Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 5—Inspections

PROPOSED AMENDMENT

2 CSR 80-5.010 Inspection Fees. The board is amending section (1) on inspection fees.

PURPOSE: This rule is being amended by changing the time period for which the fees apply and publish the fees established by the State Milk Board for that period. This amendment updates the reference to the time period for which milk inspection fees apply.

(1) The inspection fee for Fiscal Year *[2002 (July 1, 2001–June 30, 2002)]* **2003 (July 1, 2002–June 30, 2003)** shall be five cents (5¢) per hundred weight on milk produced on farms inspected by the State Milk Board or its contracted local authority and four cents (4¢) per hundred weight on milk imported from areas beyond the points of routine inspection.

AUTHORITY: section 196.939, RSMo 2000. Original rule filed April 12, 1977, effective Sept. 11, 1977. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Jan. 30, 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: The State Milk Board estimates that the following private entities will be affected by this proposed amendment in the given numbers: seven (7) producer marketing agencies and seven (7) additional Grade A dairy plants located in the state of Missouri (to be assessed five cents (5¢) per hundred weight on milk produced and/or handled) and five (5) producer marketing agencies and thirty-eight (38) individual Grade A dairy plants (to be assessed at four cents (4¢) per hundred weight on milk inspected from areas beyond the points of routine inspection). The State Milk Board further estimates the aggregate cost of the compliance with this proposed amendment by the enumerated entities to be $1,420,934 for the period July 1, 2002 through June 30, 2003.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Milk Board office, Terry S. Long, Executive Secretary, 911-D Leslie Blvd., Jefferson City, MO 65101. Telephone (573)-751-3830. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Title 2 – DEPARTMENT OF AGRICULTURE
Division: Division 80 – State Milk Board
Chapter: Chapter 5 - Inspections
Type of Rulemaking: PROPOSED AMENDMENT
Rule Number and Name: 2 CSR 80-5.010 Inspection Fees

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:
7	Producer Mktg. Agencies	5¢ c.w.t.*
7	Grade A Dairy Plants/Missouri	5¢ c.w.t.*
5	Producer Mktg. Agencies	4¢ c.w.t.*
38	Grade A Dairy Plants Outside Missouri	4¢ c.w.t.*

TOTAL COST ESTIMATE: $1,420,934

III. WORKSHEET

	PRIVATE ENTITY COSTS:	FY 2003
7 7	Producer Marketing Agencies and Grade A Dairy Plants of Missouri	5¢ c.w.t.*
5 38	Producer Marketing Agencies and Grade A Dairy Plants Outside Missouri	4¢ c.w.t.*
	TOTAL COST ESTIMATE:	$1,420,934

* c.w.t. = per hundred weight (cost per pound)

IV. ASSUMPTIONS

The estimates contained in this fiscal note are based upon the following assumptions:

All estimates shown are based upon milk inspection fees collected during FY '01. Varying conditions (drought, severe cold weather, market conditions, etc.) effect total pounds of milk marketed, thereby effecting cost to private entities.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 20—Labor and Industrial Relations Commission
Chapter 8—Tort Victims Appeals

PROPOSED RULE

8 CSR 20-8.010 Review of Decisions Issued by the Division of Workers' Compensation in Tort Victims' Compensation Cases

PURPOSE: This rule outlines procedures for appeals from a decision made by the Division of Workers' Compensation in tort victims' compensation cases.

(1) Review-Appeal. Any party to a case involving tort victims' compensation may appeal the decision of the Division of Workers' Compensation by filing a petition with the commission within thirty (30) days following the date of notification or mailing of the decision, as provided by section 573.690, RSMo. A form to be used in making the petition has been promulgated by the commission and is available upon request. The petitioner is not required to use the promulgated form provided the petition sets forth information in regard to the case, and the decision which is sought to be reviewed and the reason for making the petition. The petition shall be signed by the petitioner or the petitioner's attorney.

(2) Additional Evidence.

(A) After a petition has been filed with the commission, any interested party may file a motion to submit additional evidence to the commission. The hearing of additional evidence by the commission shall not be granted except upon the ground of newly discovered evidence which could not have been produced with reasonable diligence at the hearing before the Division of Workers' Compensation. Tender of merely cumulative evidence does not constitute a valid ground for the admission of additional evidence by the commission. The motion to submit additional evidence shall set out specifically and in detail:

1. Nature and substance of the newly discovered evidence;
2. Names of witnesses to be produced;
3. Nature of the exhibits to be introduced; and
4. Full and accurate statement of the reason the testimony or exhibits reasonably could not have been discovered or produced at the hearing before the Division of Workers' Compensation.

(B) The commission shall consider the motion to submit additional evidence and any response of the opposing party without oral argument by the parties and enter an order either granting or denying the motion. If the motion is granted, the opposing party shall be permitted to present rebuttal evidence. As a matter of policy, the commission is opposed to the submission of additional evidence except when it furthers the interests of justice. Therefore, all available evidence shall be introduced at the hearing before the administrative law judge.

(3) Petitions and Briefs.

(A) A petitioner shall state specifically in the petition the reason the petitioner believes the decision of the Division of Workers' Compensation on the controlling issues is not properly supported. It shall not be sufficient merely to state that the decision of the Division of Workers' Compensation on any particular issue is not supported by the competent and substantial evidence.

(B) If the petitioner desires to file a brief in support of the petition, the request to file a brief shall be stated in the petition. The petitioner's brief shall be filed within thirty (30) days after the transmittal of the transcript of record. The opposing party may file a responsive brief within fifteen (15) days after the receipt of the petitioner's brief. The commission shall have discretion, after notice to the parties, to extend or accelerate the briefing schedule.

(4) Answers and Briefs.

(A) The opposing party (known as the respondent) may file an answer to the petition concisely addressing each of the contentions set forth in the petition. The answer shall be filed within ten (10) days after the filing of the petition. The commission shall have discretion to extend the time for filing an answer.

(B) If the petitioner does not include a request to file briefs in the petition and the respondent desires to file a brief, that request shall be included in the answer. If the petitioner requested a briefing schedule, but failed to timely file a brief, the respondent may file a brief only if the respondent included a request to file a brief in the answer.

(5) Briefs, Typewritten. Briefs filed in any case pending before the commission shall be typewritten. The original and two (2) copies shall be filed with the commission and a copy served upon the opposing party.

(6) Oral Argument. Oral argument may be granted by the commission. Any request to present oral argument shall be included in the petition or in the answer and shall include detailed and specific reasons the argument cannot be made adequately by brief. Untimely requests for leave to present oral argument shall not be entertained nor will any request to present oral argument in lieu of a brief be allowed.

AUTHORITY: section 286.060, RSMo 2000. Original rule filed Jan. 25, 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.

*COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Labor and Industrial Relations Commission, Attn: Renee T. Slusher, Chairman, PO Box 599, Jefferson City, MO 65102-0599. 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 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and Developmental Disabilities
Chapter 5—Standards

PROPOSED RULE

9 CSR 45-5.060 Procedures to Obtain Certification

PURPOSE: This rule describes procedures to obtain certification as a provider of residential habilitation, individualized supported living (ISL), supported employment, and day habilitation (on and off site), through the community-based Medicaid Waiver.

