods.

(A) Evaporative System Pressure Test. Until such time as the department approves an Evaporative System Pressure Test that is more comprehensive, non-intrusive, and is approved by the EPA, the evaporative system pressure test procedure shall be as follows:

1. A gas cap test, done to the extent practical, shall be performed on all 1981 and newer model year subject vehicles;

2. The gas cap test sequence shall consist of the following steps:

A. The gas cap shall be connected to the adapter of the test equipment;

B. The gas cap shall be pressurized with air to  $30 \pm 0.5$  inches of water; and

C. The gas cap leak rate shall be compared to an orifice with a flow rate of sixty (60) cubic centimeters per minute at thirty inches (30") of water;

3. Vehicles shall pass the gas cap test if the gas cap leak rate is less than or equal to a flow rate of sixty (60) cubic centimeters per minute.

*[(A)]* (B) Single-Speed Idle Test.

1. Except as provided by subsection (5)(F) of this rule, single-speed *///* idle tests shall be performed on pre-1981 model year subject vehicles and specially constructed vehicles described in paragraph (3)(G)6. of this rule in accordance with the procedures contained in *[July 1998, Title]* 40 CFR part 51, subpart S, Appendix B, paragraph (I), which is *[adopted]* incorporated by reference, except that the appropriate measured emission values shall be as specified in subsection (4)(A).

2. If the measured emission values are equal to or below the appropriate standards specified in paragraphs (3)(G)1. and (3)(G)6. of this rule, respectively, then the subject vehicle shall pass the single-speed idle test.

*[(B)]* Two (2)-Speed Idle Test. Two (2)-speed idle tests shall be performed on subject vehicles that cannot be tested by the transient test method in subsection (5)(C). The two (2)-speed idle test shall be performed in accordance with the procedures contained in July 1998, Title 40 CFR part 51, subpart S, Appendix B, which is adopted by reference.]

(C) Transient Emission Test.

1. Except as provided by paragraphs (5)(C)4., (5)(C)7. and (5)(C)8. and subsection (5)(F) of this rule, *[T]*transient emission tests shall be performed on 1981 and newer model year subject vehicles in accordance with the procedures contained in *[July 1998, Title 40 CFR part 85, subchapter W]* April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, section 2221, which is *[adopted]* incorporated by reference. The driving cycle shall include acceleration, deceleration, and idle operating modes as specified in *[July 1998, Title 40 CFR part 51, subpart S, Appendix E, which is adopted by reference]* April 2000 *IM240 & Evap Technical Guidance*, 40 CFR part 85, subpart W, subsection 2221(e).

2. The two hundred forty (240)-second sequence may end earlier using fast pass algorithmse *[and multiple pass/fail*

algorithms may be used during the test cycle to eliminate false failures] specified in April 2000 IM240 & Evap Technical Guidance, 40 CFR part 85, subpart W, paragraph 2205(a)(4), which is incorporated by reference.

3. To decrease the possibility of falsely failing a vehicle due to inadequate pre-conditioning, [V]vehicles failing by two (2) times, or less, the applicable transient emission test standards [applicable to the vehicle] described in paragraphs (3)(G)3. and (3)(G)4. of this rule will be retested immediately as specified in April 2000 IM240 & Evap Technical Guidance, 40 CFR part 85, subpart W, paragraph 2221(d)(1). [and t]The results of the first transient emission test shall be disregarded. [The transient test procedure, including algorithms and other procedural details, must be approved by EPA prior to use in Missouri's inspection and maintenance program.]

4. If a vehicle cannot be tested on standard transient test equipment because of vehicle design, vehicle condition, or equipment limitations, the vehicle will be tested using a two (2)-speed idle test, as defined in subsection (5)(B)(D) of this rule.

5. The department shall determine the number and distribution of lanes necessary to test four (4)-wheel drive vehicles and vehicles with traction control using the transient emission test.

6. If the measured emission values are equal to or below the appropriate standards specified in paragraphs (3)(G)3. and (3)(G)4. of this rule, then the subject vehicle shall pass the transient emission test.

7. Between January 1, 2003, and December 31, 2004, all 1996 and newer model year subject vehicles shall be emission inspected according to the OBD test procedures described in paragraph (5)(E)3. of this rule.

8. Beginning January 1, 2005, all 1996 and newer model year subject vehicles shall be emission inspected according to the OBD test procedures described in paragraph (5)(E)4. of this rule.

*[(D) Visual Emission Control Device Inspection. Visual emission control device inspections shall be performed on 1971 and newer model year subject vehicles. Vehicles that meet the emission standards, and successfully pass the evaporative system purge and pressure test, if applicable, shall be excluded from meeting the requirements of the visual emission control device inspection as part of an initial inspection only. The visual emission control device inspection procedure shall be as follows:*

1. Vehicle emission control device inspections shall be performed through direct observation or through indirect observation using a mirror, video camera or other visual aid. Visual inspection shall include the positive crankcase ventilation valve on all 1971 model year vehicles, the exhaust gas recirculation valve on all 1972 and newer model year vehicles, and the catalyst and fuel inlet restrictor on all 1984 and newer model year vehicles;

2. Vehicles shall fail the visual inspections of emission control devices if such devices are part of the original certified configuration of the vehicle and are found to be missing, modified, disconnected, or improperly connected; and

3. Vehicles shall fail visual inspections of emission control devices if these devices are found to be incorrect for the certified vehicle configuration. Aftermarket parts, as well as original equipment manufacturer parts, may be considered correct if they are proper for the certified vehicle configuration. Where EPA aftermarket approval or a self-certification program exists for a particular class of subject parts, vehicles shall fail visual equipment inspections if the part is not from an original equipment manufacturer or from an approved or self-certified aftermarket manufacturer.]

(D) Two (2)-Speed Idle Test.

1. Except as provided by subsection (5)(F) of this rule, two (2)-speed idle tests shall be performed on subject vehicles that cannot be tested by the transient emission test method in paragraph (5)(C) of this rule because of vehicle design, vehicle condition, or equipment limitations. The two (2)-speed idle test shall be performed in accordance with the procedures contained in 40 CFR part 51, subpart S, Appendix B, paragraph (II), which is incorporated by reference.

2. If the measured emission values are equal to or below the standards specified in subsection (3)(G)5. of this rule, then the subject vehicle shall pass the two (2)-speed idle test.

*[(E) Evaporative System Purge Test. The department will approve an Evaporative System Purge Test when a nonintrusive procedure becomes available and is approved by the EPA. All 1981 and newer model year subject vehicles will be tested and required to meet the standards when the procedure is approved.]*

(E) On-Board Diagnostics (OBD) Test.

1. All 1996 and later model year subject vehicles shall have the OBD systems interrogated.

2. Prior to January 1, 2003, the OBD test described in 40 CFR part 85, subpart W, section 2222, which is incorporated by reference, and the OBD test standards specified in paragraph (3)(G)7. of this rule shall be performed on an advisory-only basis.

3. Between January 1, 2003, and December 31, 2004, the OBD test shall be performed according to the following procedure:

A. If the subject vehicle cannot be tested with the OBD test due to manufacturer design or the inability of the inspection equipment to communicate with the vehicle's OBD system, then the subject vehicle shall be tested with the transient emission test described in subsection (5)(C) of this rule;

B. If the subject vehicle passes the OBD test described in 40 CFR part 85, subpart W, section 2222 according to the OBD test standards specified in paragraph (3)(G)7. of this rule during either an initial emission inspection or a reinspection, then the vehicle shall not be subject to the transient emission test described in subsection (5)(C) of this rule, and the procedures in paragraph (3)(F)7. of this rule shall be followed;

C. If the subject vehicle fails the OBD test described in 40 CFR part 85, subpart W, section 2222 according to the OBD test standards specified in paragraph (3)(G)7. of this rule during either an initial emission inspection or a reinspection, then the vehicle shall be subject to the transient emission test described in subsection (5)(C) of this rule.

(I) If the subject vehicle passes the transient emission test, then the procedures in paragraph (3)(F)7. of this rule shall be followed.

(II) If the subject vehicle fails the transient emission test, then the procedures in paragraphs (3)(F)8., (3)(F)9. and (3)(H)4. of this rule shall be followed.

4. Beginning January 1, 2005, the OBD test shall be performed according to the following procedure:

A. If the subject vehicle cannot be tested with the OBD test due to manufacturer design, then the subject vehicle shall be tested with the transient emission test described in subsection (5)(C) of this rule.

B. If the subject vehicle passes the OBD test described in 40 CFR part 85, subpart W, section 2222 according to the OBD test standards specified in paragraph (3)(G)7. of this rule, then the procedures in paragraph (3)(F)7. of this rule shall be followed.

