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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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March 2, 2009 March 16, 2009	<b>April 1, 2009</b> <b>April 15, 2009</b>	April 30, 2009 April 30, 2009	May 30, 2009 May 30, 2009
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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

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

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

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

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

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2270—Missouri Veterinary Medical Board  
Chapter 1—General Rules**

**EMERGENCY AMENDMENT**

**20 CSR 2270-1.021 Fees.** The board is proposing to amend paragraph (1)(B)3.

*PURPOSE:* The board is statutorily obligated to enforce and administer the provisions of sections 340.200 to 340.330, RSMo. Pursuant to section 340.210.3(9), RSMo, the board shall establish fees necessary to administer the provisions of sections 340.200 to 340.330, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 340.200 to 340.330, RSMo. Therefore, the board is proposing to increase the Veterinary Technician National Examination fee to be consistent with the American Association of Veterinary State Boards (AAVSB), as they are contracted with the board for services relating to the administration of the examination.

*EMERGENCY STATEMENT:* This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a change in the national examination fee required for the licensure of veterinary technicians. The board is proposing to increase the Veterinary

*Technician National Examination fee from one hundred ten dollars (\$110) to two hundred dollars (\$200) effective with the June 2009 examination. The application deadline for admission to the June examination is April 17, 2009. The amendment is necessary to be consistent with the American Association of Veterinary State Boards (AAVSB) who contracts with the board for services relating to the administration of the examination. The emergency amendment is necessary to allow the board to collect the increased examination fee. The increase in the fee was prompted by the AAVSB raising their fee charged to the board for administering the exam effective January 15, 2009. This is a pass-through fee; therefore, the board receives no monetary gain due to the increase. The board has filed this proposed amendment with the secretary of state's office and the Joint Committee on Administrative Rules, which will appear in the May 1, 2009, issue of the Missouri Register and will not become effective until at least November 30, 2009.*

*The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the board discussed the fee increase during its January 22-23, 2009, open meeting after public notice. The board has no advanced notice of specific examination applicant names and addresses. Potential applicants for the examination receive notice of the fee increase upon contact with the office. The board has also notified veterinary technician programs of the fee increase. The board believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed March 23, 2009, effective April 2, 2009, and expires January 12, 2010.*

(1) The following fees are established by the Missouri Veterinary Medical Board:

(B) Veterinary Technicians—

1. Registration Fee	\$ 50
2. State Board Examination Fee	\$ 30
3. National Examination Fee	\$/[110]/200
4. Reciprocity Fee	\$ 50
5. Grade Transfer Fee	\$ 50
6. Provisional Registration Fee	\$ 50
7. Annual Renewal Fee—	
A. Active	\$ 20
B. Inactive	\$ 10
8. Late Renewal Penalty Fee	\$ 50
9. Name Change Fee	\$ 15
10. Wall Hanging Replacement Fee	\$ 15

*AUTHORITY:* sections 340.210 and 340.232, RSMo 2000. This rule originally filed as 4 CSR 270-1.021. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 23, 2009, effective April 2, 2009, expires Jan. 12, 2010. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**T**he Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2008.

## EXECUTIVE ORDER 09-15

WHEREAS, the production of automobiles in Missouri, and the secondary industries that automobile production supports, are vital to the State's economy; and

WHEREAS, the economic crisis and displacement of the automotive industry workforce threatens the State's economy; and

WHEREAS, this highly-skilled workforce can play a leading role in Missouri's future automotive ventures; and

WHEREAS, Executive Order 09-01 created the Missouri Automotive Jobs Task Force; and

WHEREAS, there is an overwhelming number of highly-skilled Missourians with expertise in the automotive and automotive-related industries who can provide invaluable assistance in fulfilling the goals of the Task Force; and

WHEREAS, a large number of such Missourians have stepped forward and offered to share their expertise; and

WHEREAS, in the interest of maximizing the effectiveness of the Task Force, it is necessary to expand its membership.

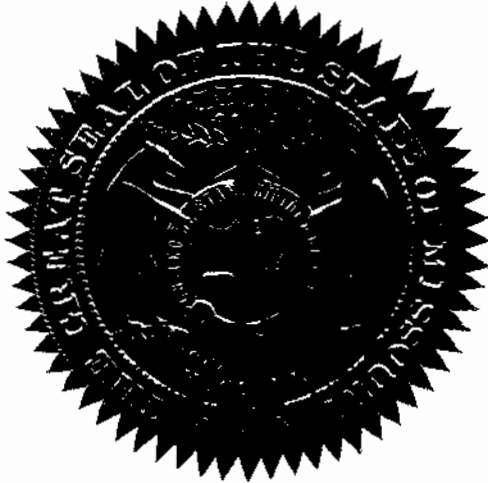
NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby expand the Task Force to consist of the following 18 members:

David Bardgett	St. Charles, Missouri
Chris Chung	Clayton, Missouri
Jim Curran	Fenton, Missouri
Zelema Harris	St. Louis, Missouri
Bob Lloyd	St. Louis, Missouri
Don Nissanka	Lee's Summit, Missouri
Clyde McQueen	Kansas City, Missouri
Randy Moore	Joplin, Missouri
Tony Reinhart	Parkville, Missouri
Nick Robinson	St. Charles, Missouri
Zsolt Romy	St. Louis, Missouri
Jim Russell	Jefferson City, Missouri
John Schicker	St. Louis, Missouri
John Sheffield	Rolla, Missouri
Jack Stack	Springfield, Missouri
Don Wainwright	Wildwood, Missouri
Edward Wallace	Kansas City, Missouri
Stan Wallach	Kirkwood, Missouri

Chris Chung shall be the Chair of the Task Force.

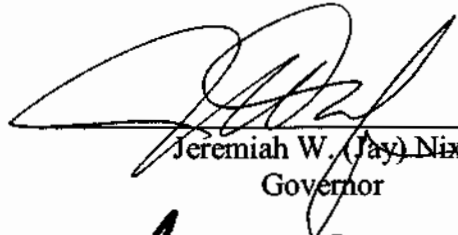
The Task Force shall issue its report and recommendations as soon as practicable but not later than ninety days from the date of this Order, unless otherwise agreed to by me.


This Order supersedes Executive Order 09-01 to the extent that the Orders are inconsistent.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 24<sup>th</sup> day of March, 2009.

ATTEST:

  
Jeremiah W. (Jay) Nixon  
Governor

  
Robin Carnahan  
Secretary of State

EXECUTIVE ORDER  
09-16

WHEREAS, the State of Missouri recognizes that all citizens have a right to live in safe communities; and

WHEREAS, more than 30,000 offenders are incarcerated in Missouri prisons and approximately 70,000 are under supervision at a substantial cost to the taxpayers of this state; and

WHEREAS, 97% of offenders in the custody of the Missouri Department of Corrections will be released from prison to live in communities across the State of Missouri; and

WHEREAS, the State of Missouri recognizes that a good and responsible government is one that applies its resources in an efficient, effective and coordinated effort to ensure offenders leave prison with the tools they need to be successful, law-abiding citizens – not just for the offender, but for children, families, friends, neighbors, visitors and businesses; and

WHEREAS, offenders released from prison without the tools necessary to become law-abiding and productive citizens frequently commit additional crimes at a significant cost to taxpayers and substantial impact on crime victims; and

WHEREAS, the Missouri Reentry Process (MRP) was initiated in 2002 and provides state and local collaboration and a framework to promote common interests, integrate policies and services and improve the overall transition process of these offenders leaving prison and returning to Missouri communities; and

WHEREAS, more than 8,000 offenders have been released after completing the full preparation for reentry in a transition housing unit; and

WHEREAS, there has been a 10% reduction in recidivism by offenders who have completed the Missouri Reentry Process; and

WHEREAS, ongoing commitment to this program from all participating State departments is a requirement for its ultimate success; and

WHEREAS, all Missourians will benefit from the success of this collaborative approach to public safety.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by the power vested in me by the laws and Constitution of the State of Missouri, do hereby direct the Department of Corrections to lead a permanent interagency steering team for the Missouri Reentry Process. The steering team shall be comprised of executive level staff from the following state agencies:

- Department of Corrections
- Missouri Board of Probation and Parole
- Department of Mental Health
- Department of Social Services
- Department of Secondary and Elementary Education

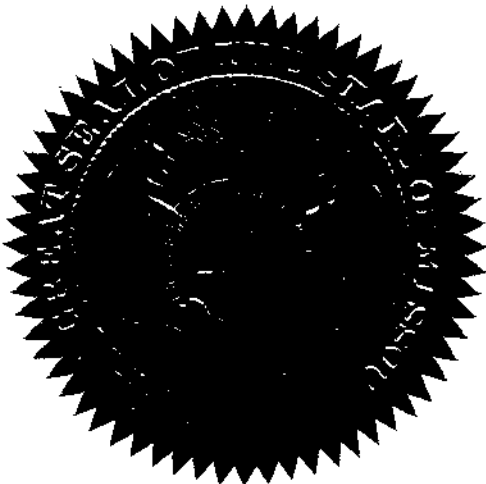


- Department of Economic Development
- Department of Revenue
- Department of Health and Senior Services
- Office of the State Courts Administrator
- Department of Public Safety
- Department of Transportation


Membership shall also include representatives from various community organizations representing the crime victims, law enforcement, treatment providers, the faith-based community and any others deemed necessary to accomplish the mission set forth herein.

The Director of the Department of Corrections shall appoint a chairperson of the Missouri Reentry Process Steering Team responsible for its oversight and direction. The Missouri Reentry Process Steering Team shall integrate successful offender reentry principles and practices in state agencies and communities resulting in partnerships that enhance offender self-sufficiency, reduce re-incarceration, and improve public safety.

The Department of Corrections shall, with the Missouri Reentry Process Steering Team, provide bi-annual reports to the Governor and Directors of the partnering state agencies and community organizations on the outcomes, progress towards goals and emerging issues relative to the Missouri Reentry Process.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 26th day of March, 2009.

  
\_\_\_\_\_  
Jeremiah W. (Jay) Nixon  
Governor

ATTEST:

  
\_\_\_\_\_  
Robin Carnahan  
Secretary of State

EXECUTIVE ORDER  
09-17

WHEREAS, the American Recovery and Reinvestment Act of 2009 (“Recovery Act”) presents the State of Missouri the opportunity to create jobs, improve infrastructure and transform our economy for the 21<sup>st</sup> century; and

WHEREAS, Executive Order 09-12 created the Transform Missouri Initiative which has been staffed by personnel from various executive branch departments; and

WHEREAS, the Transform Missouri Initiative has been working diligently to identify programs and projects that could benefit from the Recovery Act; and

WHEREAS, the State of Missouri is committed to administering the Recovery Act in a prudent manner that strictly adheres to principles of accountability and transparency; and

WHEREAS, the federal government has issued and will continue to promulgate regulations and guidance concerning the implementation of the Recovery Act; and

WHEREAS, the State of Missouri is beginning the process of submitting applications, certifications and other necessary documents to federal agencies to access available funds under the Recovery Act; and

WHEREAS, the State of Missouri is committed to dedicating all necessary resources and expertise to maximize Missouri access to and results from Recovery Act funding and to ensure that the compliance requirements of the Recovery Act are met.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the constitution and laws of the State of Missouri do hereby create the Transform Missouri Project (“Project”).

Paul Wilson is appointed Director of the Project and will have supervisory authority over all aspects of its operations. The Office of Administration will provide administrative support to the Project.

The personnel assigned to the Transform Missouri Initiative pursuant to Executive Order 09-12 are hereby transferred to the Transform Missouri Project under the supervision of the Director. These individuals will constitute the implementation unit within the Project.

The Taxpayer Accountability, Compliance and Transparency Unit is hereby created within the Transform Missouri Project under the supervision of the Director. The Unit will be comprised of personnel from the following executive branch departments:

- Office of Administration
- Department of Agriculture
- Department of Corrections

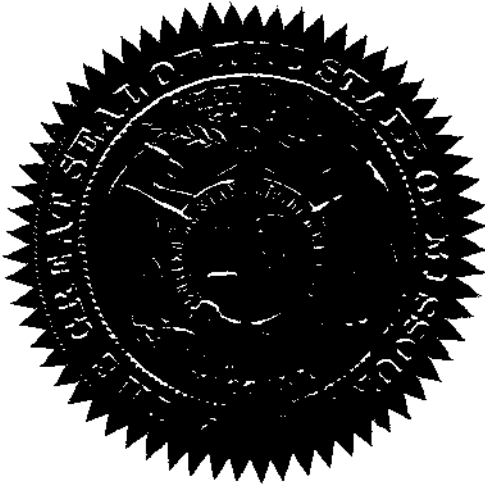
- Department of Economic Development
- Department of Elementary and Secondary Education
- Department of Health and Senior Services
- Department of Insurance, Financial Institutions and Professional Registration
- Department of Labor and Industrial Relations
- Department of Mental Health
- Department of Natural Resources
- Department of Public Safety
- Department of Revenue
- Department of Social Services
- Department of Transportation

The Director of each of the aforementioned executive branch departments will assign at least one individual with training and experience in fiscal management and compliance to this unit. The Unit will identify all compliance and certification requirements under the Recovery Act and develop procedures that satisfy those compliance and certification directives and ensure that the State of Missouri administers the Recovery Act in a transparent manner. The Commissioner of Administration will appoint a Certification Coordinator responsible for reviewing applications and compliance documentation.


Executive branch departments will coordinate all Recovery Act program applications, administration and expenditures through the Transform Missouri Project and will assign additional personnel to the Project when deemed necessary by the Director.

The Transform Missouri Project will exist until terminated by subsequent Executive Order.


Executive Order 09-12 is hereby rescinded.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 31<sup>st</sup> day of March, 2009.

  
\_\_\_\_\_  
Jeremiah W. (Jay) Nixon  
Governor

ATTEST:

  
\_\_\_\_\_  
Robin Carnahan  
Secretary of State

**U**nder 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."

**E**ntirely new rules are printed without any special symbolology 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.

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

#### PROPOSED RESCISSION

**3 CSR 10-5.375 Resident Cable Restraint Permit.** The commission proposes to rescind this rule.

*PURPOSE: This rule is being rescinded as the Resident Cable Restraint Permit is being eliminated.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 9, 2003, effective March 30, 2004. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits

#### PROPOSED AMENDMENT

**3 CSR 10-6.550 Other Fish.** The commission proposes to amend subsection (2)(C) of the rule.

*PURPOSE: This amendment permits bowfishing in commercial waters during all hours throughout the year and corrects an inconsistency in the Wildlife Code.*

(2) Methods and Seasons:

(C) Fish included in this rule may be taken by bow from streams between sunrise and midnight and from impounded **and commercial** waters during all hours throughout the year; except that from February 1 through March 31 on impounded waters, fish may be taken by this method only between sunrise and midnight.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 7—Wildlife Code: Hunting: Seasons, Methods, Limits

#### PROPOSED AMENDMENT

**3 CSR 10-7.410 Hunting Methods.** The commission proposes to amend subsection (1)(C) of this rule.

*PURPOSE: This amendment adds thermal imagery equipment to the list of prohibited equipment while simultaneously in possession of any firearm, bow, or other implement whereby wildlife could be taken.*

(1) Wildlife may be hunted and taken only in accordance with the following:

(C) Night Vision and Thermal Imagery Equipment. No person may possess or control night vision or thermal imagery equipment while acting singly or as one (1) of a group of persons while in possession of any firearm, bow, or other implement whereby wildlife could be killed or taken.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.425 Squirrels: Seasons, Limits.** The commission proposes to amend this rule.