(1) Under sections 630.655, 630.010, and 376.779.3 and 4, RSMo, the department is mandated to develop certification standards and to certify an organization's level of service, treatment or rehabilitation as necessary for the organization to operate, receive funds from the department, or participate in a service network authorized by the department and eligible for Medicaid reimbursement. However, certification in itself does not constitute an assurance or guarantee that the department will fund designated services or programs.

(A) A key goal of certification is to enhance the quality of care and services with a focus on the needs and outcomes of persons served.

(B) The primary function of the certification process is assessment of an organization's compliance with standards of care. A further function is to identify and encourage developmental steps toward improved program operations, client satisfaction and positive outcomes.

(C) This rule replaces sections 9 CSR 45-5.010(4) and (5) of the Certification of Medicaid Agencies Serving Persons with Developmental Disabilities.

(2) An organization may request certification by completing an application form, as required by the department for this purpose, and submitting the application form, and other documentation, as may be specified, to the Department of Mental Health, PO Box 687, Jefferson City, MO 65102.

(A) The organization must submit a current written description of those programs and services for which it is seeking certification by the department.

(B) A new applicant shall not use a name which implies a relationship with another organization, government agency or judicial system when a formal organizational relationship does not exist.

(C) Certification fees are not required.

(D) The department will review a completed application within thirty (30) calendar days of receipt to determine whether the applicant organization would be appropriate for certification. The department will notify the organization of its determination.

(E) An organization that wishes to apply for recertification shall submit its application forms to the department at least sixty (60) days before expiration of its existing certificate.

(F) An applicant can withdraw its application at any time during the certification process, unless otherwise required by law.

(3) The department shall conduct a site survey at an organization to assure compliance with certification standards, standards of care and other requirements.

(A) The department shall conduct a comprehensive site survey for the purpose of determining compliance with certification standards and program/service rules, except as stipulated in paragraphs (3)(B)1. through 3.

(B) The department recognizes and deems as certified a provider that has attained full accreditation under standards for Community Services (community living services for individualized supported living (ISL) and residential habilitation and personal and social services for day habilitation) and for Employment Services (supported employment) from the Commission on Accreditation of Rehabilitation Facilities (CARF) or The Council on Quality and Leadership in Supports for People with Disabilities (The Council). The deemed provider must—

1. Submit to the department a copy of the most recent accreditation survey report and verification of the accreditation time period and dates within thirty (30) days of receipt from the accreditation agency;

2. Notify the department when accreditation surveys are scheduled or when accreditation agency makes complaint investigation visit;

3. Notify the department of any changes in accreditation status during the time period of accreditation and resurvey;

4. Identify the department as a primary stakeholder for contact by the accrediting agency during survey and resurvey data gathering processes.

(4) The department shall provide advance notice and scheduling of routine, planned site surveys.

(A) The department shall notify the applicant and the division's regional centers regarding survey date(s), procedures and a copy of any survey instrument that may be used. Survey procedures will include, but are not limited to, interviews with provider staff, individuals being served and other interested parties; tour and inspection of program sites; review of provider administrative records necessary to verify compliance with requirements; review of personnel records and service documentation; observation of program activities.

(B) The applicant agrees, by act of submitting an application, to allow and assist department representatives in fully and freely conducting these survey procedures and to provide department representatives reasonable and immediate access to premises, individuals, and requested information.

(C) An organization must engage in the certification process in good faith. The organization must provide information and documentation that is accurate, and complete. Failure to participate in good faith, including falsification or fabrication of any information used to determine compliance with requirements, may be grounds to deny issuance of or to revoke certification.

(D) The surveyor(s) shall hold entrance and exit conferences with the organization to discuss survey arrangements and survey findings, respectively. If a surveyor identifies a deficiency that could result in actual jeopardy to the safety, health or welfare of persons served, the surveyor shall not leave the program until an acceptable plan of correction is presented which assures the surveyor that there is no further risk of jeopardy to persons served.

(E) Within thirty (30) calendar days after the exit conference, the department shall provide a written survey report to the provider's director and the division.

1. The report shall note all deficiencies identified during the survey. Every instance in which the certification standards are not met will be cited as a deficiency.

2. The department shall send a notice of deficiency and the report by certified mail, return receipt requested.

3. The provider shall make the report available to the staff and to the public upon request.

(F) Within thirty (30) calendar days of the date that a notice of deficiency and the report is presented by certified mail to the provider, the provider shall submit to the department and regional center a plan of correction.

1. The plan must address each deficiency, specifying the method of correction and the date the correction shall be completed. The provider will work with the regional center to develop a plan of correction. No correction date will exceed one hundred eighty (180) days.

2. Within fifteen (15) calendar days after receiving the plan of correction, the department shall notify the provider and the division of its decision to approve, disapprove, or require revisions of the proposed plan.

3. The surveyor will assure that the plan of correction has been implemented and deficiencies corrected. The department shall determine if it is necessary for the surveyor to make a return visit to the provider based on the criteria of the plan of correction and will notify the division and regional center(s) of revisit.

4. In the event that the provider has not submitted a plan of correction acceptable to the department within sixty (60) days of the original date that written notice of deficiencies was presented by certified mail to the provider, it shall be subject to expiration of certification.

(5) The department may grant certification on a temporary, provisional, conditional, or compliance status. The department will notify the division of any change in the status of a provider.

(A) Temporary status shall be granted to a provider if the survey process has not been completed prior to the expiration of an existing certificate and the applicant is not at fault for failure or delay in completing the survey process.

(B) Provisional status for a period of not exceeding one (1) year shall be granted to a new provider or service, a converted agency or provider, or an existing provider adding a waivered service,

based on a site review which finds the program in compliance with requirements related to policy and procedure, facility, personnel, and staffing patterns sufficient to begin providing services. The regional center must notify the Licensure and Certification Office as soon as the contract is set up with the provider.

1. In the department's initial determination and granting of provisional certification, the provider shall not be expected to fully comply with those standards which reflect ongoing program activities.

2. The department shall conduct a comprehensive site survey of the provisionally certified provider and shall make further determination of the provider's certification status no sooner than ninety (90) days after the provider begins serving clients nor later than the expiration date of the provisional certificate.

(C) Conditional status shall be granted to a provider following a site survey by the department that determines that there are pervasive and/or significant deficiencies with standards that may affect quality of care to individuals and there is reasonable expectation that the provider can achieve compliance within a stipulated time period. The department shall consider patterns and trends of performance identified during the site survey.

1. The period of conditional status shall not exceed one hundred eighty (180) calendar days. The department may directly monitor progress, may require the provider to submit progress reports, or both.

2. The department shall conduct a further site survey within the one hundred eighty (180)-day period and make a further determination of the provider's compliance with standards.

3. During the period of conditional status, the division may, at its discretion, take actions per sections (10) and (12) of this rule.

(D) Compliance status shall be awarded to a provider for a period of two (2) years following a site survey by the department that determines the provider meets all standards relating to quality of care and the safety, health, rights, and welfare of persons served. If deficiencies are cited during a site survey, any and all such deficiencies must be corrected in accordance with the plan of correction prior to the department awarding compliance status.

(6) The department may investigate any written complaint regarding the operation of a certified or deemed certified program or service. If conditions are found that are not in compliance with applicable certification standards, the department may, at its sole discretion, notify the accrediting organization of any concerns.