C. If the subject vehicle fails the OBD test described in 40 CFR part 85, subpart W, section 2222 according to the OBD test standards specified in paragraph (3)(G)7. of this rule, then the procedures in paragraphs (3)(F)8., (3)(F)9. and (3)(H)5. of this rule shall be followed.

*[(F) Evaporative System Pressure Test. Until such time as the department approves an Evaporative System Pressure Test that is more comprehensive, nonintrusive, and is approved by the EPA, the evaporative system pressure test procedure shall be as follows:*

*1. A gas cap test, done to the extent practical, shall be performed on all 1981 and newer model year subject vehicles;*

*2. The gas cap test sequence shall consist of the following steps:*

*A. The gas cap will be connected to the adapter of the test equipment;*

*B. The gas cap shall be pressurized with air to 30 ± 0.5 inches of water;*

*C. The gas cap leak rate shall be compared to an orifice with a flow rate of sixty (60) cubic centimeters per minute at thirty inches (30") of water;*

*3. Vehicles shall fail the gas cap test if the gas cap exceeds a flow rate of sixty (60) cubic centimeters per minute; and*

*4. A visual inspection of the evaporative emission system shall also be performed, where practical. Vehicles shall fail the visual inspection of the evaporative emission system if the canister is missing or obviously damaged, if the hoses are missing, damaged or obviously disconnected, or if the gas cap is missing.]*

**(F) Hybrid Electric Vehicle (HEV) Test.** HEVs shall not be subject to the tailpipe emission tests described in subsections (5)(B)–(D) of this rule. HEVs shall only be subject to the test methods described in subsections (5)(A), (5)(E) and (5)(G)–(H) of this rule.

*[(G) On-Board Diagnostic (OBD) Test Procedures.*

*1. All 1996 and later model year vehicles equipped with OBD systems shall have the OBD system information collected, recorded, and read. Reports shall be generated. The information shall be used to determine if any emission control system faults have been identified. Fault codes shall not be a condition for failure.*

*2. The department shall require vehicle failures tied to readings from the OBD system beginning no later than January 1, 2001. Vehicles shall fail the on-board diagnostic test if they fail to meet the requirements of 40 CFR 85.2207, at a minimum.]*

**(G) Visual Test.** Emission control device visual tests shall be performed on 1971 and newer model year subject vehicles. Vehicles that meet the applicable tailpipe or OBD standards described in subsection (3)(G), and successfully pass the evaporative system pressure test, if applicable, shall be excluded from meeting the requirements of the emission control device visual test as part of an initial emission inspection only. The emission control device visual test procedure shall be as follows:

1. Vehicle emission control device visual tests shall be performed through direct observation or through indirect observation using a mirror, video camera or other visual aid. The emission inspector shall look for the presence of the positive crankcase ventilation valve on all 1971 model year vehicles, the exhaust gas recirculation valve on all 1972 and newer model year vehicles, and the catalytic converter system on all vehicles equipped by the manufacturer with such a system;

2. The emission inspector shall also look at the evaporative emission system, where practical. Vehicles shall fail the visual test of the evaporative emission system if the canister is missing or obviously damaged, if the hoses are missing, damaged or obviously disconnected, or if the gas cap is missing;

3. Vehicles shall fail the emission control device visual test if the devices described in this subsection are part of the orig-

inal certified configuration of the vehicle and are found to be missing, modified, disconnected, or improperly connected; and

4. Vehicles shall fail the emission control device visual test if the devices described in this subsection are found to be incorrect for the certified vehicle configuration. Aftermarket parts, as well as original equipment manufacturer parts, may be considered correct if they are proper for the certified vehicle configuration. Where EPA aftermarket approval or a self-certification program exists for a particular class of subject parts, vehicles shall fail visual equipment inspections if the part is not from an original equipment manufacturer or from an EPA approved or self-certified aftermarket manufacturer.

**(H) Clean Screening Test.**

1. Owners of clean screening-eligible vehicles shall be notified by mail one (1) month prior to the vehicle's registration month.

2. If the subject vehicle is eligible for clean screening according to paragraph (3)(K)1. and subsection (3)(L) of this rule, the owner shall be mailed a clean screening notification document.

A. The notification shall be mailed to the subject vehicle owner's most current address on record.

B. If the subject vehicle owner responds to the clean screening notification and pays the inspection fee established in paragraph (3)(D)4. of this rule, then a compliance certificate and windshield sticker that meet the requirements of subsection (4)(C) of this rule shall be mailed to the subject vehicle owner.

C. If the subject vehicle owner chooses not to respond to the clean screening notification, then the subject vehicle can comply with the emission inspection requirement according to subsection (3)(F) of this rule.

*[(6) Emission Test Equipment.*

*(A) Performance Features of Emission Test Equipment. Computerized test systems are required for performing any measurement on subject vehicles. The test equipment shall be certified to meet EPA requirements, including those contained in July 1998, Title 40 CFR part 51, subpart S, Appendix D, which is adopted by reference. Newly acquired systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.*

*1. Emission test equipment shall be capable of testing all subject vehicles and will be updated as needed to accommodate new technology vehicles as well as changes to the program.*

*2. At a minimum, emission test equipment shall be—*

*A. Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;*

*B. Secure from tampering and/or abuse;*

*C. Based upon written specifications; and*

*D. Capable of simultaneously sampling dual exhaust vehicles.*

*(B) Functional Characteristics of Computerized Test Systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.*

*1. The test system shall automatically—*

*A. Make pass/fail decisions for all measurements;*

*B. Record test data to an electronic medium;*

*C. Conduct regular self-testing of recording accuracy;*

*D. Perform electrical calibration and system integrity checks before each test, as applicable; and*

*E. Initiate system lockouts for—*

(I) Tampering with security aspects of the test system;

(II) Failing to conduct or pass periodic calibration or leak checks;

(III) Failing to conduct or pass the constant volume sampler flow rate check;

(IV) Failing to conduct or pass any of the dynamometer checks, including coast-down, roll speed and roll distance, power absorption capability, and inertia weight selection checks;

(V) Failing to conduct or pass the pressure monitoring device check;

(VI) Failing to conduct or pass the purge flow metering system check; and

(VII) A full data recording medium or one that does not pass a cyclical redundancy check.

2. Test systems shall include a data link to the department computer as specified in the contract between the department and the contractor(s).

3. The test system will ensure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

(C) Test Systems for Transient Emission Tests. Test equipment for transient emission testing shall meet standards specified by EPA, as specified in July 1998, Title 40 CFR part 51, subpart S, Appendix D, paragraph (III).

(D) Steady-State Test Equipment. Steady-state test equipment requirements for model years 1971–1980 shall be as specified in July 1998, Title 40 CFR part 51, subpart S, Appendix D, which is adopted by reference.

(7) Documentation.

(A) The contractor shall provide the owners or drivers of vehicles that pass the emission inspection, or are issued a waiver, an emission inspection certificate of compliance and emission inspection sticker. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

1. The certificate of compliance shall contain—

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of inspection;

C. The applicable test standards;

D. The applicable test results, including exhaust quantities, a pass indicator for the evaporative system pressure test(s), a pass indicator for visual inspection of the evaporative system and a pass indicator for the visual emission control device inspection;

E. The results of the recall provisions check, if applicable, including the recall campaign number and the date the recall repairs were completed;

F. A certification that tests were performed in accordance with the regulations;

G. A waiver indicator, if applicable; and

H. The statement: "This inspection is mandated by your United States Congress."

2. The emission inspection sticker shall—

A. Be affixed by the emission inspector to each vehicle which is subject to and passes the emission inspection, or has been issued a waiver on the inside of the vehicle's front windshield in the lower left hand corner. An emission inspection sticker affixed to a vehicle that has been issued a waiver shall have a waiver indicator clearly visible on the sticker. Previous emission inspection stickers affixed to the windshield shall be removed. Destroyed,

damaged, or lost stickers can only be replaced after a satisfactory explanation of the details of the incident has been furnished to the department. Stickers are valid for two (2) calendar years; and

B. Contain the statement: "This inspection is mandated by your United States Congress."

(B) The contractor shall provide the vehicle owner or driver who fails an inspection with a computer-generated emission inspection test report. Also provided will be a repair facility list, a repair data sheet, and a copy of the consumer complaint procedure. The contractor shall not refer vehicle owners to a particular repair station(s) that may or may not be included on the repair facility list. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

1. The emission inspection test report shall include:

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of test;

C. The name or identification number of the individual(s) performing the test and the location of the test station and lane number;

D. The type of tests performed, including emission tests, visual checks for the presence of emission control components, and functional evaporative system tests;

E. The applicable test standards;

F. The test results, including exhaust quantities, pass/fail results for the evaporative system pressure test(s), pass/fail results for the visual inspection of the evaporative system and which emission control devices inspected were passed, failed, or not applicable;

G. To the extent possible, a description of the nature of the failure and the components responsible, recommended repair and adjustment procedures, and an estimated cost for those repairs;

H. A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act;

I. The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed; and

J. A statement that the emission inspection test report is not valid for vehicle registration purposes.

2. The repair facilities list will list facilities employing at least one (1) recognized repair technician in the area which perform emission related repairs on vehicles and information on the results of emission repairs performed by these facilities. This information will include:

A. Statistics on the number of vehicles submitted for a reinspection after repairs by the repair facility;

B. The percentage of vehicles repaired by the repair facility that required more than one (1) reinspection before passing; and

C. The percentage of vehicles repaired by the repair facility that were granted waivers.

3. A repair data sheet must be completed prior to a reinspection. The repair data sheet shall include:

A. Repairs performed;

B. Cost of repairs;

C. Name of the repair technician; and

D. Name, address, and telephone number of the repair facility and the facility's state tax identification number.

4. The consumer complaint procedure will include the telephone number of the department's quality assurance

facility. Any challenge regarding the performance or results of the test must be made in writing within ten (10) business days of the failure of the emission inspection.