*PURPOSE: This amendment increases the daily limit and possession limit for squirrels from six (6) to ten (10) and twelve (12) to twenty (20), respectively.*

Squirrels may be taken from the fourth Saturday in May through February 15. Daily limit: *[six (6)] ten (10)* squirrels; possession limit: *[twelve (12)] twenty (20)* squirrels.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 26, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 8—Wildlife Code: Trapping: Seasons, Methods**

**PROPOSED AMENDMENT**

**3 CSR 10-8.510 Use of Traps.** The commission proposes to amend section (1) and subsection (4)(B) of this rule.

*PURPOSE: This amendment removes the requirement of a cable restraint permit.*

(1) Traps shall have smooth or rubber jaws only, and may include foot-hold traps, Conibear or other killing-type traps, foot-enclosing-type traps, cage-type traps, colony traps with openings no greater than six inches (6") in height and six inches (6") wide, or snares (as defined in 3 CSR 10-20.805) set under water only, and cable restraint devices (as defined in 3 CSR 10-20.805) *[, but only with the prescribed permit]*. Use of pitfalls, deadfalls, snares set in a dry land set, and nets are prohibited.

(4) Use of Snares and Cable Restraint Devices:

(B) Furbearers may be taken by trapping through the use of cable restraint devices during specified seasons (3 CSR 10-8.515) by *[holders of a Cable Restraint Permit, after completing] persons who have successfully completed* the cable restraint training course **taught by a certified instructor**. Cable restraint devices (as defined in 3 CSR 10-20.805) must have a loop size of twelve inches (12") in diameter or smaller when set, and the bottom of set restraint cable loop must be at least six inches (6") or greater above the ground. Cable restraint devices must be anchored solid or staked in a location not allowing entanglement (such as rooted, woody vegetation greater than one-half inch (1/2") in diameter), and shall not be capable of extending to within twelve inches (12") of a fence, nor shall be set using a drag, or used with a kill-pole. Cable restraint devices may not be used within one hundred fifty feet (150') of any residence, occupied building, or a driveway leading to a residence.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Sept. 20, 1957, effective Dec. 31, 1957. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 8—Wildlife Code: Trapping: Seasons, Methods**

**PROPOSED AMENDMENT**

**3 CSR 10-8.515 Furbearers: Trapping Seasons.** The commission proposes to amend section (1), delete sections (2) and (3), renumber subsequent sections, and amend renumbered sections (2), (5), and (6).

*PURPOSE: This amendment removes otter and muskrat trapping zones, sets a statewide season and harvest quota, extends tagging deadline for bobcat and otter pelts, and removes the requirement for a cable restraint permit.*

(1) Badger, bobcat, coyote, gray fox, mink, opossum, raccoon, red fox, and striped skunk may be taken in any numbers by trapping from November 15 through January 31. **Otter and muskrat may be taken in any number by trapping from November 15 through February 20.** Beaver and nutria may be taken in any number by trapping from November 15 through March 31. Traps may not be placed or set before November 15 and must be removed by midnight of the last day of the applicable trapping season.

[[2] *Otters and muskrats may be taken by trapping during specified seasons and in specified limits described below:*

(A) *A season limit of five (5) otters, and muskrats in any numbers may be taken from November 15 through January 31 in Otter Management Zones A, C, and D, described as:*

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

2. *Otter Management Zone C—That portion of eastern Missouri east and south of a line running west from the Illinois border on Interstate Hwy. 270 to Interstate Hwy. 44; west on Interstate Hwy. 44 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and north of a line comprised of Mo. Hwy. 32 east to St. Francois County Hwy. 00; south on St. Francois County Hwy. 00 to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and west of Mo. Hwy. 51 to the Illinois line.*

3. *Otter Management Zone D—That portion of south-west Missouri west and south of a line running north from the Arkansas border on Mo. Hwy. 37 to U.S. Hwy. 60; east on U.S. Hwy. 60 to Mo. Hwy. 39; north on Mo. Hwy. 39 to U.S. Hwy. 160; west on U.S. Hwy. 160 to the Kansas line.*

(B) *Otters and muskrat may be taken in any numbers from November 15 through February 20 in Otter Management Zone E, described as:*

1. *Otter Management Zone E—That portion of south Missouri east and south of a line running north from the Arkansas border on Mo. Hwy. 37 to U.S. Hwy. 60; east on U.S. Hwy. 60 to Mo. Hwy. 39; north on Mo. Hwy. 39 to Interstate Hwy. 44; east on Interstate Hwy. 44 to U.S. Hwy. 65; east of a line running north on U.S. Hwy. 65 to Interstate Hwy. 70; south of a line running east on Interstate Hwy. 70 to the north bank of the Missouri River; east on the Missouri River to U.S. Hwy. 63; south on U.S. Hwy. 63 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and south of a line comprised of Mo. Hwy. 32 to U.S. Hwy. 67; south on U.S. Hwy. 67 to Mo. Hwy. 32; east on Mo. Hwy. 32 to St. Francois County Hwy. 00; south on St. Francois County Hwy. 00 to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and south and east of Mo. Hwy. 51 to the Illinois line.*

(C) *A season limit of twenty (20) otters and muskrats in any numbers may be taken from November 15 through January 31 in Otter Management Zone B, described as:*

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

*(3) Except in Otter Management Zone E, Conibear or other killing-type traps with a jaw spread less than eight inches (8") and foot-hold traps with an inside width at the jaw post less than six inches (6") are prohibited in water sets after January 31. In Otter Management Zone E, Conibear or other killing-type traps with a jaw spread less than eight inches (8") and foot-hold traps with an inside width at the jaw post less than six inches (6") are prohibited for trapping beavers after February 20.]*

[[4]](2) *Except as provided in 3 CSR 10-10.711, pelts of furbearers may be possessed, transported, consigned for processing, and sold only by the taker from November 15 through February 15, pelts of beaver, **otters, muskrats, and nutria** may be possessed, transported, consigned for processing, and sold by the taker from November 15 through April 10, and tagged bobcats and otters or their pelts may be possessed and sold throughout the year. Bobcats **and otters** or their pelts shall be delivered by the taker to an agent of the department for registration or tagging[; *otters shall be delivered by the taker to an agent of the department only in the Otter Management Zone of harvest for registration or tagging*]. Bobcats and otters shall be registered or tagged before selling, transferring, tanning, or mounting not later than *[February 15, except for otters taken in Otter Management Zone E not later than March 4.] April 10*. It shall be illegal to purchase or sell untagged bobcats and otters or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought, or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year. (Certain Department of Health and Senior Services rules also govern how furbearer carcasses might be utilized.)*

[[5]](3) *Rabbits may be taken by trap from November 15 through January 31 within prescribed hunting limits, but carcasses may not be sold.*

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

[[7]](5) *Red fox, gray fox, and coyotes may be taken alive during established seasons by prescribed methods and held in captivity. They may not be exported and may only be sold or given to holders of a valid Hound Running Area Operator and Dealer Permit. Live coyotes, red fox, and gray fox may not be possessed after February 15. These animals may be held for no longer than seventy-two (72) hours after capture, except when confined in facilities and cared for as specified in 3 CSR 10-9.220, and after approval by an agent of the department. Complete and current records of all transactions must be maintained showing the county of origin, the species, date captured, date of transfer, and name and permit number of the hound running area operator/dealer receiving each individual animal. These records shall be kept on forms provided by the department and submitted to an agent of the department by April 15. Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org). Records shall be made available for inspection by an authorized agent of the department at any reasonable time.*

[[8]](6) *Furbearers may be taken by trapping through the use of cable restraint devices from December 15 through January 31, by *[holders of a Cable Restraint Permit. This permit may be issued only to the holder of a Restraint Trapping Permit who has] persons who have successfully completed a cable restraint training course, validated by a certified instructor. Cable restraint devices must be used according to 3 CSR 10-8.510.**

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 23, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

**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 David W. Erickson, Assistant 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 9—Wildlife Code: Confined Wildlife:  
Privileges, Permits, Standards**

**PROPOSED AMENDMENT**

**3 CSR 10-9.110 General Prohibition; Applications.** The commission proposes to amend subsection (3)(F).

**PURPOSE:** This amendment adds Atlantic salmon to the Approved Aquatic Species List.

(3) Fish, tiger salamander larvae, and crayfish may be bought, sold, transported, propagated, taken, and possessed by any person without permit throughout the year in any number or size and by any method providing—