(7) The department may conduct a scheduled or unscheduled site survey of a provider at any time to monitor ongoing compliance with the certification standards. If any survey finds conditions that are not in compliance with applicable certification standards, the department may require corrective action steps and may change the provider's certification status consistent with procedures set out in this rule.

(8) The department shall certify only the provider(s) named in the application. The provider(s) may not transfer certification without the written approval of the department.

(A) A certificate is the property of the department and is valid only as long as the provider meets standards of care and other requirements.

(B) The provider shall maintain the certificate issued by the department in a readily available location.

(C) Within seven (7) calendar days of the time a certified provider organization is sold, leased, discontinued, moved to a new location, has a change in its accreditation status, appoints a new director, or changes programs or services offered, the provider shall provide written notice to the department of any such change.

(D) A certified provider that establishes a new program or type of program shall operate that program in accordance with applicable standards. A provisional review, expedited site survey or comprehensive site survey shall be conducted, as determined by the department.

(9) The department may deny issuance of and may revoke certification based on a determination that—

(A) The nature of the deficiencies results in substantial probability of or actual jeopardy to individuals being served;

(B) Serious or repeated incidents of abuse or neglect of individuals being served or violations of rights have occurred;

(C) Fraudulent fiscal practices have transpired or significant and repeated errors in billings to the department have occurred;

(D) Failure to participate in the certification process in good faith, including falsification or fabrication of any information used to determine compliance with requirements;

(E) The nature and extent of deficiencies results in the failure to conform to the certification standards of the program or service being offered; or

(F) Compliance with standards has not been attained by an organization upon expiration of conditional certification.

(10) The department, at its discretion, may—

(A) Place a monitor at a program if there is substantial probability of or actual jeopardy to the safety, health, rights, or welfare of individuals being served.

1. The cost of the monitor shall be charged to the organization at a rate which recoups all reasonable expenses incurred by the department.

2. The department shall remove the monitor when a determination is made that the safety, health, rights, and welfare of individuals being served is no longer at risk;

(B) Take other action to ensure and protect the safety, health or welfare of individuals being served.

(11) An organization which has had certification denied or revoked may appeal to the director of the department within thirty (30) calendar days following notice of the denial or revocation being presented by certified mail to the organization. The director of the department shall conduct a hearing under procedures set out in Chapter 536, RSMo and issue findings of fact, conclusions of law and a decision which shall be final.

(12) The department shall have authority to impose administrative sanctions.

(A) The department may suspend the certification process pending completion of an investigation when an organization that has applied for certification or the staff of that organization is under investigation for fraud, financial abuse, abuse of persons served, revocation of persons' rights without due process, or improper clinical practices.

(B) The department may administratively sanction a certified organization that has been found to have committed fraud, financial abuse, abuse of persons served, or improper clinical practices or that had reason to know its staff were engaged in such practices.

(C) Administrative sanctions include, but are not limited to, suspension of certification, clinical utilization review requirements, clinical audit, suspension of new admissions, denial or revocation of certification, or other actions as determined by the department.

(D) The department shall have the authority to refuse to accept for a period of up to twenty-four (24) months an application for certification from an organization that has had certification denied or revoked or that has been found to have committed fraud, financial abuse or improper clinical practices or whose staff and clinicians were engaged in improper practices.

(E) An organization may appeal these sanctions pursuant to section (11).

(13) An organization may request the department's exceptions committee to waive a requirement for certification if the head of the organization provides evidence that a waiver is in the best interests of the individuals it serves.

(A) A request for a waiver shall be in writing and shall include justification for the request.

(B) The request shall be submitted to Exceptions Committee, Department of Mental Health, PO Box 687, Jefferson City, MO 65102.

(C) The exceptions committee shall hold meetings in accordance with Chapter 610, RSMo and shall respond with a written decision within forty-five (45) calendar days of receiving a request.

(D) The exceptions committee may issue a waiver on a time-limited or other basis.

(E) If a waiver request is denied, the exceptions committee shall give the organization forty-five (45) calendar days to fully comply with the standard, unless a different time period is specified by the committee.

AUTHORITY: sections 630.050 and 630.655, RSMo Supp. 2001. Emergency rule filed Feb. 13, 2002, effective March 1, 2002, expires Aug. 27, 2002. Original rule filed Feb. 13, 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 Core Rules Committee, Attn: Donna Haley, Department of Mental Health, Division of Mental Retardation and Developmental Disabilities PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

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

PROPOSED AMENDMENT

10 CSR 10-6.070 New Source Performance Regulations. The commission proposes to amend subsection (1)(A) and section (7). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency, for delegation of enforcement authority.

PURPOSE: This amendment adopts by reference new 40 CFR part 60 subparts finalized between January 1, 2000 and December 31, 2000. Additionally, this amendment updates previously adopted subparts. The evidence supporting the need for this proposed rulemaking are: elements of the State/EPA work plan and Title V Operating Permit Program requirements.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) General.

(A) The provisions of 40 CFR part 60, as of December *[29, 1999]* **31, 2000**, shall apply and are adopted by reference as part of this rule.

(7) The following are the New Source Performance Standards (NSPS) 40 CFR part 60 subparts that are adopted by reference in this rule. Individual source operations or installations in these categories are subject to this rule based on date of commencement of construction and other category specific parameters, as specified in the applicable subpart:

Subpart Title

["](D) Fossil-Fuel Fired Steam Generators*[;]*

(Da) Electric Utility Steam Generating Units*[;]*

(Db) Industrial-Commercial-Institutional Steam Generating Units*[;]*

(Dc) Small Industrial-Commercial-Institutional Steam Generating Units*[;]*

(E) Incinerators*[;]*

(Ea) Municipal Waste Combustors constructed after December 20, 1989, and on or before September 20, 1994*[;]*

(Eb) Municipal Waste Combustors constructed after September 20, 1994*[;]*

(Ec) Hospital/Medical/Infectious Waste Incinerators constructed after June 20, 1996*[;]*

(F) Portland Cement Plants*[;]*

(G) Nitric Acid Plants*[;]*

(H) Sulfuric Acid Plants*[;]*

(I) Asphalt Concrete Plants*[;]*

(J) Petroleum Refineries*[;]*

(K) Storage Vessels for Petroleum Liquids after June 11, 1973*[;]*

(Ka) Storage Vessels for Petroleum Liquids*[;]*

(Kb) Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) after July 23, 1984*[;]*