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

1. Owners of subject vehicles shall receive either a clean screen notice as provided in subsection (3)(l) of this rule or an emission extension certificate and emission extension sticker, which will allow subject vehicle owners to register their vehicle in a timely manner. An emission extension certificate is the document that allows subject vehicle owners to register their vehicles with a deferred emissions inspection. An emission extension sticker is the sticker that temporarily replaces the emission sticker for up to six (6) months.

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

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

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

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

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

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

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

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

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

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

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

(8) *Quality Control.*

(A) *Quality Control Requirements for the Contractor(s).*

1. *Contractor conduct.* The department shall appoint only entities under contractual agreement with the department to operate official emission inspection stations, which includes conducting emission inspections and issuing certificates of compliance. Conducting the business of the official emission inspection station shall be performed in such a way that it satisfies the intent of the vehicle emission inspection program by effectively identifying vehicles that fail to meet acceptable emission standards. Failure to comply with the provisions of this subsection shall be considered sufficient cause for suspension of emission inspection privileges and authority to issue certificates of compliance. Misconduct of the contractor as established in this rule and in the contract shall be a violation of this rule and may result in dismissal as an emission inspection station operator. The contractor shall pay a monetary penalty to the department for a violation of this rule or of the contract by contractor personnel. Violations shall include, but are not limited to, actions which result in improper or fraudulent issuance of a certificate of compliance or a compliance waiver. The penalty shall be determined by a penalty schedule established in the contract.

2. *Emission inspectors.* All contractor personnel who perform emission inspections at each emission inspection station will be designated by the contractor as an emission inspector. The contractor shall be responsible for the conduct of emission inspectors. The contractor shall maintain for the department a registry of designated emission inspectors, that at a minimum includes the inspector's name, Social Security number, beginning date of inspection duties, ending date of inspection duties and description of inspection performance. Designation as an emission inspector may be suspended by a department quality assurance officer immediately at any time due to a violation of this rule or a provision of the contract. The contractor shall provide to the department an education and training plan, to be approved by the department, for designated emission inspectors.

3. *Inspection records.* All inspection records, calibration records, and control charts shall be accurately created, recorded, and maintained. The contractor, and all employees of the contractor, shall make available all records and information requested by the department and shall fully cooperate with department personnel, and other authorized state representatives or agents, who conduct audits and other quality assurance procedures. All contractors subject to this rule shall maintain emissions test records, including repair information from any emissions test as well as all test results. These records shall be kept for at least three (3) years after date of an initial emissions inspection. These records shall be made available immediately upon request for review by department personnel. These records shall also be made available to the department on a continual basis through the use of an automated communication system approved by the department.

(B) *General Requirements.* General requirements for quality control practices for all test equipment shall be as follows:

1. At a minimum, the practices described in this section, in the contract, and in July 1998, Title 40 CFR part

51, subpart S, Appendix A, which is adopted by reference, shall be followed:

2. Preventive maintenance on all inspection equipment shall be performed on a periodic basis, as provided by the contract between the department and the contractor(s) and consistent with EPA and the equipment manufacturer's requirements;

3. To assure quality control, computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering and any circumstances which require a service representative to work on the equipment;

4. To assure test accuracy, equipment shall be maintained according to demonstrated good engineering procedures;

5. Computer control of quality assurance checks and quality control charts shall be used whenever possible; and

6. The emission inspection station shall transmit the emission inspection results to the department as prescribed in the contract between the department and the contractor(s).

(C) Requirements for Steady-State Emissions Testing Equipment. Calibration and maintenance procedures for steady-state emissions testing equipment shall be described in July 1998, Title 40 CFR part 51, subpart S, Appendix A, paragraph (I), which is adopted by reference.

(D) Requirements for Transient Emissions Testing Equipment. Calibration and maintenance procedures for transient emissions testing equipment shall be as described in July 1998, Title 40 CFR part 51, subpart S, Appendix A, paragraph (II), which is adopted by reference, or as described in any other procedure approved by EPA and the department.]

**AUTHORITY:** section 643.310.1, RSMo [Supp. 1999] 2000. Original rule filed June 14, 1982, effective Jan. 13, 1983. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 15, 2002.

**PUBLIC COST:** For the first fiscal year, FY 2003, the proposed amendment will cost two thousand three hundred seventy-seven dollars (\$2,377). For the first full fiscal year, FY 2004, the proposed amendment will cost four thousand seven hundred seventy-seven dollars (\$4,777). For the fiscal years 2005–2007, the total annualized aggregate cost is ten thousand three hundred forty-six dollars (\$10,346). Note attached fiscal note for assumptions that apply.

**PRIVATE COST:** For the first fiscal year, FY 2003, the proposed amendment will cost \$1,396,879. For the first full fiscal year, FY 2004, the proposed amendment will cost \$2,893,948. For the fiscal years 2005–2007, the total annualized aggregate cost is \$4,249,244. Note attached fiscal note for assumptions that apply.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m., July 25, 2002. The public hearing will be held at the Drury Inn and Suites, Ballroom, 11980 Olive Street, Creve Coeur, 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 (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO 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., August 1, 2002. Written comments shall be sent to Chief, Planning Section, Missouri

Department of Natural Resources' Air Pollution Control Program,  
205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 10 - Department of Natural Resources

Division: 10 - Air Conversion Commission

Chapter: 5 - Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10-5.380 Motor Vehicle Emissions Inspection

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Federal, State, and Local Governmental Fleets	\$ 38,191

**III. WORKSHEET**

Fiscal Year	Number of Public Vehicle Owners Affected by Rule Amendment	Annual Aggregate Increase in Vehicle Repair Spending Due to Rule Amendment	Average Annual Increase per Vehicle Owner Affected by Rule Amendment
2003	44	\$ 2,377	\$ 54.22
2004	88	\$ 4,777	\$ 54.22
2005	97	\$ 7,874	\$ 80.84
2006	107	\$11,001	\$103.02
2007	118	\$12,162	\$103.02
<b>Total</b>	<b>454</b>	<b>\$38,191</b>	<b>\$ 84.09</b>

The rule becomes effective six months into state fiscal year 2003. The first fiscal year's total aggregate cost to public entities is \$2,377. The first full fiscal year is state fiscal year 2004. The first full fiscal year's total aggregate cost to public entities is \$4,777. The average annual aggregate cost to public entities for the next three state fiscal years is \$10,346.

**IV. ASSUMPTIONS**

- All costs are in Year 2001 dollars, rounded to the nearest dollar. Because the I/M program's contract expires in 2007, the estimated annual public entity cost of this rule amendment is assumed to be at least \$13,334 for every fiscal year that the rule is in effect after 2007.
- The total subject fleet is balanced, so that for a given two-year period, half of the vehicles tested will be even model year vehicles and half of the vehicles tested will be odd model year vehicles.
- The number of federal, state, and local fleet vehicles in the St. Louis area in 2000 is 6,504 vehicles. The public fleet growth rate is 1% per year.
- All vehicles currently subject to the inspection continue to remain on the road and in the I/M area.
- Due to increased Department of Natural Resources efforts to track public fleet vehicle compliance, the Transient-tested vehicle compliance rate is 95% in 2002. The OBD-tested vehicle compliance rate is 99% in 2003 and beyond.
- No public fleet vehicles are clean screened.