(F) Approved Aquatic Species List:

1. Fishes.

- A. Shovelnose sturgeon (*Scaphirhynchus platyrhynchus*)
- B. Paddlefish (*Polyodon spathula*)
- C. Spotted gar (*Lepisosteus oculatus*)
- D. Longnose gar (*Lepisosteus osseus*)
- E. Shortnose gar (*Lepisosteus platostomus*)
- F. Bowfin (*Amia calva*)
- G. American eel (*Anguilla rostrata*)
- H. Gizzard shad (*Dorosoma cepedianum*)
- I. Threadfin shad (*Dorosoma petenense*)
- J. Rainbow trout (*Oncorhynchus mykiss*)
- K. Golden trout (*Oncorhynchus aquabonita*)
- L. Cutthroat trout (*Oncorhynchus clarkii*)
- M. Brown trout (*Salmo trutta*)
- N. Brook trout (*Salvelinus fontinalis*)
- O. Coho salmon (*Oncorhynchus kisutch*)
- P. Atlantic salmon (*Salmo salar*)**
- /P./Q.* Northern pike (*Esox lucius*)
- /Q./R.* Muskellunge (*Esox masquinongy*)
- /R./S.* Goldfish (*Carassius auratus*)
- /S./T.* Grass carp (*Ctenopharyngodon idella*)
- /T./U.* Common carp (*Cyprinus carpio*)
- /U./V.* Bighead carp (*Hypophthalmichthys nobilis*)
- /V./W.* Golden shiner (*Notemigonus crysoleucas*)
- /W./X.* Bluntnose minnow (*Pimephales notatus*)
- /X./Y.* Fathead minnow (*Pimephales promelas*)
- /Y./Z.* River carpsucker (*Carpiodes carpio*)
- /Z./AA.* Quillback (*Carpiodes cyprinus*)
- /AA./BB.* White sucker (*Catostomus commersoni*)
- /BB./CC.* Blue sucker (*Cycleptus elongatus*)

- /CC./DD.* Bigmouth buffalo (*Ictiobus cyprinellus*)
- /DD./EE.* Black bullhead (*Ameiurus melas*)
- /EE./FF.* Yellow bullhead (*Ameiurus natalis*)
- /FF./GG.* Brown bullhead (*Ameiurus nebulosus*)
- /GG./HH.* Blue catfish (*Ictalurus furcatus*)
- /HH./II.* Channel catfish (*Ictalurus punctatus*)
- /II./JJ.* Flathead catfish (*Pylodictis olivaris*)
- /JJ./KK.* Mosquitofish (*Gambusia affinis*)
- /KK./LL.* White bass (*Morone chrysops*)
- /LL./MM.* Striped bass (*Morone saxatilis*)
- /MM./NN.* Green sunfish (*Lepomis cyanellus*)
- /NN./OO.* Pumpkinseed (*Lepomis gibbosus*)
- /OO./PP.* Warmouth (*Lepomis gulosus*)
- /PP./QQ.* Orangespotted sunfish (*Lepomis humilis*)
- /QQ./RR.* Bluegill (*Lepomis macrochirus*)
- /RR./SS.* Longear sunfish (*Lepomis megalotis*)
- /SS./TT.* Redear sunfish (*Lepomis microlophus*)
- /TT./UU.* Smallmouth bass (*Micropterus dolomieu*)
- /UU./V.* Spotted bass (*Micropterus punctulatus*)
- /VV./WW.* Largemouth bass (*Micropterus salmoides*)
- /WW./XX.* White crappie (*Pomoxis annularis*)
- /XX./YY.* Black crappie (*Pomoxis nigromaculatus*)
- /YY./ZZ.* Yellow perch (*Perca flavescens*)
- /ZZ./AAA.* Sauger (*Sander canadensis*)
- /AAA./BBB.* Walleye (*Sander vitreus*)
- /BBB./CCC.* Freshwater drum (*Aplodinotus grunniens*)

2. Crustaceans.

- A. Freshwater prawn (*Macrabrachium rosenbergii*)
- B. Pacific white shrimp (*Litopenaeus vannamei*)
- C. Northern crayfish (*Orconectes virilis*)
- D. White river crayfish (*Procambarus acutus*)
- E. Red swamp crayfish (*Procambarus clarkii*)
- F. Papershell crayfish (*Orconectes immunis*)

3. Amphibians.

- A. Tiger salamander larvae (*Ambystoma tigrinum*)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.110(5), (6), and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

**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 David W. Erickson, Assistant 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 9—Wildlife Code: Confined Wildlife: Privileges,  
Permits, Standards**

**PROPOSED AMENDMENT**

**3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders.** The commission proposes to remove sections (12), (13),



and (14) from this rule, renumber subsequent sections, and amend renumbered section (17).

*PURPOSE: This amendment removes chronic wasting disease related regulations from the Code.*

*[(12)] All elk, elk-hybrids, mule deer, and white-tailed deer, defined as Class I wildlife in 3 CSR 10-9.230, introduced into a Class I wildlife breeder operation shall meet the following requirements:*

*(A) Animals shall be tagged or marked in a method allowing each individual animal to be uniquely identified.*

*(B) Animals must meet all state and federal chronic wasting disease testing requirements.*

*(C) Animals imported into Missouri must come from a herd that is enrolled and has achieved a status five (5) or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—five (5) years of surveillance, advancement, and successful completion of program requirements.*

*(D) Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program.*

*(13) Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer, defined as Class I wildlife in 3 CSR 10-9.230, over twelve (12) months of age that die of any cause within a Class I wildlife breeder operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate; except that one hundred percent (100%) of all elk, elk-hybrids, mule deer and white-tailed deer that are imported into Missouri that die of any cause within a Class I wildlife breeder operation shall be tested for chronic wasting disease at a federally approved laboratory.*

*(14) All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.]*

*[(15)](12) The holder of a Class I or Class II wildlife breeder permit may exhibit wildlife at locations other than those listed on the permit.*

*[(16)](13) Any sale, shipment, or gift of wildlife by a Class I or Class II wildlife breeder shall be accompanied by a written statement giving his/her permit number and showing the number of each species and the name and address of the recipient. No wildlife of any kind may be liberated unless specific permission has been granted on written application to the conservation agent in the county where the release is to be made.*

*[(17)](14) None of these privileges shall extend to permitting the act of hunting for such stock except that big game mammals may be killed for purposes of herd management by the permit holder or his/her agents, but only with authorization from an agent of the department.*

*[(18)](15) The holder of a Class I or Class II wildlife breeder permit shall report escaped animals immediately to an agent of the department.*

*[(19)](16) The holder of a Class I wildlife breeder permit may sell legally acquired game bird eggs or dressed or processed quail, pheasants, and partridges at retail and to commercial establishments under provisions of 3 CSR 10-10.743, provided all sales are accompanied by a valid invoice, and the required records are maintained by the wildlife breeder.*

*[(20)](17) Animal health standards and movement activities shall comply with all state and federal regulations. (Refer to Missouri Department of Agriculture for applicable Chronic Wasting Disease rules and regulations.)*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-10.755. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 9—Wildlife Code: Confined Wildlife: Privileges,  
Permits, Standards**

**PROPOSED AMENDMENT**

**3 CSR 10-9.442 Falconry.** The commission proposes to amend subsection (2)(B) of this rule.

*PURPOSE: This amendment increases the daily limit and possession limit for squirrels taken through falconry from two (2) to ten (10) and four (4) to twenty (20), respectively, and expands the season to February 15.*

(2) Only designated types and numbers of birds of prey may be possessed and all these birds shall bear a numbered, nonreusable marker provided by the department. Birds held under a falconry permit may be used, without further permit, to pursue and take wildlife within the following seasons and bag limits:

(B) Squirrels may be taken from the *[Saturday before Memorial Day] fourth Saturday in May* to February *[1] 15*. Daily limit: *[two (2)] ten (10)* squirrels; possession limit: *[four (4)] twenty (20)* squirrels.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-7.442. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 9—Wildlife Code: Confined Wildlife: Privileges,  
Permits, Standards**

**PROPOSED AMENDMENT**

**3 CSR 10-9.565 Licensed Hunting Preserve: Privileges.** The commission proposes to remove paragraphs (1)(B)2., 3., and 4. of this rule, renumber subsequent paragraphs, and amend renumbered paragraph (1)(B)4.