(L) Secondary Lead Smelters*[;]*

(M) Secondary Brass and Bronze Production Plants*[;]*

(N) Primary Emissions from Basic Oxygen Process Furnaces*[;]*

(Na) Secondary Emissions from Basic Oxygen Process Steelmaking Facilities*[;]*

(O) Sewage Treatment Plants*[;]*

(P) Primary Copper Smelters*[;]*

(Q) Primary Zinc Smelters*[;]*

(R) Primary Lead Smelters*[;]*

(S) Primary Aluminum Reduction Plants*[;]*

(T) Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants*[;]*

(U) Phosphate Fertilizer Industry: Superphosphoric Acid Plants*[;]*

(V) Phosphate Fertilizer Industry: Diammonium Phosphate Plants*[;]*

(W) Phosphate Fertilizer Industry: Triple Superphosphate Plants*[;]*

(X) Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities*[;]*

(Y) Coal Preparation Plants*[;]*

(Z) Ferroalloy Production Facilities*[;]*

(AA) Steel Plants: Electric Arc Furnaces*[;]*

(AAa) Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels*[;]*

(BB) Kraft Pulp Mills*[;]*

(CC) Glass Manufacturing Plants*[;]*

(DD) Grain Elevators*[;]*

(EE) Surface Coating of Metal Furniture*[;"]*

["](GG) Stationary Gas Turbines*[;]*
(HH) Lime Manufacturing Plants*[;"]*
["](KK) Lead-Acid Battery Manufacturing Plants*[;]*
(LL) Metallic Mineral Processing Plants*[;]*
(MM) Automobile and Light-Duty Truck Surface Coating Operations*[;]*
(NN) Phosphate Rock Plants*[;"]*
["](PP) Ammonium Sulfate Manufacture*[;]*
(QQ) Graphic Arts Industry: Publication Rotogravure Printing*[;]*
(RR) Pressure Sensitive Tape and Label Surface Coating Operations*[;]*
(SS) Industrial Surface Coating: Large Appliances*[;]*
(TT) Metal Coil Surface Coating*[;]*
(UU) Asphalt Processing and Asphalt Roofing Manufacture*[;]*
(VV) Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry*[;]*
(WW) Beverage Can Surface Coating Industry*[;]*
(XX) Bulk Gasoline Terminals*[;"]*
["](AAA)New Residential Wood Heaters*[;]*
(BBB) Rubber Tire Manufacturing Industry*[;"]*
["](DDD)Polymer Manufacturing Industry*[;"]*
["](FFF)Flexible Vinyl and Urethane Coating and Printing*[;]*
(GGG) Equipment Leaks of VOC in Petroleum Refineries*[;]*
(HHH) Synthetic Fiber Production Facilities*[;]*
(III) VOC Emissions from SOCMI Air Oxidation Unit Processes*[;]*
(JJJ) Petroleum Dry Cleaners*[;]*
(KKK) Equipment Leaks of VOC From Onshore Natural Gas Processing Plants*[;]*
(LLL) Onshore Natural Gas Processing—SO_2 Emissions*[;"]*
["](NNN)VOC Emissions from SOCMI Distillation Operations*[;]*
(OOO) Nonmetallic Mineral Processing Plants*[;]*
(PPP) Wool Fiberglass Insulation Manufacturing Plants*[;]*
(QQQ) VOC Emissions From Petroleum Refinery Wastewater Systems*[;]*
(RRR) Synthetic Organic Chemical Manufacturing Reactor Processes*[;]*
(SSS) Magnetic Tape Coating Facilities*[;]*
(TTT) Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines*[;]*
(UUU) *[Standards of Performance for]* Calciners and Dryers in Mineral Industries*[;]*
(VVV) Polymeric Coating of Supporting Substrates Facilities*[; and]*
(WWW) Municipal Solid Waste Landfills*[."]*
(AAAA) Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
(CCCC) Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001

*AUTHORITY: section 643.050, RSMo [Supp. 1999] **2000**. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 31, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 25, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 490, 301 W. High Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (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., May 2, 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.

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

PROPOSED AMENDMENT

10 CSR 10-6.075 Maximum Achievable Control Technology Regulations. The commission proposes to amend subsection (1)(A) and section (4). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency, for delegation of enforcement authority.

PURPOSE: This amendment adopts by reference new 40 CFR part 63 subparts finalized between January 1, 2000 and December 31, 2000. Additionally, this amendment updates previously adopted subparts. The evidence supporting the need for this proposed rulemaking are: elements of the State/EPA work plan and Title V Operating Permit Program requirements.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) General.

(A) The provisions of 40 CFR part 63 as of December 31, *[1999]* **2000**, with the exception of those provisions which are not delegable by the United States Environmental Protection Agency (EPA) shall apply and are adopted by reference as part of this rule.

(4) The following are the Maximum Achievable Control Technology (MACT) 40 CFR part 63 subparts that are adopted by reference in this rule. Individual source operations or installations in these categories are subject to this rule based on category specific parameters, as specified in the applicable subpart:

Subpart Title

["](F) National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry*[;]*

(G) National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing

Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater*[;]*

(H) National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks*[;]*

(I) National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks*[;"]*

["](L) National Emission Standards for Coke Oven Batteries*[;]*

(M) National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities*[;]*

(N) National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks*[;]*

(O) Ethylene Oxide Emissions Standards for Sterilization Facilities*[;"]*

["](Q) National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers*[;]*

(R) National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)*[;]*

(S) National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry*[;]*

(T) National Emission Standards for Halogenated Solvent Cleaning*[;]*

(U) National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins*[;"]*

["](W) National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production*[;]*

(X) National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting*[;]*

(Y) National Emission Standards for Marine Tank Vessel Loading Operations*[;"]*

["](AA) National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants*[;]*

(BB) National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants*[;]*

(CC) National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries*[;]*

(DD) National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations*[;]*

(EE) National Emission Standards for Magnetic Tape Manufacturing Operations*[;"]*

["](GG) National Emission Standards for Aerospace Manufacturing and Rework Facilities*[;]*

(HH) National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities*[;]*

(II) National Emission Standards for Shipbuilding & Ship Repair (Surface Coating) *[;]*

(JJ) National Emission Standards for Wood Furniture Manufacturing Operations*[;]*

(KK) National Emission Standards for the Printing and Publishing Industry*[;]*

(LL) National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants*[;"]*

["](OO) National Emission Standards for Tanks—Level 1*[;]*

(PP) National Emission Standards for Containers*[;]*

(QQ) National Emission Standards for Surface Impoundments*[;]*

(RR) National Emission Standards for Individual Drain Systems*[;]*

(SS) National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process*[;]*

(TT) National Emission Standards for Equipment Leaks—Control Level 1*[;]*

(UU) National Emission Standards for Equipment Leaks—Control Level 2 Standards*[;]*

(VV) National Emission Standards for Oil-Water Separators and Organic-Water Separators*[;]*

(WW) National Emission Standards for Storage Vessels (Tanks)—Control Level 2*[;"]*

["](YY) National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Available Control Technology Standards*[;"]*

["](CCC) National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants*[;]*

(DDD) National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production*[;]*

(EEE) National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors*[;"]*

["](GGG) National Emission Standards for Pharmaceuticals Production*[;]*

(HHH) National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities*[;]*

(III) National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production*[;]*

(JJJ) National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins*[;"]*

["](LLL) National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry*[;]*

(MMM) National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production*[;]*

(NNN) National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing*[;"]*

(OOO) National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

["](PPP) National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production*[;"]*

(RRR) National Emission Standards for Hazardous Air Pollutants: Secondary Aluminum Production

["](TTT) National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting*[;"]*

["](VVV) National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works*[;" and]*

["](XXX) National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese*[."]*

*AUTHORITY: section 643.050, RSMo [Supp. 1999] **2000**. Original rule filed May 1, 1996, effective Dec. 30, 1996. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 31, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 25, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 490, 301 W. High Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (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., May 2, 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.