7. All public fleet vehicles are 1996 and later model year vehicles. In 2002, all public fleet vehicles are subject to the Transient test. In 2002, the Transient test failure rate doubles from the 2000-2001 failure rate due to final cutpoints.
8. In 2003, all public fleet vehicles are subject to the OBD test. The OBD connection rate is 100% in 2003 and beyond. The initial OBD failure rate during the OBD phase-in period (2003-2004) is estimated to be the same as the initial failure rate of the state of Wisconsin's 2001 initial OBD failure rate, 2.7%. Because of the increased age and mileage of OBD-tested vehicles, in 2005 and 2006, the initial OBD failure rate increases to 3.2% and in 2007 and beyond to 3.8%.
9. The average repair costs spent at Missouri Recognized Repair Facilities during the first two years of the Gateway Clean Air Program (2000-2001), which has been calculated based upon repair data information collected by the contractor from all failing vehicles that return for a retest, represent the average repair costs spent by all owners of failing vehicles during the first two years of the Gateway Clean Air Program, regardless of where or how the vehicle was serviced.
10. In 2002, average repair costs for Transient-tested vehicles increases 20% due to final cutpoints. During the OBD phase-in period (2003-2004), average repair costs for all vehicles increase 20% from the average repair costs in 2002. After the OBD phase-in period, average repair costs for all vehicles that fail the OBD test increase an additional 15% from the 2003-2004 average repair costs.
11. After the rule amendment becomes effective, the percent of failing vehicles that qualify for a waiver is reduced by 80% from the 2002 transient test waiver rate.



**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**Title: 10 - Department of Natural ResourcesDivision: 10 - Air Conversion CommissionChapter: 5 - Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan AreaType of Rulemaking: Proposed AmendmentRule Number and Name: 10 CSR 10-5.380 Motor Vehicle Emissions Inspection**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:
246,827	Private vehicle owners	\$ 17,038,558

**III. WORKSHEET**

Fiscal Year	Number of Private Vehicle Owners Affected by Rule Amendment	Annual Aggregate Increase in Vehicle Repair Spending Due to Rule Amendment	Average Annual Increase per Vehicle Owner Affected by Rule Amendment
2003	22,822	\$ 1,396,879	\$ 61.21
2004	47,350	\$ 2,893,948	\$ 61.12
2005	52,010	\$ 3,455,782	\$ 66.45
2006	57,842	\$ 4,198,684	\$ 72.59
2007	66,804	\$ 5,093,265	\$ 76.24
<b>Total</b>	<b>246,827</b>	<b>\$ 17,038,558</b>	<b>\$ 69.03</b>

The rule becomes effective six months into state fiscal year 2003. The first fiscal year's total aggregate cost to private entities is \$1,396,879. The first full fiscal year is state fiscal year 2004. The first full fiscal year's total aggregate cost to private entities is \$2,893,948. The average annual aggregate cost to private entities for the next three state fiscal years is \$4,249,244.

**IV. ASSUMPTIONS**

- All costs are in Year 2001 dollars, rounded to the nearest dollar. Because the I/M program's contract expires in 2007, the estimated annual private entity cost of this rule amendment is assumed to be at least \$6,264,149 for every fiscal year that the rule is in effect after 2007.
- The total subject fleet is balanced, so that for a given two-year period, half of the vehicles tested will be even model year vehicles and half of the vehicles tested will be odd model year vehicles.
- The number of model year 2000 vehicles subject to the vehicle emission inspection requirement and registered in the St. Louis area, based on Department of Revenue registration data, is 109,146 vehicles. The new car sales growth rate is 3% per year.
- All vehicles currently subject to the inspection continue to remain on the road and in the I/M area. Due to final cutpoints, the percent of Transient-tested vehicles that comply with the inspection requirement decreases by 1% in 2002 from the 2001 compliance rate. Due to new waiver requirements, the percent of Single-speed Idle-,

Transient-, and Two-speed Idle-tested subject vehicles that comply with the inspection requirement decreases by 1%, respectively, in 2003 from the 2002 compliance rate. The OBD-tested vehicle compliance rate is 99% in 2003 and beyond.

5. For 1996 and newer model year vehicles, 90% of these vehicles will continue to be clean screened in each successive year. For 1991-1995 model year vehicles, 75% of these vehicles will continue to be clean screened in each successive year. For 1986-1990 model year vehicles, 50% of these vehicles will continue to be clean screened in each successive year. For 1981-1985 model year vehicles, 25% of these vehicles will continue to be clean screened in each successive year. For 1971-1980 model year vehicles, 0% of these vehicles will continue to be clean screened. All vehicles that are no longer clean screened will be subject to the relevant station-based inspection.
6. During the OBD phase-in period (2003-2004), the OBD connection rate is 95%. Therefore, 5% of the OBD-equipped vehicles will be tested with either a Transient test or a Two-speed Idle test if they can't be tested with the Transient test. After the OBD phase-in period, the OBD connection rate is 99%. Therefore, 1% of the OBD-equipped vehicles will be tested with either a Transient test or a Two-speed Idle test if they can't be tested with the Transient test.
7. The 2002 Transient initial test failure rate is 15.3%, which is based upon Wisconsin's 2001 Transient initial test failure rate. The Single-speed Idle, Transient, and Two-speed Idle test initial failure rates in 2003-2007 are the same as the 2002 initial failure rates.
8. The initial OBD failure rate during the OBD phase-in period (2003-2004) is estimated to be the same as the initial failure rate of the state of Wisconsin's 2001 initial OBD failure rate, 2.7%. Because of the increased age and mileage of OBD-tested vehicles, in 2005 and 2006, the initial OBD failure rate increases to 3.2% and in 2007 and beyond to 3.8%.
9. The average repair costs spent at Missouri Recognized Repair Facilities during the first two years of the Gateway Clean Air Program (2000-2001), which has been calculated based upon repair data information collected by the contractor from all failing vehicles that return for a retest, represent the average repair costs spent by all owners of failing vehicles during the first two years of the Gateway Clean Air Program, regardless of where or how the vehicle was serviced or which test the vehicle failed.
10. In 2002, average repair costs for Transient- and Two-speed Idle-tested vehicles increases 20% due to final cutpoints. During the OBD phase-in period (2003-2004), average repair costs for all vehicles increase 20% from the average repair costs in 2002. After the OBD phase-in period, average repair costs for all vehicles that fail the OBD test increase an additional 15% from the 2003-2004 average repair costs.
11. After the rule amendment becomes effective, the percent of failing vehicles that qualify for a waiver is reduced by 90% from the 2002 waiver rate for the Single-speed Idle and Two-speed Idle test types, respectively. After the rulemaking becomes effective, the percent of failing vehicles that qualify for a waiver is reduced by 80% from the 2002 waiver rate for the Transient test type.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 26—Sexually Transmitted Diseases**

**PROPOSED AMENDMENT**

**19 CSR 20-26.050 Preventing Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) from Health Care Workers to Patients.** This proposed amendment is to delete section (4).

*PURPOSE:* This amendment is to remove the sunset clause on this rule in order to continue the established training requirements relating to the prevention of the transmission of the Human Immunodeficiency Virus, Hepatitis B Virus and other bloodborne pathogens from infected health care workers to patients.

*[(4) This rule expires on June 30, 2002.]*

*AUTHORITY:* section 191.694.4, RSMo [1994] 2000. Original rule filed April 17, 1995, effective Nov. 30, 1995. Emergency amendment filed May 10, 2002, effective July 1, 2002, expires Dec. 28, 2002. Amended: Filed May 10, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with Pam Walker, Division Director, Division of Environmental Health and Communicable Disease Prevention, 930 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 20—Division of Environmental Health and  
Communicable Disease Prevention  
Chapter 26—Sexually Transmitted Diseases**

**PROPOSED AMENDMENT**

**19 CSR 20-26.060 Voluntary Evaluation for the Human Immunodeficiency Virus (HIV)-and Hepatitis B Virus (HBV)-Infected Health Care Professionals Who Perform Invasive Procedures.** This proposed amendment is to delete section (5).

*PURPOSE:* This amendment is to remove the sunset clause in this rule in order to continue the established procedures for the voluntary evaluation of the Human Immunodeficiency Virus and Hepatitis B Virus for infected health care professionals who perform invasive procedures in order to determine whether practice restrictions or limitations should be applied.

*[(5) This rule expires on June 30, 2002.]*

*AUTHORITY:* section 191.700.2, RSMo [1994] 2000. Original rule filed April 17, 1995, effective Nov. 30, 1995. Emergency amendment filed May 10, 2002, effective July 1, 2002, expires Dec. 28, 2002. Amended: Filed May 10, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with Pam Walker, Division Director, Division of Environmental Health and Communicable Disease Prevention, 930 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE  
Division 500—Property and Casualty  
Chapter 6—Workers' Compensation and Employer's  
Liability**

**PROPOSED AMENDMENT**

**20 CSR 500-6.700 [Premium Discounts for Using Managed Care Programs] Workers' Compensation Managed Care Organizations.** The department is amending the title of the rule, deleting sections (1), (2), and (5) through (8), modifying and renumbering sections (3) and (4), deleting two exhibits, and adding seven new sections and one new exhibit.