*PURPOSE: This amendment removes chronic wasting disease related regulations from the Code.*

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve only legally obtained and captive-reared: pheasants, exotic partridges, quail, mallard ducks, and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(B) Big Game Hunting Preserve.

1. A big game hunting preserve for ungulates shall be a fenced single body of land, not dissected by public roads, and not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size. The hunting preserve shall not be cross-fenced into portions of less than three hundred twenty (320) acres. The hunting preserve shall be fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence height shall meet standards specified in 3 CSR 10-9.220. Fencing for hogs shall be constructed of twelve (12) gauge woven wire, at least five feet (5') high, and topped with one (1) strand of electrified wire. An additional two feet (2') of such fencing shall be buried and angled underground toward the enclosure interior. A fence of equivalent or greater strength and design to prevent the escape of hogs may be substituted with written application and approval by an agent of the department.

[2. All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve shall meet the following requirements:

A. Animals shall be tagged or marked in a method allowing each individual animal to be uniquely identified.

B. Animals must meet all state and federal chronic wasting disease testing requirements.

C. Animals imported into Missouri must come from a herd that is enrolled and has achieved a status five (5) or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—five (5) years of surveillance, advancement, and successful completion of program requirements.

D. Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program.

3. Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause within a big game hunting preserve operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate; except that one hundred percent (100%) of all elk, elk-hybrids, mule deer and white-tailed deer that are imported into Missouri that die of any cause within a big game hunting preserve shall be tested for chronic wasting disease at a federally approved laboratory.

4. All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.]

[5.]2. The permittee may exercise privileges provided in 3 CSR 10-9.353 only for species held within breeding enclosure(s) contained within or directly adjacent to the big game hunting preserve. Any such breeding enclosure(s) shall meet standards specified in 3 CSR 10-9.220. Breeding enclosures may be separated from the hunting preserve by a public road, but must be directly adjacent. Other breeding enclosures not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.

[6.]3. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the hunting preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars (\$10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

[7.]4. Animal health standards and movement activities shall comply with all state and federal regulations. (*Refer to Missouri Department of Agriculture for applicable Chronic Wasting Disease rules and regulations.*)

[8.]5. Big game hunting preserve permittees shall report escaped animals immediately to an agent of the department.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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) of this rule.

*PURPOSE:* This amendment clarifies that a special use permit is required to place a geocache or letterbox on a department area, but not to search for a geocache or letterbox placed on an area.

(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, 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, [geocaching and letterboxing] **placing a geocache or letterbox**, the use and possession 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. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

*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 David W. Erickson, Assistant 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 10-11.155 Decoys and Blinds.** The commission proposes to delete subsection (1)(B) of this rule.

*PURPOSE:* This amendment eliminates the special provisions for waterfowl blinds at Thomas Hill Reservoir, thereby subjecting the area to the provisions specified in section (1).

(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 non-woody vegetation.

*(B) On Thomas Hill Reservoir, waterfowl blinds may be constructed only on the Stinking Creek Arm and on the lake south of Highway T, but may not be locked, transferred, rented or sold. The builder must post his/her full name and address on the blind. After 6:00 a.m., unoccupied blinds may be used by the first hunter to arrive. Blind sites may not be claimed by staking or other means prior to September 1.*

*Blinds must be completely removed from the area before April 1 each year.]*

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

*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 David W. Erickson, Assistant 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 10-11.160 Use of Boats and Motors.** The commission proposes to amend paragraph (1)(A)1. of this rule.

*PURPOSE:* This amendment prohibits the use of float tubes at selected department-owned lakes.

(1) Boats (including sailboats) may be used on lakes and ponds 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. Float tubes may be used for authorized fishing and hunting activities. Registration and a fee may be required for rental of department-owned boats. Fees may 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)2. 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)3. of this rule.

1. On August A. Busch Memorial Conservation Area, Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, Lake Paho Conservation Area, and James A. Reed Memorial Wildlife Area, only department-owned boats may be used and only electric motors are permitted. **Use of float tubes is specifically prohibited.**

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

3. On Thomas Hill Reservoir, houseboats are prohibited at all times, and all boating is prohibited on the main arm of the lake above Highway T from October 15 through January 15. No other restrictions in this section apply to this area.

4. On Bellefontaine Conservation Area, boats are prohibited.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115.

*Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

**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 David W. Erickson, Assistant 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 10-11.180 Hunting, General Provisions and Seasons.** The commission proposes to amend sections (3) and (6) of this rule.

**PURPOSE:** This amendment corrects wording in section (3) regarding the Fall Deer and Turkey Hunting Regulations and Information booklet, making it consistent with the rest of the code and adds the Anthony and Beatrice Kendzora Conservation Area to the list of areas where firearms firing single projectiles are prohibited except during managed deer hunts or when using a twenty-two (.22) or smaller caliber rimfire firearm to take furbearers treed with the aid of dogs.

(3) Hunting is prohibited on public fishing access areas less than forty (40) acres in size except for deer hunting as authorized in the [2006] annual Fall Deer and Turkey Hunting Regulations and Information booklet. This publication is incorporated by reference. A copy of this booklet is published by and can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. It is also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendments or additions.

(6) Firearms firing single projectiles are prohibited, except during managed deer hunts, and except furbearers treed with the aid of dogs may be taken with a twenty-two (.22) or smaller caliber rimfire firearm on the following department areas:

(C) Anthony and Beatrice Kendzora Conservation Area

[(C)](D) Platte Falls Conservation Area

[(D)](E) Upper Mississippi Conservation Area (Dresser Island portion)

[(E)](F) Weldon Spring Conservation Area

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

**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 David W. Erickson, Assistant 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 amend section (3) of this rule.

**PURPOSE:** This amendment removes Long Branch Lake Management Lands from the list of areas that are closed to waterfowl hunting after 1:00 p.m.

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

[(M)] Long Branch Lake Management Lands]

[(N)](M) Nodaway Valley Conservation Area

[(O)](N) Otter Slough Conservation Area

[(P)](O) James A. Reed Memorial Wildlife Area

[(Q)](P) Pony Express Conservation Area

[(R)](Q) Schell-Osage Conservation Area

[(S)](R) Ted Shanks Conservation Area

[(T)](S) Ten Mile Pond Conservation Area

[(U)](T) Yellow Creek Conservation Area

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

**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 David W. Erickson, Assistant 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 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 (2) of this rule.

*PURPOSE: This amendment removes Bridgeton (Kiwanis Lake) from the rule.*

(2) Boats are prohibited on the following areas:

- [(B)]* Bridgeton (Kiwanis Lake)
- [(C)](B)* California (Proctor Park Lake)
- [(D)](C)* Cole County (Jaycee Park Lake)
- [(E)](D)* Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods)
- [(F)](E)* Confederate Memorial State Historic Site lakes
- [(G)](F)* Dexter City Lake
- [(H)](G)* Farmington (Giessing Lake, Hager Lake, Thomas Lake)
- [(I)](H)* Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- [(J)](I)* Ferguson (January-Wabash Park Lake)
- [(K)](J)* Jackson (Rotary Lake)
- [(L)](K)* Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Scherer Lake, Wyatt Lake)
- [(M)](L)* James Foundation (Scioto Lake)
- [(N)](M)* Jefferson City (McKay Park Lake)
- [(O)](N)* Jennings (Koeneman Park Lake)
- [(P)](O)* Kirksville (Spur Pond)
- [(Q)](P)* Kirkwood (Walker Lake)
- [(R)](Q)* Macon County (Fairgrounds Lake)
- [(S)](R)* Mexico (Kiwanis Lake)
- [(T)](S)* Mineral Area College (Quarry Pond)
- [(U)](T)* Mount Vernon (Williams Creek Park Lake)
- [(V)](U)* Overland (Wild Acres Park Lake)
- [(W)](V)* Potosi (Roger Bilderback Lake)
- [(X)](W)* Rolla (Schuman Park Lake)
- [(Y)](X)* St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [(Z)](Y)* St. Louis City (Benton Park Lake, Carondelet Park-Boathouse 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)
- [(AA)](Z)* St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)
- [(BB)](AA)* Sedalia (Clover Dell Park Lake, Liberty Park Pond)
- [(CC)](BB)* Taos (Taos Countryside Park Lake)
- [(DD)](CC)* Tipton (Tipton Park Lake)
- [(EE)](DD)* University of Missouri (South Farm R-1 Lake)
- [(FF)](EE)* Watershed Committee of the Ozarks (Valley Water Mill Lake)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.115 Bullfrogs and Green Frogs.** The commission proposes to amend subsection (1)(B) of this rule.