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

PROPOSED AMENDMENT

10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants. The commission proposes to add a new section (3) and amend sections (1) and (4). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency, for delegation of enforcement authority.

PURPOSE: This amendment incorporates by reference amendments to previously adopted 40 CFR part 61 subparts finalized between January 1, 2000 and December 31, 2000. Additionally, it includes a statement clarifying that the more restrictive requirement or limitation applies when two (2) or more regulations are applicable. The evidence supporting the need for this proposed rulemaking are: elements of the State/EPA work plan and Title V Operating Permit Program requirements.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) General.

(A) The provisions of 40 CFR part 61, as of December 31, *[1999]* **2000**, **shall apply and are adopted by reference as part of this rule.**

(B) Exceptions to the adoption are as follows: *[with the exception of]* sections 61.4, 61.16, 61.17, *[and]* subparts B, H, I, K, W, Q, R, T and those provisions which are not delegable by United States Environmental Protection Agency (EPA) *[shall apply and are adopted by reference as part of this rule]*. Authorities which may not be delegated include 40 CFR 61.04(b), 61.12(d)(1), 61.13(h)(1)(ii), 61.112(c), 61.164(a)(2), 61.164(a)(3), 61.172(b)(2)(ii)(B), 61.172(b)(2)(ii)(C), 61.174(a)(2), 61.174(a)(3), 61.242-1(c)(2), 61.244, and all authorities listed as not delegable in each subpart under Delegation of Authority.

(3) More Restrictive Limitations to Apply. Where emission limitations, test procedures or other requirements found in subsection (1)(A) of this rule and in another rule under Title 10 Division 10 of the CSR are applicable to an emission source, the more restrictive emission limitation, the more accurate test procedure or the more restrictive requirement shall be applied.

*[(3)]***(4)** The following are the National Emission Standards for Hazardous Air Pollutants (NESHAPs) 40 CFR part 61 subparts that are adopted by reference in this rule. Individual sources, operations or installations in these categories are subject to this rule based on date of commencement of construction and other category specific parameters, as specified in the applicable subpart:

Subpart Title

["] (C) National Emission Standard for Beryllium*[;]*

(D) National Emission Standard for Beryllium Rocket Motor Firing*[;]*

(E) National Emission Standard for Mercury*[;]*

(F) National Emission Standard for Vinyl Chloride*[;"]*

["](J) National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene*[;"]*

["](L) National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants*[;]*

(M) National Emission Standard for Asbestos*[;]*

(N) National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants*[;]*

(O) National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters*[;]*

(P) National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities*[;"]*

["](V) National Emission Standard for Equipment Leaks (Fugitive Emission Sources) *[;"]*

["](Y) National Emission Standards for Benzene Emissions From Benzene Storage Vessels*[;"]*

["](BB) National Emission Standards for Benzene Emissions From Benzene Transfer Operations*[; and"]*

["](FF) National Emission Standard for Benzene Waste Operations*[."]*

*AUTHORITY: section 643.050, RSMo [Supp. 1999] **2000**. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 31, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 25, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 490, 301 W. High Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (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., May 2, 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.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

PROPOSED AMENDMENT

11 CSR 45-4.260 Occupational Licenses. The commission is amending sections (1), (2) and (4).

PURPOSE: This amendment provides that business entity key persons require an occupational license.

(1) Every *[individual]* **person** in a position classified as Occupational License Level One (I) or Occupational License Level Two (II) or otherwise participating in gaming operations in any capacity is required to have an occupational license from the commission authorizing him/her to be employed on the licensed premises to practice his/her business profession or skills, except for public officers and public employees engaged in the performance of their official duties and other individuals exempted by the commission. The commission may authorize the director to license or make the initial determination of unsuitability on the application of any Level II occupational license applicant; provided, however, that this section shall not limit any other authorization of the director. The authorization provided hereunder shall not include the authority to review findings of a hearing officer under the provisions of 11 CSR 45-13.

(2) As a condition of licensure, all applicants for occupational licenses are required to be fingerprinted, photographed and **to** execute such waivers as may be provided by forms approved by the commission**, provided that applicants for a business entity key person license need not be fingerprinted or photographed**.

(4) The commission may refuse an occupational license to any *[individual]* **person** or revoke an occupational license of any *[individual]* **person**—

*AUTHORITY: sections 313.004 and 313.805, RSMo [1994] **2000**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 7, 2001.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m., April 10, 2002, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo

PROPOSED AMENDMENT

11 CSR 45-30.355 Sale of Pull-Tab Cards by Bingo Licensees. The commission is amending subsection (1)(A).

PURPOSE: The purpose of the proposed amendment is to clarify that no bingo pull-tab card sales may begin prior to 10:00 a.m.

(1) Type A and B licensees as identified in 11 CSR 45-30.065 must comply with the following:

(A) **On each occasion,** *[P]***p**ull-tab cards may be sold no more than two (2) hours prior to the start of the first game of bingo**, except that no bingo pull tab-cards may be sold prior to 10:00 a.m.**;

*AUTHORITY: section 313.065, RSMo [Supp. 1998] **2000**. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Feb. 1, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars ($500) associated with this amendment, are requested to submit the cost (estimated or actual, if available) with the comments. Public hearing is scheduled for 10:00 a.m., April 10, 2002, in the Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 30—Permanency Planning for Children

PROPOSED RULE

13 CSR 40-30.020 Attorney Fees and Guardian *Ad Litem* Fees in Termination of Parental Rights Cases

*PURPOSE: The purpose of this rule is to establish fees for attorneys and guardians **ad litem** who provide services in termination of parental rights cases.*

(1) If permanency for the children requires parental rights be terminated to enable children to be permanently placed or adopted, the children's parents shall be provided representation in such cases which shall include counsel, investigative, expert and other services to ensure adequate representation. This includes the appointment of a guardian *ad litem* for the children. Representation shall be provided for financially eligible persons. A person is considered financially eligible when it appears from all of the circumstances of the case including the person's income, the number of individuals dependent on the person for support, and the person's financial assets and liabilities, that the person does not have the means available to obtain counsel and is indigent. The determination of indigency may be made at any time by the Division of Family Services. Upon motion by any party, the court in which the case is pending shall have the authority to determine, based on a finding of indigency, whether the Division of Family Services should pay for counsel for a particular parent. If the court finds the parent is not indigent, the Division of Family Services shall discontinue paying for counsel on behalf of such parent. Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association or other organization of attorneys willing to furnish representation of parents in termination of parental rights cases. A person for whom counsel is appointed shall be represented at every stage of the proceeding, from his or her initial

appearance through appeal, including ancillary matters appropriate to the proceedings. In the interest of justice, one counsel may be substituted for another at any stage of the proceedings.