*PURPOSE:* The proposed amendment updates this rule to implement section 287.135, RSMo.

*[(1) Upon issuance or renewal of a Workers' Compensation insurance policy, there shall be a reduction in the total premium charged to an employer for the policy for the first three (3) years during which the employer contracts with a managed health care system which has met the certification requirements of this rule and which serves the geographic area in which the employer is located. The premium reduction shall be five percent (5%) of the total premium which would otherwise be charged to the employer for each of the three (3) initial policy years under the certified managed care system. An insurer may require the employer to notify it of the employer's intent to contract with certified managed care system and to execute any such contract, prior to the issue date or renewal date of the policy, before granting the reduction. This arrangement shall be evidenced by the following documents:*

*(A) An endorsement to the Workers' Compensation policy setting forth the use of the certified managed care system and the extension of the five percent (5%) reduction in premium. The endorsement may include provisions on the effect of the employer's use of providers outside the terms of the managed care agreement;*

*(B) A contract between the certified managed care system and the employer specifying the terms and conditions associated with the use of the managed care system, including the employer's agreement that the use of the organization is the free exercise of the employer's right to choose a health care provider under section 287.140, RSMo;*

*(C) A certification of a managed care utilization form to be given to the employer's insurer documenting the existence of the contract specified in subsection (1)(B), as set forth in Exhibit II of this rule; and*

*(D) A Workers' Compensation insurer and a certified managed care system may also enter into an agreement*

*specifying the terms and conditions associated with the use of the managed care system.*

*(2) For purposes of this rule, the term certified managed care system or system shall mean medical care cost containment arrangements such as preferred provider organizations (PPOs), health maintenance organizations (HMOs) and other direct employer/provider arrangements designed to provide incentives to medical care providers to manage the cost and utilization of care associated with claims covered by Workers' Compensation insurance, which have been approved by the department. The approval criteria for PPO arrangements are set forth in section (3) of this rule. The approval criteria for non-PPO arrangements shall be developed under section (8) of this rule.]*

**(1) Definitions.**

(A) Access fee means the percentage of savings off usual and customary health care provider charges that is often charged by an managed care organization (MCO) as reimbursement for access to its network of providers.

(B) Bill re-pricing means a system for re-pricing charges for medical services to conform to levels contractually agreed to by health care providers, facilities and hospitals and through which discounted medical services are obtained.

(C) Case management means a collaborative process by which appropriately licensed and trained health care providers coordinate, monitor and evaluate the delivery of that level of health care treatment which is necessary to assist an injured employee in reaching prompt maximum medical improvement, following prescribed medical treatment plans, and, achieving, where possible, the prompt and appropriate return to work. Case management includes "on-site case management" and "telephonic case management."

(D) Certified MCO means a workers' compensation managed care organization certified by the department.

(E) Cost savings analysis means a documentation of savings achieved through reduction of medical fees, through the use of utilization review techniques, through early employee return to work, or all of the above.

(F) Department means the Missouri Department of Insurance.

(G) Hospital bill auditing means a service designed to review the accuracy and applicability of hospital charges as well as to evaluate the medical necessity of all services and treatment rendered, which shall be considered distinct from utilization review.

(H) Insurer means any person or entity defined under section 375.932 or 375.1002, RSMo, authorized to provide workers' compensation insurance in Missouri. The term shall include any employees, agents, third party administrators (TPAs) or others acting on behalf of such insurers.

(I) Managed care organization (MCO) means an organization, such as a preferred provider organization (PPO), a health maintenance organization (HMO) or other, direct employer/provider arrangements, designed to provide the appropriate procedures and incentives to medical providers necessary to manage the cost and utilization of care associated with claims covered by workers' compensation insurance. Unless the context clearly requires otherwise, when the term MCO is used in this rule it will mean an MCO certified under the provisions of this rule.

(J) MCO administrative fee or administrative fee means any fee or charge for the reimbursement of the administrative services of an MCO, as opposed to any fee or charge for the reimbursement of a health care provider for the rendition of health care services, treatment or supplies. Such fees reimburse the MCO for the cost of organizing a network of health care

providers, negotiating provider reimbursement rates, re-pricing bills, hospital bill auditing, provider bill auditing, tracking and coordinating care, pre-certification, utilization review, cost savings analysis and other MCO administrative functions. An MCO administrative fee may be in the form of an access fee, a percentage of savings off a provider's billed charges, a percentage of savings off average usual and customary fees as defined in an identified database, a dollar amount per hour, or some other method.

(K) On-site case management means case management performed in person by the case manager as the location requires.

(L) Payor means an insurer or TPA responsible for paying workers' compensation-related claim, including a bill for the fees of an MCO required to be reimbursed under this rule.

(M) Pre-certification means the process of reviewing planned nonemergency medical care to assure said care is reasonably required to cure and relieve the injured worker from the effects of the injury, as required under the Missouri Workers' Compensation Law.

(N) Provider bill auditing means a computer-assisted retrospective service which verifies the accuracy and applicability of provider charges, their conformity with usual and customary charges and their conformity with any discounts from usual and customary charges or other adjustments negotiated between the provider and the MCO. Provider bill auditing also verifies causal relationships between injury and treatment, the necessity of treatment and the accuracy of medical bills prior to recommending payment.

(O) Telephonic case management means case management conducted by telephone, e-mail, or facsimile machine.

(P) TPA means a third party administrator as defined under sections 376.1075 to 376.1095, RSMo.

(Q) Utilization review means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, pre-certification, concurrent review, discharge planning or retrospective review. For purposes of this rule, utilization review shall not include case management.

**(2) Employer's Right to Select an MCO or Health Care Provider.**

(A) A Missouri employer shall have the right to select an MCO for the purpose of providing the employer with managed care services in relation to the health care required to be provided under the Missouri Workers Compensation Law. The employer shall have the right to select such an MCO regardless of whether that selection is approved by the employer's insurer or the selection differs from that made by the employer's insurer. Although the insurer may not require the employer to select a particular MCO, it may discuss that selection with the employer. While an employer may voluntarily agree to use an MCO under contract with the insurer if the employer so chooses, the employer may also select another MCO.

(B) An employer may select an MCO at any time during the period of the employer's insurance policy. An insurer will be deemed to have been notified of that selection whenever the insurer receives an administrative fee invoice from the MCO as defined in subsection (3)(E), attached to the bill of a health care provider for health care services provided to an injured employee of the insured employer.

(C) Nothing in this section shall limit an employer's right to select the health care provider as authorized under subsection 10 of section 287.140, RSMo. Although the insurer may not require the employer to use a particular health care provider, it may discuss that selection with the employer. While an employer may voluntarily agree to use the providers in an

MCO network under contract with the insurer if the employer so chooses, the employer may also select a provider outside a particular MCO network.

**(3) Coordination and Integration of Insurer and MCO Systems.**

(A) A managed care organization and an insurer shall coordinate and integrate their internal operational systems relating to claim reporting, claim handling, medical case management and billings as required under this section, unless alternative arrangements are agreed to by the MCO and the insurer.

(B) Regarding claim reporting, an employer shall report all claims to the employer's insurance company. The employer may also report any such claims to the employer's MCO.

(C) The fact that the employer has selected an MCO shall not require the employer's insurer to modify its internal claims handling procedures beyond the requirements that the insurer shall cooperate with and reimburse the providers in the MCO network selected by the employer, and shall also reimburse the MCO's for its reasonable administrative fees. The insurer shall use whatever procedures the insurer ordinarily uses for dealing with non-network providers to accomplish such cooperation and reimbursement.

(D) The employer's right to select a health care provider under subsection 10 of section 287.140, RSMo extends to the employer's right to select a case management nurse, so long as the nurse is operating within the scope of his or her license.

(E) An MCO shall use a standard administrative fee invoice when billing an insurer for reimbursement. An administrative fee invoice should contain the information listed below, but shall not be deemed insufficient due to the lack of any particular pieces of information so long as the document is sufficiently clear so that an insurer can determine that the document is from an MCO and that the MCO is requesting payment for MCO services, so long as the document also provides a reasonable method for the insurer to contact the MCO for further explanation:

1. The MCO name, address, telephone number, facsimile number, federal employer identification number (FEIN); e-mail address (if available) and department MCO certification number;
2. The employer's name;
3. The injured employee's name and Social Security number;
4. The medical provider's name and FEIN;
5. The date of the medical service;
6. The provider's usual and customary charge for the service, treatment or supplies;
7. The discounted charge negotiated by the MCO for those same services, treatment or supplies;
8. The savings resulting from the MCO's discounts;
9. The administrative fee of the MCO to be paid by the insurer relating to the service, treatment or supplies in question.