*PURPOSE: This amendment removes the City of Bridgeton's Kiwanis Lake from the rule.*

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, atlatl, gig, bow, snagging, snaring, grabbing, or pole and line except as further restricted by this chapter.

(B) Only pole and line may be used to take frogs on the following areas:

1. Ballwin (New Ballwin Park Lake, Vlasis Park Lake)
- [2.]* *Bridgeton (Kiwanis Lake)*
- [3.]* *2. Butler City Lake*
- [4.]* *3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)*
- [5.]* *4. Ferguson (January-Wabash Park Lake)*
- [6.]* *5. Jennings (Koeneman Park Lake)*
- [7.]* *6. Kirksville (Spur Pond)*
- [8.]* *7. Kirkwood (Walker Lake)*
- [9.]* *8. Macon County (Fairground Lake)*
- [10.]* *9. Mineral Area College (Quarry Pond)*
- [11.]* *10. Overland (Wild Acres Park Lake)*
- [12.]* *11. Potosi (Roger Bilderback Lake)*
- [13.]* *12. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)*
- [14.]* *13. St. Louis City (Benton Park Lake, Carondelet Park-Boathouse 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)*
- [15.]* *14. St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)*
- [16.]* *15. Sedalia (Clover Dell Park Lake, Liberty Park Pond)*
- [17.]* *16. Sedalia Water Department (Spring Fork Lake)*
- [18.]* *17. Warrensburg (Lion's Lake)*
- [19.]* *18. Watershed Committee of the Ozarks (Valley Water Mill Lake)*
- [20.]* *19. Wentzville (Community Club Lake)*
- [21.]* *20. Windsor (Farrington Park Lake)*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 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) and subsections (1)(B) and (1)(D) of this rule.

*PURPOSE:* This amendment removes *Bridgeton (Kiwanis Lake)* from the rule and corrects a reference to the *Fall Deer and Turkey Hunting Regulations and Information* booklet and allows bow hunting on city of Maysville property at Willow Brook Lake.

(1) Hunting, under statewide permits, seasons, methods, and limits, is permitted except as further restricted in this chapter and except for deer hunting as authorized in the [current] *annual Fall Deer & Turkey Hunting Regulations and Information* booklet[, published annually in August]. This publication is incorporated by reference. A copy of this booklet can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. It is also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.

(B) Hunting is prohibited on the following areas:

1. Thomas S. Baskett Wildlife Research and Education Center
2. Bethany (Old Bethany City Reservoir)
- [3.] *Bridgeton (Kiwanis Lake)*
- [4.] **3.** Buchanan County (Gasper Landing)
- [5.] **4.** California (Proctor Park Lake)
- [6.] **5.** Carthage (Kellogg Lake)
- [7.] **6.** Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake)
- [8.] **7.** Dexter City Lake
- [9.] **8.** Farmington (Giessing Lake, Hager Lake, Thomas Lake)
- [10.] **9.** Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- [11.] **10.** Hamilton City Lake
- [12.] **11.** Harrisonville (North Lake)
- [13.] **12.** Jackson (Rotary Lake)
- [14.] **13.** Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
- [15.] **14.** James Foundation (Scioto Lake)
- [16.] **15.** Jamesport City Lake
- [17.] **16.** Kirksville (Spur Pond)
- [18.] **17.** Lawson City Lake
- [19.] **18.** Macon County (Fairground Lake)
- [20.] **19.** Mexico (Lakeview Lake, Kiwanis Lake)
- [21.] **20.** Mineral Area College (Quarry Pond)
- [22.] **21.** Moberly (Rothwell Park Lake, Water Works Lake)
- [23.] **22.** Mount Vernon (Williams Creek Park Lake)
- [24.] **23.** Odessa (Lake Venita)
- [25.] **24.** Overland (Wild Acres Park Lake)
- [26.] **25.** Potosi (Roger Bilderback Lake)
- [27.] **26.** Rolla (Schuman Park Lake)
- [28.] **27.** St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [29.] **28.** St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)
- [30.] **29.** Savannah City Lake
- [31.] **30.** Sedalia (Clover Dell Park Lake)

- [32.] **31.** Sedalia Water Department (Spring Fork Lake)
- [33.] **32.** Springfield City Utilities (Lake Springfield)
- [34.] **33.** Warrensburg (Lion's Lake)
- [35.] **34.** Watershed Committee of the Ozarks (Valley Water Mill Lake)
- [36.] **35.** Windsor (Farrington Park Lake)
- (D) **Firearms** [H]/hunting is prohibited on Maysville (Willow Brook Lake), except waterfowl hunting is permitted under statewide regulations.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 23, 2009.

*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 David W. Erickson, Assistant 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**  
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**PROPOSED AMENDMENT**

**3 CSR 10-12.135 Fishing, Methods.** The commission proposes to amend section (3) of this rule.

*PURPOSE:* This amendment removes *Bridgeton (Kiwanis Lake)* from the rule.

(3) Gizzard shad may be taken from lakes and ponds by dip net or throw net, except at the following areas:

- [(B)] *Bridgeton (Kiwanis Lake)*
- [(C)] **(B)** Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- [(D)] **(C)** Ferguson (January-Wabash Park Lake)
- [(E)] **(D)** Jennings (Koeneman Park Lake)
- [(F)] **(E)** Kirkwood (Walker Lake)
- [(G)] **(F)** Overland (Wild Acres Park Lake)
- [(H)] **(G)** St. Louis City (Benton Park Lake, Caronodelet Park-Boathouse 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)
- [(I)] **(H)** St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 23, 2009.

*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 David W. Erickson, Assistant 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  
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**PROPOSED AMENDMENT**

**3 CSR 10-12.140 Fishing, Daily and Possession Limits.** The commission proposes to amend sections (2) and (11) of this rule.

*PURPOSE: This amendment removes the City of Bridgeton's Kiwanis Lake from this rule.*

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

- [(D)] Bridgeton (Kiwanis Lake)*
- [(E)](D) Butler City Lake*
- [(F)](E) California (Proctor Park Lake)*
- [(G)](F) Columbia (Stephens Lake, Twin Lake)*
- [(H)](G) Concordia (Edwin A. Pape Lake)*
- [(I)](H) Confederate Memorial State Historic Site lakes*
- [(J)](I) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)*
- [(K)](J) Ferguson (January-Wabash Lake)*
- [(L)](K) Higginsville City Lake*
- [(M)](L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)*
- [(N)](M) Jefferson City (McKay Park Lake)*
- [(O)](N) Jennings (Koeneman Park Lake)*
- [(P)](O) Keytesville (Maxwell Taylor Park Pond)*
- [(Q)](P) Kirkwood (Walker Lake)*
- [(R)](Q) Mexico (Teal Lake)*
- [(S)](R) Mineral Area College (Quarry Pond)*
- [(T)](S) Overland (Wild Acres Park Lake)*
- [(U)](T) Potosi (Roger Bilderback Lake)*
- [(V)](U) Sedalia Water Department (Spring Fork Lake)*
- [(W)](V) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)*
- [(X)](W) St. Louis City (Benton Park Lake, Boathouse 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)*
- [(Y)](X) 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)*
- [(Z)](Y) Unionville (Lake Mahoney)*
- [(AA)](Z) University of Missouri (South Farm R-1 Lake)*
- [(BB)](AA) Warrensburg (Lion's Lake)*
- [(CC)](BB) Watkins Mill State Park Lake*
- [(DD)](CC) Wentzville (Community Club Lake)*
- [(EE)](DD) Windsor (Farrington Park Lake)*