(2) Payment for attorney representation shall be made as provided below:

(A) Hourly Rate. Any attorney shall, at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal), be compensated at a rate not exceeding seventy-five dollars ($75) per hour for time expended in court and fifty dollars ($50) per hour for time reasonably expended out of court. Attorneys may be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the court;

(B) Maximum Amounts. The compensation to be paid for representation at trial shall not exceed seven hundred fifty dollars ($750) for uncontested matters and two thousand five hundred dollars ($2,500) for contested matters. For representation in an appellate court, the compensation shall not exceed two thousand five hundred dollars ($2,500) at fifty dollars ($50) per hour;

(C) Cost of Extraordinary Expenses. The cost of extraordinary expenses must be approved in advance by the court. Such extraordinary expenses include:

1. Psychiatric/psychological/medical evaluations;
2. Expert witnesses; and
3. Deposition of witnesses;

(D) Waiving Maximum Amounts. Payment in excess of any maximum amount provided in subsection (2)(B) may be made for extended or complex representation whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the court;

(E) Disclosure of Fees. The amounts paid to particular attorneys or groups of attorneys shall be available as public records. However, the identity of parties, including parents, children, foster parents and anyone whose confidentiality is established in Chapter 210 or 211, RSMo, shall not be publicly available;

(F) Filing Claims. A separate claim for compensation and reimbursement shall be made to the Division of Family Services for each case. Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the court, and the compensation and reimbursement applied for or received in the same case from any other source. The Division of Family Services may agree to the claim, may negotiate the claim with the applying attorney, or may deny the claim in which case the attorney shall apply to the court to determine the compensation and reimbursement to be paid to the attorney;

(G) New Trials. For purposes of compensation and other payments authorized by this section, an order by a trial or appellate court granting a new trial shall be deemed to initiate a new case;

(H) Receipt of Other Payments. Whenever the Division of Family Services or the court finds that funds are available for payment from or on behalf of a person furnished representation, it may authorize or direct that such funds be paid to the appointed attorney.

(3) Payment for Guardian *ad litem*. Children involved in termination of parental rights cases are entitled to a guardian *ad litem*. The fees for the guardian *ad litem* shall be paid in the maximum amount of two thousand five hundred dollars ($2,500) at fifty dollars ($50) per hour for out of court services and seventy-five dollars ($75) per hour for in court services.

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Feb. 14, 2002, effective Feb. 24, 2002, expires Aug. 22, 2002. Original rule filed Feb. 14, 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 Division of Family Services, Denise Cross, Director, PO Box 88, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 45—Records Management

PROPOSED RESCISSION

15 CSR 30-45.030 Local Records Grant Program Administration. This rule outlined the management plan of the grants-in-aid program for local records preservation.

PURPOSE: This rule is being rescinded to allow the program to adopt timely program management changes as approved by the Missouri Historical Records Advisory Board or suggested by appropriate state fiscal review agencies.

AUTHORITY: sections 59.319, RSMo 1994 and 109.221, RSMo Supp. 1998. Emergency rule filed June 19, 1991, effective June 29, 1991, expired Oct. 28, 1991. Original rule filed June 19, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 6, 1991, effective May 14, 1992. Rescinded and readopted: Filed July 27, 1999, effective Feb. 29, 2000. Rescinded: Filed Jan. 18, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Missouri Secretary of State, Local Records Program, Lynn Morrow, Director, PO Box 1747, 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 45—Records Management

PROPOSED RULE

15 CSR 30-45.030 Local Records Grant Program Administration

PURPOSE: This rule outlines the authority of the grants-in-aid program for local records preservation through the Office of the Secretary of State.

(1) The local records grant program, administered by the Office of the Secretary of State, provides financial assistance to local government officials to support records management and preservation

efforts, particularly for records of permanent retention. This grants-in-aid program is a significant effort in the overall mission of the agency to enhance the quality of archival preservation and public access to records of enduring value.

(A) Eligible applicants include all local government entities supported by a tax levy.

(B) Ineligible applicants include:

1. Individuals;

2. State agencies (local public records housed by state agencies may be included in a grant application that is submitted and administered by the local official who has statutory authority over the records);

3. Private organizations (local public records housed by private organizations may be included in a grant application that is submitted and administered by the local official who has statutory authority over the records);

4. Federal agencies.

(C) Procedures and Evaluation of Applications:

1. The Missouri Historical Records Advisory Board (MHRAB) recommends grant:

A. Activities, requirements and objectives;

B. Cost-sharing contributions, budget structure, payment benchmarks and accounting guidelines;

C. Calendars.

2. The MHRAB reviews and evaluates grant applications and recommends funding levels for award to the secretary of state.

3. The process to be followed in writing and submitting a grant proposal are found in the *Local Records Preservation Program Guidebook and Application*. All applicable guidelines, procedures and standards relating to the local records preservation grants-in-aid program are detailed in *Local Records Preservation Program Guidebook and Application* and the *Guidelines for Local Records Microfilming*.

(A) Any interested person may obtain the most current version *Local Records Preservation Program Guidebook and Application* from either the Local Records Program, PO Box 1747, Jefferson City MO 65102, 573-751-2798, or the Secretary of State web site: http://mosl.sos.state.mo.us/rec-man/localrec/grants/archlrg.html.

(B) Paper copies of the most current version *Guidelines for Local Records Microfilming* are available from the Local Records Program, PO Box 1747, Jefferson City MO 65102, (573)-751-2798.

AUTHORITY: sections 59.319 and 109.221, RSMo 2000. Emergency rule filed June 19, 1991, effective June 29, 1991, expired Oct. 28, 1991. Original rule filed June 19, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 6, 1991, effective May 14, 1992. Rescinded and readopted: Filed July 27, 1999, effective Feb. 29, 2000. Rescinded and readopted: Filed Jan. 18, 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 Office of the Secretary of State, Local Records Program, Lynn Morrow, Director, PO Box 1747, 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 25—Division of Administration
Chapter 38—Laboratory Fees

PROPOSED RULE

19 CSR 25-38.020 Laboratory Fee for Tuberculosis Testing

PURPOSE: This rule establishes a fee for testing specimens for tuberculosis that are submitted to the State Public Health Laboratory.

(1) A fee of forty-eight dollars ($48) shall be charged for each clinical specimen submitted to the State Public Health Laboratory for tuberculosis testing. Clinical specimens include raw sputum samples, gastric lavage samples, urine specimens or pleural, spinal, and joint fluids, other exudates or tissue samples.

(2) The Department of Health and Senior Services (DHSS) may waive the fee for testing clinical specimens that are submitted from local public health departments or when the director of DHSS determines the specimens are of critical importance for the protection of the public health and safety.

AUTHORITY: section 701.322, RSMo 2000. Emergency rule filed Feb. 15, 2002, effective Feb. 26, 2002, expires Aug. 24, 2002. Original rule filed Feb. 15, 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 is estimated to cost private hospitals, private laboratories and other medical care providers and payers two hundred sixty-five thousand dollars ($265,000) annually in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Larry Evert, Department of Health and Senior Services, State Public Health Laboratory, 307 West McCarty, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Title: 19 – Department of Health and Senior Services

Division: 25 – Division of Administration

Chapter: 38 – Laboratory Fees

Type of Rule Making: Proposed Rule

Rule Number and Name: 38.020 – Laboratory Fee for Tuberculosis Testing

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 type 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.
80	Private clinical/hospital labs	$26,496 annually
40	Insurance companies	$238,464 annually

III. WORKSHEET

Number of samples from hospitals and private laboratories – 5,520

$48 x 5,520 samples/specimens - $264,960

Insurance companies will cover 90% of the samples charged $48.