**(4) Criteria for Determining the Reasonableness of MCO Fees.**

(A) An employer's insurer shall reimburse the reasonable administrative fees of an MCO selected by a Missouri employer if the department has certified that MCO. However, no insurer shall be required to reimburse an administrative fee charged by a department-certified MCO unless the fee is reasonable in relation to both the managed care services provided and to the savings which result from those services.

(B) Where the type of MCO administrative fee is an access fee, there shall be a rebuttable presumption that the access fee is reasonable under subsection (A) above if it is less than or equal to twenty-five percent ( $\leq 25\%$ ) of the difference between the health care provider's usual and customary charge for the

service, treatment or supplies in question and the amount the provider has agreed to accept under his contract with the MCO.

(C) Where the type of MCO fee is not an access fee, there shall be a rebuttable presumption that the fee is reasonable under subsection (4)(A) above if it is the standard fee charged by the MCO to other payors, when those other payors include insurers with which the MCO has formal reimbursement agreements.

(D) Where a particular MCO fee charged by the MCO exceeds an amount deemed reasonable under subsections (B) or (C) above, an insurer may satisfy its reimbursement obligations under this section by paying an amount which does in fact conform to the appropriate subsection.

**(5) Preconditions for an Insurer's Reimbursement of an MCO's Fees.**

(A) For an insurer to be required to reimburse an MCO administrative fee charged by an MCO under this rule, that fee must:

1. Relate to an injury or illness that is compensable under Chapter 287, RSMo;
2. Relate to a medically necessary procedure or a determination of medical necessity;
3. Relate to a medical claim that has previously been reported to the insurer by the employer;
4. Relate to an employer who has a contract with the insurer for workers' compensation insurance that covers the injury or illness;
5. Be from an MCO which, on the date of the bill charge, was certified by the department;
6. Be from an MCO with which the employer has a written contract to provide MCO services;
7. Be the MCO's standard reimbursement fee for the service in question;
8. Be by means of an administrative fee invoice as required under subsection (3)(E), submitted to the insurer in connection with the underlying health care provider bill; and
9. Be reasonable under section (4) above.

(B) If an MCO administrative fee meets the requirements of subsection (A) above, an insurer shall be required to pay the MCO fee stated on the MCO administrative fee invoice.

(C) MCOs seeking reimbursement from insurers should maintain a listing of their standard administrative fees for the periods for which reimbursements are sought. Such lists should disclose the terms of the MCO's standard discounting arrangement with its health care providers and also list any administrative fees of the MCO for specific administrative functions, which may include but which are not necessarily limited to the following activities:

1. Pre-certification;
2. Prospective utilization review;
3. Concurrent utilization review;
4. Telephonic case management;
5. On-site case management;
6. Retrospective utilization review;
7. Provider bill auditing;
8. Hospital bill auditing;
9. Bill repricing; and
10. Cost savings analysis.

(D) Individual insurers and MCOs are authorized to enter into alternative reimbursement arrangements under subsection 3 of section 287.135, RSMo. Any such alternative arrangements will take precedence over the provisions of this section for the MCO and the insurer that are parties to the agreement.

**(6) Procedure for Reimbursement by Insurers of MCO Fees.**

(A) An MCO seeking reimbursement from an employer's insurer for its MCO services shall submit an administrative fee invoice to the insurer documenting the MCO services provided and the reimbursement requested.

(B) The insurer shall pay an MCO fee which is reasonable under section (4) above and which meets the preconditions of section (5) above.

(C) To the degree there is a dispute between an MCO and an insurer under this section, said dispute may be submitted in writing to the department for its review. The dispute shall be handled in an advisory manner by the department, after providing the parties written notice of the dispute and notice of the opposing party's allegations.

(D) An MCO may accept partial payment of an amount tendered by an insurer without prejudice to the MCO's right to the full reimbursement authorized under this rule.

(E) Where a dispute between an insurer and an MCO regarding an access fee is based on a question regarding the amount of the health care provider's underlying usual and customary charge for the service, treatment or supplies in question, the MCO may establish the provider's usual and customary charge by means of an affidavit from the provider, or a duly authorized agent of the provider, attesting to the provider's usual and customary charge for the period and for the service, treatment or supplies in question, supported by contemporaneous bills to other payors from that period for the same service, treatment or supplies in question.

(F) An insurer may produce evidence to rebut the presumptions of section (4) above by showing that the MCO fee in question is unreasonable in relation to either the managed care services provided or to the savings which result from those services. An MCO may produce evidence in support of said presumptions. Such evidence from either party may include information regarding:

1. The extent to which the medical case involved or required oversight and coordination by the MCO;
2. The fees normally paid by the insurer to other MCOs;
3. The fees normally charged by the MCO to other insurers, and to TPAs, self-insurers and individual employers;
4. The fees normally paid by other insurers to MCOs;
5. The fees normally charged by other MCOs to insurers, TPAs, self-insurers and individual employers;
6. What the health care provider has agreed to accept from the insurer under any agreements other than the MCO agreement in question;
7. The dollar amount of the MCO fee being sought compared to the dollar amount of the underlying usual and customary charge for the service of the health care provider;
8. What an independent database indicates is a usual and customary charge for the health care service, treatment or supplies in question;
9. What a governmental database indicates is a usual and customary charge for the service, treatment or supplies;
10. The charges allowed for the treatment, service, treatment or supplies when the government is the payor;
11. What has been determined to be a reasonable provider fee by the Division of Workers' Compensation under section 287.140.3, RSMo and Regulation 8 CSR 50-2.030 for the medical procedure upon which the MCO fee dispute is based, where such a determination has been made;
12. What the department has determined to be a reasonable fee in prior disputes of a similar nature; or
13. Any other information considered relevant by the department.

(G) After both sides have been afforded the opportunity to present their evidence and comment on the evidence presented by the other party, the department shall review said evidence. After its review, the department shall provide the parties with

a written advisory opinion of its conclusions as to the reasonableness of the fees under section 287.135, RSMo. The department's advisory opinion on its conclusions as to the reasonableness of the MCO fee shall be subject to *de novo* review by a court of competent jurisdiction pursuant to section 536.150, RSMo.

[[3]] (7) [For purposes of this rule, the term *Workers' Compensation preferred provider organization (WC/PPO)* shall mean a health care plan designed to coordinate employee care and control and contain costs for medical and rehabilitative services associated with Missouri Workers' Compensation claims through the use of special provider networks, utilization review and case management procedures.] **Department Certification of MCOs.** In order to be certified, [a WC/PPO] an MCO shall meet the following requirements:

(A) The [WC/PPO] MCO shall contract with member health care providers who are authorized to provide health care services in this state by the appropriate licensing authorities;

(B) Regarding contract requirements for medical and rehabilitative services, the [WC/PPO] MCO shall—

1. Provide for convenient access to the following types of providers in one (1) or more Missouri counties or cities not within a county:

- A. Primary care physicians;
- B. Subspecialty physicians;
- C. Rehabilitation centers; and
- D. Hospitals;

2. Provide for convenient access to primary care clinics which are specialized in providing occupational medical services;

3. Employ a medical director who is board-certified in occupational medicine or who possesses considerable experience with Missouri's workers' compensation system; and

4. Possess the capability for progressive rehabilitation services, including, but not limited to:

- A. Functional, objective capacity evaluations;
- B. Psychological testing; and
- C. Work hardening;

(C) Regarding additional [WC/PPO] MCO contract requirements, the [WC/PPO] MCO shall—

1. Provide employers with job-site presentations or other presentations regarding how to make proper use of the managed care services of the organization;

2. Base charges on negotiated rates of reimbursement to providers for the services specified in paragraph [(3)] (7)(B)1. comparable to the best group medical plans in the geographic market area served, including provisions for basing inpatient services charges on diagnosis-related group (DRG) rates;

3. Include the prepricing of claims;

4. Provide monthly reports, on a claim-by-claim basis, specifying customary charges, charges allowed under the [WC/PPO] MCO contract and the resulting savings, if any; and

5. Provide for the external management and oversight from the initial date of injury by a nonhealth care provider of the health care provider's rendition of medical care in all cases; and

6. Provide for an internal dispute resolution procedure that meets the requirements of subsection 2 of section 287.135, RSMo;

(D) Be in addition, under the management and control of officers and directors who are competent to manage the [WC/PPO] MCO-managed health care operations, its finances, its compliance with agreements between itself and insurers or employers, or both, and its compliance with any applicable laws of Missouri.