(11) The daily limit for fish other than those species listed as endangered in 3 CSR 10-4.111 or defined as game fish is twenty (20) in the aggregate, except on the following lakes where the daily limit is ten (10) in the aggregate, and except for those fish included in (4), (8), (9), and (10) of this rule:

- [(B)] Bridgeton (Kiwanis Lake)*
- [(C)](B) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)*
- [(D)](C) Ferguson (January-Wabash Lake)*
- [(E)](D) Jennings (Koeneman Park Lake)*
- [(F)](E) Keytesville (Maxwell Taylor Park Pond)*
- [(G)](F) Kirkwood (Walker Lake)*
- [(H)](G) Mineral Area College (Quarry Pond)*
- [(I)](H) Overland (Wild Acres Park Lake)*
- [(J)](I) Potosi (Roger Bilderback Lake)*
- [(K)](J) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)*
- [(L)](K) St. Louis City (Benton Park Lake, Boathouse 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)*
- [(M)](L) 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)*
- [(N)](M) Wentzville (Community Club Lake)*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

*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 David W. Erickson, Assistant 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 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 subsection (2)(C) of this rule.

*PURPOSE: This amendment removes Bridgeton (Kiwanis Lake) from the rule.*

(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:

(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, Vlasik Park Lake)



- [2. *Bridgeton (Kiwanis Lake)*  
 [3.]2. Columbia (Twin Lake)  
 [4.]3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)  
 [5.]4. Ferguson (January-Wabash Lake)  
 [6.]5. Jennings (Koeneman Park Lake)  
 [7.]6. Kirkwood (Walker Lake)  
 [8.]7. Overland (Wild Acres Park Lake)  
 [9.]8. Sedalia Water Department (Spring Fork Lake)  
 [10.]9. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)  
 [11.]10. St. Louis City (Benton Park Lake, Boathouse 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)  
 [12.]11. 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)  
 [13.]12. Unionville (Lake Mahoney)  
 [14.]13. University of Missouri (South Farm R-1 Lake)  
 [15.]14. Wentzville (Community Club Lake)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

**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 David W. Erickson, Assistant 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.240 Gas Utility Small Company Rate Increase Procedure.** This rule provided procedures and filing requirements for small gas utilities seeking a rate increase.

**PURPOSE:** This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

**AUTHORITY:** section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed March 26, 2009.

**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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

**SPECIAL NEEDS:** Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.330 Sewer Utility Small Company Rate Increase Procedure.** This rule provided procedures and filing requirements for small sewer utilities seeking a rate increase.

**PURPOSE:** This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

**AUTHORITY:** section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed March 26, 2009.

**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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

**SPECIAL NEEDS:** Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri



Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure.** This rule provided procedures and filing requirements for small steam utilities seeking a rate increase.

*PURPOSE:* This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

*AUTHORITY:* sections 386.250 and 393.140, RSMo 2000, and 393.291, RSMo Supp. 2003. Original rule filed Sept. 22, 2003, effective April 30, 2004. Rescinded: Filed March 26, 2009.

*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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

*SPECIAL NEEDS:* Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.635 Water Utility Small Company Rate Increase Procedure.** This rule provided procedures and filing requirements for small water utilities seeking a rate increase.

*PURPOSE:* This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

*AUTHORITY:* section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed March 26, 2009.

*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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

*SPECIAL NEEDS:* Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.010] **10 CSR 26-2.010 Applicability.** The department is moving the rule, amending sections (1), (3), and (4), and adding sections (5)–(8).

*PURPOSE:* The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*. The authority for the rule is amended to reflect the actual and appropriate authority. Language is added at section (5) to explain when compliance with rules 10 CSR 26-2.075–10 CSR 26-2.082 is required, and language is added at section (6) to explain when compliance with 10 CSR 26-2.062 is required. Language is added at section (7) to explain when the requirements of the chapter are applicable to temporarily closed underground storage tanks. Language is added at section (8) to explain that owners and operators of closed underground storage tanks, or for which a change in use occurs prior to the effective date of 10 CSR 26-2.075, must comply with the requirements of the chapter.

*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. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more

than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The requirements of this chapter apply to all owners and operators of an underground storage tank (UST) system as defined in [10 CSR 20-10.012] 10 CSR 26-2.012, except as otherwise provided in sections (2)-(4)/(8) of this rule. Any UST system listed in section (3) of this rule must meet the requirements of [10 CSR 20-10.011] 10 CSR 26-2.011.

(3) [Deferrals.] Rules [10 CSR 20-10.020–10 CSR 20-10.053] 10 CSR 26-2.020–10 CSR 26-2.053 and closure requirements in [10 CSR 20-10.070–10 CSR 20-10.074] 10 CSR 26-2.060–10 CSR 26-2.064 do not apply to any of the following types of UST systems:

(4) [Deferrals.] The release detection requirements of rules [10 CSR 20-10.040–10 CSR 20-10.045] 10 CSR 26-2.040–10 CSR 26-2.045 do not apply to any UST systems that store fuel solely for use by emergency power generators.

(5) Owners and operators of UST systems from which a release of regulated substances has occurred and to which this chapter applies need not meet the risk-based corrective action requirements of rules 10 CSR 26-2.075 through 10 CSR 26-2.082 otherwise applicable to the release if—

(A) Prior to the effective date of 10 CSR 26-2.075, the owner or operator had received the department's written approval of a work plan pertaining to the UST system release;

(B) The owner or operator fully implements the work plan referenced at section (5)(A) of this rule within one (1) year of the effective date of 10 CSR 26-2.075 or in accordance with a different schedule approved by the department in writing; and

(C) In addressing the UST system release, the owner or operator complies with a written procedure or procedures that address the basic elements of the risk-based process including site characterization, risk assessment, and corrective action to an extent that provides adequate protection of human health and the environment, subject to approval of the department.

1. If the owner or operator fails to adequately address any of the basic elements, the department may require the owner or operator to meet all applicable risk-based corrective action requirements of rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

2. A written procedure that complies with the department's *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document dated January 2004, as modified in March 2005, without later amendments or modifications, published by and available from the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176 or at [www.dnr.mo.gov](http://www.dnr.mo.gov) and the Title 10, Division 20, Chapter 10 rules in place immediately prior to the effective date of 10 CSR 26-2.075 satisfies the requirements for this deferral.

(6) Owners and operators of USTs to which this chapter applies need not meet the requirements of 10 CSR 26-2.062 if—

(A) Prior to the effective date of 10 CSR 26-2.075, the owner or operator has submitted a closure notice for one or more specific tanks to the department in compliance with 10 CSR 26-2.061(1) (formerly 10 CSR 20-10.071(1)) but has not yet begun or completed closure or change in service activities for the specific tank or tanks required by 10 CSR 26-2.060 (formerly 10 CSR 20-10.070), 10 CSR 26-2.061 (formerly 10 CSR 20-10.071), or 10 CSR 26-2.062 (formerly 10 CSR 20-10.072);

(B) For the tank(s) that is the subject of the closure notice referenced at subsection (6)(A) of this rule, the owner or operator completes closure or change in use activities and submits a complete closure report in accordance with 10 CSR 26-2.062(10)

within one (1) year of the effective date of 10 CSR 26-2.075 or in accordance with a different schedule approved by the department in writing; and

(C) The owner or operator closes the tank or conducts a change in use evaluation in compliance with a written procedure that addresses the basic elements of a tank closure or change in service evaluation to an extent that provides adequate protection of human health and the environment, subject to approval of the department.

1. If the owner or operator fails to adequately address any of the basic elements, the department may require the owner or operator to meet all requirements of 10 CSR 26-2.062;

2. A written procedure that complies with department's *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document dated January 2004, as modified in March 2005, without later amendments or modifications, published by and available from the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176 or at [www.dnr.mo.gov](http://www.dnr.mo.gov) and the Title 10, Division 20, Chapter 10 rules in place immediately prior to the effective date of 10 CSR 26-2.075 satisfies the requirements for this deferral.