IV. ASSUMPTIONS

Forty percent of the specimens and samples received by the TB laboratory of the State Public Health Laboratory come from hospitals and private sector clinical laboratories and are subject to this rule. Many of these samples are submitted for diagnostic purposes, but a significant number also represent necessary follow-up for patients receiving treatment for tuberculosis. The remainder of the specimens and samples come through local health departments, other state agencies as part of epidemiological investigations, outbreak control, and also for treatment follow-up. Both sources of samples and specimens are needed for surveillance and disease control purposes. The state no longer has the resources to support the private sector testing. There is also a legitimate concern that by not having this state service at the disposal of the private sector, reporting of tuberculosis from the private sector will drop significantly. From preliminary discussions with some of the private providers, they prefer our service and have indicated that the fee will be paid by third-party payers. Approximately 90% of the samples come from individuals who are covered by private or Medicaid insurance.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 90—Missouri Senior Rx Program
Chapter 3—Manufacturers Rebate Program

PROPOSED RULE

19 CSR 90-3.010 Manufacturers Rebate Program

PURPOSE: This rule establishes the pharmaceutical manufacturers rebate program as set forth in section 208.565, RSMo.

(1) Definitions.

(A) The terms defined in this section will, for the purposes of this section, have the meanings specified in section 1927 of the Social Security Act (42 U.S.C., 1396) as interpreted and applied herein:

1. Average Manufacturer Price (AMP) is, with respect to a covered outpatient drug of the manufacturer for a calendar quarter, the average unit price paid to the manufacturer for the drug in the states by wholesalers for drugs distributed to the retail pharmacy class of trade (excluding direct sales to hospitals, health maintenance organizations and to wholesalers where the drug is relabeled under that distributor's National Drug Code (NDC) number). Federal Supply Schedule prices are not included in the calculation of AMP to the extent and for the time periods authorized under section 1927 of the Social Security Act. AMP includes cash discounts allowed and all other price reductions (other than rebates under section 1927 of the Social Security Act) which reduce the actual price paid. It is calculated as a weighted average of prices for all the manufacturer's package size for each covered outpatient drug sold by the manufacturer during that quarter. Specifically, it is calculated as net sales divided by numbers of units sold, excluding free goods (i.e., drugs or any other items given away, but not contingent on any purchase requirements). For bundled sales, the allocation of the discount is made proportionately to the dollar value of the units of each drug sold under the bundled arrangement. The manufacturer must adjust the AMP for a quarter if cumulative discounts or other arrangements subsequently adjust the prices actually realized;

2. Bundled sale refers to the packaging of drugs of different types where the condition of rebate or discount is that more than one drug type is purchased, or where the resulting discount or rebate is greater than that which would have been received had the drug products been purchased separately;

3. Certificate of Participation is the application the manufacturer must complete and sign along with the commission to participate in the Missouri Senior Rx Program with an implementation date of July 1, 2002. This executed document will permit the manufacturer's drugs to be dispensed under the Missouri Senior Rx Program;

4. Department of Health and Senior Services (DHSS) is the state agency that administers the Missouri Senior Rx Program pursuant to the commission's authority in section 208.556, RSMo;

5. Division of Medical Services (DMS) is the state agency designated by the commission to administer the rebate process for the Missouri Senior Rx Program pursuant to section 208.565, RSMo;

6. Net sales are quarterly gross sales revenue less cash discounts allowed and all other price reductions (other than rebates under section 1927 of the Social Security Act) which reduce the actual price paid; and as further defined under the definition of AMP;

7. Quarter is a calendar quarter unless otherwise specified;

8. Rebate payment is, with respect to the manufacturer's covered outpatient drugs, the quarterly payment by the manufacturer to the Missouri Senior Rx Program, which shall be the sum of the unit rebate amount (URA) of each drug product (computed for each dosage form the strength of each covered outpatient drug) calculated as follows:

A. The total number of units dispensed under the Missouri Senior Rx Program for the program participants during the quarter multiplied by unit rebate amount for the drug (AMP × .15);

9. State is the state of Missouri;

10. Unit rebate amount (URA) is the unit amount computed by the manufacturer to which the Missouri Senior Rx Program utilization information may be applied by the Missouri Senior Rx Program in invoicing the manufacturer for the rebate payment due. The amount of the rebate will be computed in accordance with and will conform to section 208.565.2, RSMo at fifteen percent (15%) of AMP;

11. Missouri Senior Rx Utilization Information is the information on the total number of units of each dosage form and strength of the manufacturer's covered outpatient drugs for which claims were approved and processed during a quarter under the Missouri Senior Rx Program. This information is based on claims approved and processed by the Missouri Senior Rx Program during a calendar quarter and not drugs that were dispensed during a calendar quarter. Missouri Senior Rx Program utilization information will include at a minimum for each product code, using the 11-digit NDC number, package size and product name, the total number of claims (number of scripts), total allowed charges and total units dispensed. The Missouri Senior Rx Program may, at its option, compute the total rebate anticipated, based on pricing data received from the manufacturer, but it shall remain the responsibility of the manufacturer to correctly calculate the rebate amount.

(2) Manufacturer's Responsibilities.

(A) In order for the Missouri Senior Rx Program to authorize payments for the manufacturer's covered outpatient drugs for program participants in accordance with section 208.556, RSMo, the manufacturer must complete a Certificate of Participation and agree to the following:

1. Thirty (30) days after the end of the initial quarter subject to the Certificate of Participation, the manufacturer will provide the Missouri Senior Rx Program with the information for all covered outpatient drugs for the initial quarter containing the data shown in Appendix A of the Certificate of Participation. This list shall be updated quarterly, within thirty (30) days of the end of each quarter. The manufacturer's quarterly report will include all new drug NDC numbers and continue to list those NDC numbers for drugs no longer marketed. If no sales are reported by the manufacturer during a quarter, the AMP last reported shall be used in calculating rebates.

A. Manufacturers submitting data for six (6) or more drug products agree to submit the data via diskette or electronic data interchange (EDI) in a format acceptable to the Missouri Senior Rx Program. Manufacturers submitting data for five (5) or fewer drug products may report the data via diskette, EDI or paper.

B. Manufacturers failing to submit required data in the agreed upon format within the specified time period shall be liable for a civil penalty in the amount of one thousand dollars ($1,000) for each day that the data in the agreed upon format is late;

2. Calculate and, except as provided under section 208.556.3, RSMo, to make a timely rebate payment to the Missouri Senior Rx Program for the manufacturer's covered outpatient drugs dispensed during a quarter under the program;

3. Within thirty (30) days of the manufacturer's receipt of the utilization data from the Missouri Senior Rx Program, the manufacturer must submit the rebate payment accompanied by a detailed invoice showing the calculated rebate amount per unit, and total rebate amount paid for each NDC using the federal rebate reporting format of Reconciliation of State Invoice (ROSI) and Prior Quarter Adjustment (PQAS) shown in Appendix B of the Certificate of Participation. Items in dispute must be identified on

the ROSI and PQAS using federal coding shown in Appendix C of the Certificate of Participation;

A. Rebate payments not made within the specified time frames will be subject to an interest charge of one percent (1%) per month. This includes payments due on disputed units.