[[4]] (8) Certification Procedure.

(A) For purposes of obtaining the department's certification of a [WC/PPO] MCO, the organization shall provide the department with the following materials:

1. Copies of any [PPO] MCO/employer and [PPO] MCO/insurer contracts to be used;
2. A general diagram of the [WC/PPO's] MCO's organizational structure;
3. A listing of the [WC/PPO's] MCO's officers and directors;
4. The [WC/PPO's] MCO's most recently audited financial report;
5. A thorough description of the [WC/PPO's] MCO's experience with the management of health care costs associated with Workers' Compensation claims and with other health care claims;
6. The geographic area, by county, the [WC/PPO] MCO plans to serve;
7. A copy of the licenses and any certificates of the [board-certified] medical director;
8. A complete list of all primary care physicians, subspecialist physicians, rehabilitation centers, hospitals and work hardening centers to be employed by the organization;
9. The estimated savings to employers and insurers from the use of the organization;
10. The outline of the operation of the [WC/PPO] MCO to be provided to employers explaining their rights and responsibilities; *and*

**11. The MCO's dispute resolution procedures; and**

**12. Any other materials requested by the director.**

(B) The materials specified in subsection [(4)](8)(A) shall be retained by the department. Any significant changes to the nature of the [WC/PPO's] MCO's operations as reflected in these materials shall be reported to the department, but these reports need not be made more than twice a year, as measured from the date of the granting of any certification.

(C) The department shall review these documents and grant certification, on the form contained in Exhibit I of this rule, included herein, to those [WC/PPOs] MCOs deemed to meet the criteria set forth in this rule. Any departmental decision to deny certification shall be accompanied by a written explanation by the department of the reasons for denial.

(D) The department may suspend or revoke the certification of a [WC/PPO] MCO at any time it establishes that the criteria set forth in this rule are no longer being met. Any such organization may request a hearing before the director on that suspension or revocation.

**(E) MCOs previously certified need not be re-certified during the period of this rule.**

*[(5) Insurers writing Workers' Compensation insurance in Missouri may contract with a certified managed care system. This contract may cover all employers insured by the insurer in the state, any class or subclass of employers, any employers located in a particular geographic region, or on any other basis which does not result in unfair discrimination under section 375.936(11), RSMo. Any employers who participate in this arrangement shall execute the contract required in subsection (1)(B) of this rule. For purposes of encouraging its insured employers to use a managed care system with which it has contracted, an insurer may offer premium reductions in excess of those required in section (1) of this rule. Nothing shall preclude an insurer from discussing the relative merits of different managed care systems with its insureds.*

*(6) Where an insurer has not contracted with a certified managed care system in a given geographic region, but that a system does operate in that region, upon a request by an insured employer, the insurer shall provide the*

*insured the premium reduction specified in section (1) of this rule so long as the certified system is willing to provide health care services to the employer. The insurer, however, may apply the five percent (5%) premium reduction specified in section (1) only to that portion of the employer's operations occurring in the geographic regions served by the certified system.*

*(7) Nothing contained in this rule shall be interpreted as precluding an employer from taking advantage of other noncertified managed care options at his/her own expense, particularly where the employer's operations are located outside the geographic territory of a certified managed care system. The use of this system, however, shall not entitle the employer to a premium reduction by its insurer.*

*(8) The director shall establish an informal task force for fostering the widest possible use of managed care systems in Missouri in relation to Workers' Compensation insurance. The task force may consist of volunteers representing insurers, managed care providers, employers and other interested parties. The task force will assist the department in developing approval criteria for approving additional managed care systems in Missouri. The panel will assist the director in developing approval criteria for PPOs that do not meet the criteria of section (3) of this rule, and of other managed care systems such as HMOs and direct employer/provider contracts, and the appropriate level of premium discount to be associated with these systems. They also may assist in the development of performance standards to measure the effectiveness of all managed care systems associated with Workers' Compensation insurance. All meetings of the advisory panel will be subject to the state's open meetings law.*

*(9) An insurer need provide a premium discount to an insured employer only for a three (3)-year period, after which time any reduction in the employer's premium as a result of the use of managed care services shall be reflected in the employer's experience modification factor. An employer shall not be entitled to more than three (3) years of specified premium reductions by reason of changing insurers, changing managed care systems or changing the ownership of the employer. Change of ownership rules regarding employers approved by the department concerning Workers' Compensation shall apply to these cases.]*

**(9) Termination Date. This rule shall terminate December 31, 2002.**

**Exhibit I**

**Certificate of Authority**

**Managed Care System for Workers' Compensation**

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**It is Hereby Certified That**

**(Enter name of Managed Care Organization)**

**meets the certification requirements of Section 287.135 of the Revised Statutes of Missouri and Regulation 20 CSR 500-6.700. (Enter name of MCO) has been assigned the following departmental identification number: MCO No. XX.**

**This certificate shall remain in full force and effect until suspended or revoked by the Director.**

**IN WITNESS WHEREOF, I have hereto set my hand and caused to be hereto affixed the Seal of said Department. Done in my office in the City of Jefferson, this ( Enter date ).**

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**Director of Insurance**



*AUTHORITY: sections 287.135 [287.320, RSMo Supp. 1992] and 374.045, RSMo [1986] 2000. Emergency rule filed Aug. 31, 1992, effective Nov. 1, 1992, expired Feb. 28, 1993. Original rule filed April 14, 1992, effective Feb. 26, 1993. Amended: Filed May 3, 2002.*

*PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions more than five hundred dollars (\$500) in the aggregate. See the attached fiscal note.*

*PRIVATE COST: This proposed amendment will cost private entities more than five hundred dollars (\$500) in the aggregate. See the attached fiscal note.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment on July 24, 2002, from 10:00 a.m. until 12:00 noon in Room 492 of the Truman State Office Building in Jefferson City, Missouri. Opportunities to be heard at the hearing will be afforded to any interested person. Interested persons, whether or not they testify at the hearing, may submit written comments to the department until 5:00 p.m. on July 26, 2002. Written comments shall be sent to the Department of Insurance, Property and Casualty Section, PO Box 690, Jefferson City, MO 65102-0690, to the attention of Mark Doerner.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 526-4636 at least five (5) working days prior to the hearing.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

**Title:** Department of Insurance

**Division:** Property and Casualty

**Chapter:** Workers' Compensation and Employer's Liability

**Type of Rulemaking:** Proposed Amendment

**Rule Number and Name:** 20 CSR 500-6.700 Workers' Compensation Managed Care Organizations

**II. SUMMARY OF FISCAL IMPACT**

<u>Affected Agency or Political Subdivision</u>	<u>Estimated Cost of Compliance in the Aggregate</u>
Department of Insurance	\$32,529

(Because the Proposed Amendment has a termination date of December 31, 2002, this fiscal note does not provide an estimate for later years.)

**III. WORKSHEET**

Department of Insurance: <u>Item</u>	<u>Annual Expense</u>
Senior Counsels: 778 hours @ \$28/hour	\$21,784
Work Comp Specialists: 500 hours @ \$21.49/hour	<u>\$10,745</u>
Total	\$32,529

**IV. ASSUMPTIONS**

The above estimates are based on the following assumptions:

(1) The new duties required under the regulation can be performed by existing personnel in the Department of Insurance with existing equipment. The above worksheet calculations use the current hourly level of reimbursement for the positions in question, which includes salary and fringe benefits (at 31.6% of salary).

(2) The Proposed Amendment will likely result in an increased workload for the Department concerning situations where an MCO has requested reimbursement from an insurance company but the insurance company has not paid. In such situations, the MCO could file a dispute with the Department regarding the payment, the Department would then review the available evidence regarding the reimbursement request and issue an Advisory Opinion on whether the insurance company in fact owes the reimbursement under the provisions of the Proposed Amendment. The

Department knows of at least one MCO that alleges it is owed reimbursement by some one hundred entities, most of which are insurance companies. This fiscal note assumes that it will take a Work Comp Specialist a total of five hours to handle all the disputes between one MCO and one insurer, which will involve collecting all the relevant information from the MCO, communicating the dispute to the insurer, collecting information from the insurer on the dispute, making follow-up calls, faxes and/or e-mails to clarify said information, and making a recommendation as to whether the MCO's requested reimbursement is reasonable under the Proposed Amendment. It is assumed that a Work Comp Specialist can handle all the claims between one MCO and one insurance company in a five-hour period (which will likely be spaced over several days.) Five hours multiplied by one hundred entities multiplied by the Specialist's salary plus fringe benefits equals  $(5 \times 100 \times \$21.49) = \$10,745.00$

(3) To the degree there are additional MCOs with disputes with insurers, such disputes will cost an additional \$107.45 per insurance company per MCO for a Work Comp Specialist to process.

(4) Under the Proposed Amendment, the Department will be required to provide the parties with a written Advisory Opinion as to whether or not the MCO is owed reimbursement by the insurer under the provisions of the Proposed Amendment. This fiscal note assumes that it will take a Senior Counsel two and one half hours to write each such opinion, costing  $(100 \text{ disputes} \times 2.5 \text{ hours} \times \$28/\text{hour}) = \$7,000$ .

(5) Given the controversy surrounding the MCO issue, the Department anticipates that litigation is possible over the regulation itself. The Department anticipates that the equivalent of two months of time of one or more Senior Counsels will be devoted to such litigation, costing  $(2 \text{ months} \times 22 \text{ days} \times 8 \text{ hours} \times \$28/\text{hour}) = \$9,856$ .

(6) Under the Proposed Amendment, the Department's Advisory Opinions will be subject to de novo review by the courts. The Department may become involved in such litigation. The Department anticipates the equivalent of one month of Senior Counsel time will be devoted to such litigation, costing  $(1 \text{ month} \times 22 \text{ days} \times 8 \text{ hours} \times \$28/\text{hour}) = \$4,928$

(7) Under the Proposed Amendment, the extent to which MCOs are regulated by the Department remains largely the same as it has been since Rule 20 CSR 500-6.700 was originally enacted in 1992. As such, it will not cost the Department additional amounts to administer the remaining portions of the Proposed Amendment.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

**Title:** Department of Insurance

**Division:** Property and Casualty

**Chapter:** Workers' Compensation and Employer's Liability

**Type of Rulemaking:** Proposed Amendment

**Rule Number and Name:** 20 CSR 500-6.700 Workers' Compensation Managed Care Organizations

**II. SUMMARY OF FISCAL IMPACT**

<u>Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:</u>	<u>Classification by the type of the business entities which would likely be affected:</u>	<u>Estimate in the aggregate as to cost of compliance with the rule by the affected entities:</u>
1	Department-Certified Workers' Compensation Managed Care Organization (MCO)	\$10,745
300	Missouri-Licensed Workers' Compensation Insurers	\$1,010,745
68,655	Missouri Employers Insured by Workers' Compensation Insurance Policies	\$7,317

(Because the Proposed Amendment has a termination date of December 31, 2002, this fiscal note does not provide an estimate for later years.)

**III. WORKSHEET**

**MCO Costs**

(1) Under the Proposed Amendment, MCOs that are not reimbursed as required under the Proposed Amendment are permitted to file a written dispute with the Department of Insurance. This will require the MCO to gather the relevant materials from its files to document the circumstances under which the reimbursement was sought and,

potentially, supplemental information supporting the "reasonableness" of the MCO fee (in situations where the insurance company attempts to rebut the Proposed Amendment's presumption that the MCO fee is reasonable). This fiscal note assumes that it will take an MCO as long to organize such materials as it will take the Department's Work Comp Specialists to process the written dispute, for a comparable cost. The Department knows of at least one MCO that alleges it is owed reimbursement by some one hundred entities, most of which are insurance companies. It is assumed that the MCO in question will be able to gather the information necessary on a single insurer in five hours (which will likely be spaced over several days.) Five hours multiplied by one hundred entities multiplied by the MCO employee's estimated reimbursement is  $(5 \text{ hours} \times 100 \text{ entities} \times \$21.49/\text{hour}) = \$10,745$

(2) To the degree there are additional MCOs with disputes with insurers, such disputes will cost each MCO \$107.45 per insurance company to cover the written dispute documentation and handling costs.

### Insurer Costs

(1) According to the National Council on Compensation Insurance (NCCI), approximately 300 workers' compensation insurers have written workers' compensation insurance in Missouri in recent years. While only 112 are currently active writers, this fiscal note assumes that MCOs may seek reimbursement for past MCO services from any of the 300 carriers.

(2) The principle cost to insurers will be the cost to an MCO for reimbursement for past services which the MCO claims is owed but which the insurer has not yet paid for whatever reason, including the lack of a regulation to implement Section 287.135, RSMo. The Department knows of one MCO that claims such past due fees amount to \$797,700 from the period between 1993 through the end of 1999. The Department estimates the additional amount that would have occurred since then would increase this figure to roughly \$1,000,000 in the aggregate, for all insurers. (This fiscal note presumes all these amounts are "reasonable" under the Proposed Amendment and are therefore subject to reimbursement; however, it is possible one or more insurers may successfully challenge the presumption of reasonableness as to some of these claims.)

(3) It is not clear whether and to what extent other certified MCOs have similar past due balances they would attempt to recoup under the Proposed Amendment. The Department's understanding from those MCOs with whom it has discussed the matter is that they stopped providing services to those employers whose insurers would not reimburse them (or they developed alternative payment plans whereby the employers and not their insurers reimbursed the MCOs). To the extent there were unpaid amounts, they were "written off" for tax and other purposes. As a result, the Department makes no estimate as to such MCOs. However, the Department does recognize such disputes are possible.

(4) Just like the MCOs and the Department, insurers will be required to expend resources to respond to written MCO disputes over un-paid MCO fees. This fiscal note assumes it will cost insurers the same amount it costs MCOs and the Department, or  $(5 \text{ hours} \times 100 \text{ entities} \times \$21.49/\text{hour}) = \$10,745$

### Employer Costs

For the last four months of the year 2002, the Proposed Amendment will be in place whereby an employer's insurer will be required to pay an MCO its reasonable administrative fee. During this period, it is possible that some employers will be encouraged by MCOs to use their services. The Department assumes that most employers will opt for the simplest alternative and elect either to use no MCO or to use the insurance company's "contract" MCO. However, the Department assumes that one in ten insured employers ( $10\% \times 68,655$ ) or 686 will pick a new MCO. The Department estimates this will require an average of 2 hours of time by the employer, (using an employee with an average salary of \$32,000 a year), to decide on an MCO alternative. Assuming a 2000 hour work-year, two hours of such a person's time would be worth  $(\$16 \text{ per hour} \times 2 \text{ hours}) \$32$ , for a total of  $(\$32 \times 686) \$21,952$  per year.

However, because the rule will only be in effect for one-third of a year, the aggregate cost will be  $(\$21,952 / 3) = \$7317$ .

#### IV. ASSUMPTIONS

##### **MCO Costs**

Rule 20 CSR 500-6.700 was originally promulgated in 1992 to implement a provision of Section 287.320 RSMo (since repealed) that authorized a premium credit to employers who selected a state-certified workers' compensation MCO. While the regulation required that insurers provide such a premium credit, it did not require the reimbursement of MCOs for their services. In 1993, the General Assembly repealed Section 287.320, RSMo and adopted what is currently Section 287.135, RSMo, which directed the Department of Insurance to promulgate a regulation on the payment of MCO fees. Because no regulation on MCO fees has been in place since 1992, MCOs have had to adapt, being paid only by those insurers who voluntarily agreed to such reimbursements or by insured and self-insured employers. The Department is aware of only one MCO that continued during this period to submit invoices to insurers for reimbursement even though the MCO had no reimbursement agreement with such insurers.

##### **Employer Costs**

Part of the above "employer" cost will be borne by small businesses (i.e., independently owned and operated entities with fifty or fewer full-time employees), although the Department presumes that most small businesses will opt to use an MCO selected by (and reimbursed by) their insurer. The Department assumes that, to the extent MCOs market their services to employers during the effective period of the Proposed Amendment, they will market to larger employers.

This fiscal note also does not estimate an impact on insured employers as to the savings they might realize by using MCOs. While the use of MCOs should help, in the aggregate, to reduce the medical losses and possibly the indemnity losses, the cost to employers of their workers' compensation insurance is determined by their insurers as part of the insurers' rate setting function, and it is up to insurers to decide whether and to what extent any savings realized will be passed on to employers.

##### **Health Care Providers Costs**

This fiscal note does not estimate an impact on health care providers of the proposed regulation, for two reasons: 1) Certified MCOs have been in operation under the prior version of the proposed regulation since November 1, 1992. There are currently 23 active certified MCOs in Missouri. The fiscal note assumes that any health care providers who desired to join an MCO would already have done so and are therefore currently providing services at the discounted rates which would merely be continued under the Proposed Amendment; and, 2) Nothing in the regulation limits health care provider reimbursements to amounts less than that allowed by Section 287.140.3, RSMo, without the provider's consent. Providers are free to charge their usual and customary fee unless they have voluntarily agreed to discount those fees under a contract with an MCO.