4. Continue to make a rebate payment on all of its covered outpatient drugs for as long as the Certification of Participation is in force and as long as such covered outpatient drugs are dispensed under the manufacturer's NDC number;

5. The manufacturer will be responsible for rebates on claims for products that were dispensed within one (1) year of the date that the claim was paid by the DHSS for the Missouri Senior Rx Program;

6. The manufacturer shall maintain records that will permit the Missouri Senior Rx Program to verify the rebate calculation and payment. The Missouri Senior Rx Program may conduct audits to verify the rebate calculation and payment;

7. Comply with the dispute resolution process as specified in section (4) of this regulation; and

8. Comply with the conditions in section 208.556, RSMo including any amendments or implementing regulations the Missouri Senior Rx Program deems necessary.

(3) Missouri Senior Rx Program Responsibilities.

(A) The Missouri Senior Rx Program, each quarter, must promptly notify pharmacies of those manufacturers that have entered into a rebate agreement. The Missouri Senior Rx Program must also promptly notify pharmacies regarding any changes to the list of covered outpatient drugs.

(B) The Missouri Senior Rx Program will report utilization information to the manufacturer, within sixty (60) days of the last day of each quarter subsequent to the effective date of the Certificate of Participation and in a manner prescribed by the Missouri Senior Rx Program. If the Missouri Senior Rx Program does not submit a rebate invoice to the manufacturer within one (1) year after the rebate period ends, the manufacturer is not required to pay a rebate on drugs approved and processed during that rebate period.

(C) The Missouri Senior Rx Program shall maintain electronic claim records for the most recent four (4) quarters that will assist manufacturers in verifying the utilization information provided. The Missouri Senior Rx Program will also make available claims detail data supporting the invoice utilization and/or remaining balances in a mutually agreeable format upon request of the manufacturer.

(D) The Missouri Senior Rx Program will cooperate with manufacturers by performing pharmacy audits should such audits be required to resolve disputes.

(E) The Missouri Senior Rx Program may audit manufacturer calculations to verify the AMPs and URAs reported.

(4) Dispute Resolution.

(A) In the event that for any quarter a discrepancy is noted by the manufacturer in the Missouri Senior Rx Program's utilization data, the manufacturer must provide written notice of the discrepancy, by NDC number, to the Missouri Senior Rx Program. Discrepancies in utilization data must be reported to Missouri Senior Rx Program prior to the due date for payment of rebate for that quarter.

(B) If the manufacturer in good faith disputes the Missouri Senior Rx Program utilization information, the manufacturer shall pay that portion of the rebate amount claimed which is not disputed no later than the date of payment of the rebate for the quarter as prescribed in section II (c) of the Certificate of Participation. If the dispute is resolved after negotiation, the balance due, if any, will be paid or credited by the manufacturer or the Missouri Senior Rx Program by the due date of the next quarterly payment.

(C) The Missouri Senior Rx Program and the manufacturer will use their best efforts to resolve the discrepancy within sixty (60) days of receipt of written notification. Should an audit of pharmacy records be required, the Missouri Senior Rx Program will provide data to the manufacturer to identify pharmacy providers to be audited by the Missouri Senior Rx Program.

(D) In the event that the Missouri Senior Rx Program and the manufacturer are not able to resolve a discrepancy within one hundred eighty (180) days, the manufacturer may appeal to the commission by presenting its position to the commission. This appeal shall be in writing with all supporting documentation to support the manufacturer's position. A hearing before the commission will be scheduled within ninety (90) days of receipt of the appeal from the manufacturer with a decision rendered within fourteen (14) days of the hearing before the commission. The commission's decision is considered final.

(5) Confidentiality Provisions.

(A) Information disclosed by the manufacturer in connection with the Certification of Participation is confidential and will not be disclosed, except as required by state and federal law.

(B) The manufacturer will maintain the confidentiality of the Missouri Senior Rx Program utilization information and use such information only for purposes approved by the commission. If the manufacturer audits this information or receives additional information on such data, the information shall also be held confidential. The manufacturer agrees to abide by applicable state confidentiality statutes, regulations and other properly promulgated policy.

(C) Notwithstanding the nonrenewal or termination of the Certificate of Participation for any reason, these confidentiality provisions will remain in full force and effect.

(D) The manufacturer and Missouri Senior Rx Program shall inform and train, if necessary, its respective employees, agents, advisors, consultants and officials regarding the confidential nature of such data and shall cause such persons (including any board or committee) to keep such data and information confidential.

(6) Nonrenewal and Termination.

(A) The Certificate of Participation shall be effective for an initial period of one (1) year from the date noted in section IX of the Certificate of Participation and shall automatically be renewed for additional terms of one (1) year, unless the manufacturer or the Missouri Senior Rx Program gives sixty (60) days written notice of intent not to renew.

(B) The manufacturer may terminate its Certificate of Participation in the Missouri Senior Rx Program for any reason, and such termination shall become effective the first day of the first quarter beginning sixty (60) days after the manufacturer gives written notice requesting termination.

(C) The Missouri Senior Rx Program may terminate the Certificate of Participation for violations of the provisions within the Certificate of Participation or other good cause upon sixty (60) days prior written notice.

(7) General Provisions.

(A) Notice and reports required to be given pursuant to the terms and provisions of this certification will be sent in writing unless mutually agreed otherwise.

1. Notice and Reports to the Missouri Senior Rx Program will be sent to:

Department of Health and Senior Services
Executive Director
Missouri Senior Rx Program
205 Jefferson Street, 13th Floor
PO Box 570
Jefferson City, MO 65102-0570

2. Notice and data concerning data transfer and rebate payments will be sent to:

Division of Medical Services
PO Box 6500
Jefferson City, MO 65102-6500

3. Notice to manufacturer will be sent to the address provided to the Missouri Senior Rx Program by the manufacturer.

(B) In the event of a transfer in ownership of the manufacturer, the certification is automatically assigned to the new owner subject to the conditions specified in the Certificate of Participation.

(C) Nothing in this application for a Certificate of Participation or the Certificate of Participation shall be construed to require or authorize the Missouri Senior Rx Commission, DHSS, DMS or the application for or recipient of a Certificate of Participation to commit any act contrary to law. If any provision of this application for the Certificate or the Certificate of Participation is found to be invalid by a court of law, the application for the Certificate of Participation or the Certificate of Participation shall be construed in all respects as if the invalid or unenforceable provision were eliminated without any effect on any provision.

(D) Nothing in this application for a Certificate of Participation or the Certificate of Participation shall be construed as a waiver or relinquishment of any legal rights of the manufacturer or the Missouri Senior Rx Commission, the Social Security Act, other federal laws or state laws.

(E) The terms DHSS and DMS and manufacturer incorporate any contractors or agents thereof which fulfill responsibilities pursuant to the Certificate of Participation unless otherwise specifically provided for in the Certificate of Participation.

(F) In the event that a due date falls on a weekend, or a federal or state holiday, the report or other item will be due on the first business day following that weekend or holiday.

AUTHORITY: section 208.553.3(5), RSMo Supp. 2001. Emergency rule filed Feb. 15, 2002, effective March 1, 2002, expires Aug. 27, 2002. Original rule filed Feb. 15, 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 Department of Health and Senior Services, Missouri Senior Rx Program; Joyce Brandt, 205 Jefferson Street, Room 1310, Jefferson City, MO 65101. 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.*