(7) Temporarily Closed Tanks. Owners and operators of a UST to which this chapter applies that is in temporary closure in compliance with the requirements of 10 CSR 26-2.060 on the effective date of 10 CSR 26-2.075 and that is subsequently permanently closed or for which a change in service occurs must comply with the requirements of this chapter.

(8) Except as provided for at section (6) above, owners and operators of USTs to which this chapter applies that are permanently closed or for which a change in service occurs after the effective date of 10 CSR 26-2.075 must comply with the requirements of this chapter.

*AUTHORITY:* sections 319.100, 319.105, 319.107, 319.111, and 319.114, RSMo [1994] 2000 and sections 260.370, 319.109, [319.132] and 319.137, RSMo Supp. [1995] 2008. This rule originally filed as 10 CSR 20-10.010. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Moved and amended: Filed Feb. 13, 2009.

*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:* The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical**  
**Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.011] **10 CSR 26-2.011 Interim Prohibition for Deferred Underground Storage Tank Systems.** The department is moving the rule and amending sections (1) and (2).

*PURPOSE:* The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*. The authority for the rule is amended to reflect the actual and appropriate authority, and section (2) is amended to change the term “site” to “facility” to clarify the intent of the section.

(1) No person may install an underground storage tank (UST) system listed in [10 CSR 20-10.010(3)] **10 CSR 26-2.010(3)** for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction)—

(2) Notwithstanding section (1) of this rule, a UST system without corrosion protection may be installed at a *site* **facility** that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this section for the remaining life of the tank.

*AUTHORITY:* section[s] 319.105, RSMo [Supp. 1989] 2000 and [644.041, RSMo 1986] section 319.137, RSMo Supp. 2008. This rule originally filed as 10 CSR 20-10.011. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

*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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical**  
**Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.012] **10 CSR 26-2.012 Definitions.** The department is moving the rule and amending section (1).

*PURPOSE:* This rule defines specific words used in this chapter and is being amended to define words found in proposed new and amended rules in the chapter.

*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. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Many definitions relevant to this rule are set forth in the underground storage tank law in section 319.100, RSMo. The definitions set forth in 40 CFR 280.12, July 1, 1998, **without later amendments or additions, published by the Office of the Federal Register, National Archives and Records Administration and available from the Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954** or at [www.gpoaccess.gov/nara](http://www.gpoaccess.gov/nara), are incorporated by reference, subject to the following additions, modifications, substitutions, or deletions in the subsections:

(A) Definitions beginning with the letter A. *[(Reserved)]*

1. “**Activity and use limitation**” means a complete physical barrier or mechanism, or an enforceable legal restriction or obligation with respect to real property, that will protect human health, public welfare, and the environment from contamination present on the property for as long as the contamination may pose unacceptable risk. Examples include restrictive covenants and local ordinances accompanied by a memorandum of agreement between the local governmental body and the department.

2. “**Age-adjusted individual**” means a human who continuously resides on a property from birth to thirty (30) years of age.

3. “**Applicable target level**” means one (1) of the following for each chemical of concern:

A. Default target level as defined below;

B. Risk-based target level as defined below for tier 1 purposes; or

C. Site-specific target level as defined below for tier 2 or tier 3 purposes;

(C) Definitions beginning with the letter C.

1. “**Cancer slope factor**” means an upper bound estimate, approximating a ninety-five percent (95%) confidence limit, of the increased cancer risk from a lifetime exposure to a chemical expressed in units of proportion per unit dose (mg/kg-day).

[1.]2. To the definition of “CERCLA” at 40 CFR 280.12, incorporated in this rule, add the words “by the Superfund Amendments and Reauthorization Act of 1986” after the words “as amended”;

3. “**Child**” means a human who continuously resides on a property from birth to six (6) years of age;

(D) Definitions beginning with the letter D.

1. “**Deed notice**” means information filed with the local recorder of deeds and recorded in the chain of title for an affected property, which describes the appropriate use and condition of the property.

2. “**Default target level**” means the concentration of a chemical of concern that is the lowest of the tier 1 risk-based target levels for all exposure pathways and below which human receptors are protected from all complete exposure pathways for residential or other unrestricted land use. For each contaminant of concern, the default target level shall be either:

A. The target level shown in Table 3-1 of the *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document published by the Department

of Natural Resources, PO Box 176, Jefferson City, Missouri 65102-0176, dated January 2009 without any later amendments or additions, which is hereby incorporated by reference; or

**B. A different value if the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate such default target level.**

[1./2. “De minimus” means—

A. Any volume of regulated substance(s) contained in a tank with a capacity of less than one hundred ten (110) gallons; or

B. A very low concentration of regulated substances; or

C. Any volume of regulated substance(s) contained in an emergency backup tank that holds regulated substances for only a short period of time and is expeditiously emptied after use. (Comment: De minimus tanks include: swimming pools, permitted wastewater treatment facilities, and chlorinated, potable water storage tanks. An oil-water separator is not a de minimus system unless the tank has a less than one hundred ten (110) gallon capacity.)

[2./3. “Department,” unless otherwise stated, means the Missouri Department of Natural Resources;

(E) Definitions beginning with the letter E.

**1. “Engineered control” means an engineered and constructed physical mechanism to prevent direct human or environmental exposure to chemicals of concern. Examples include surface and subsurface barriers and vapor collection and control systems.**

[1./2. In the definition for “existing tank system” in 40 CFR 280.12 incorporated in this rule, substitute the date “September 28, 1990” for the date “December 22, 1988”;

**3. “Exposure domain” means the area of environmental media that contributes to actual or potential exposure by a receptor to chemicals of concern at a site;**

(H) Definitions beginning with the letter H.

1. This definition shall apply in lieu of the definition of “hazardous substance UST system” in 40 CFR 280.12 incorporated in this rule. “Hazardous substance UST system” means a UST system that contains a hazardous substance defined in Section 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under the Missouri Hazardous Waste Management Law, sections 260.350–260.434, RSMo) or any mixture of these substances and petroleum, and which is not a petroleum UST system;

**2. “Hazard quotient” means the ratio of an exposure level to a chemical to a non-carcinogenic toxicity value for that chemical;**

(I) Definitions beginning with the letter I.

1. The definition for “implementing agency” in 40 CFR 280.12 is not incorporated into this rule.

**2. “Individual excess lifetime cancer risk” means the increase over background in an individual’s probability of developing cancer over a lifetime due to exposure to a chemical.**

**3. “Inhalation unit risk” means the increase in the lifetime risk of an individual who is exposed for a lifetime to one (1) microgram per cubic meter ( $\mu\text{g}/\text{m}^3$ ) of a chemical in air.**

[2./4. The terms “in-operation,” “in-service,” and “in-use” are equivalent and mean input or output that occurs on a regular basis for the tank’s intended purpose. In determining the status of a tank, the department may consider factors including, but not limited to: routine input or outputs from the tank and the activity status of tank-related operations at the premises where the tank is located. A tank is considered to be in-operation, in-service, and in-use beginning with the first input of a regulated substance into the tank system;

(L) Definitions beginning with the letter L. [(Reserved);]

**1. “Light non-aqueous phase liquids” (LNAPL) means liquids that are sparingly soluble in, immiscible with, and less dense than water. When released into the environment, LNAPL will exist in both mobile (or free) and immobile (or entrapped) states.**

**2. “Long-term stewardship measure” means department-approved legal or physical restrictions or limitations, as well as informational devices, designed to eliminate or minimize the risk of exposures to chemicals of concern associated with the use of,**

or access to, a tank system, site, or facility, or to prevent activities that could interfere with the effectiveness of a response action, for the duration of time that the chemicals pose an elevated risk. All long-term stewardship measures are intended to ensure maintenance of a condition of acceptable risk to human health and the environment. Long-term stewardship measures include, but are not necessarily limited to, any one (1) or more of the following upon approval by the department:

A. Activity and use limitations;

B. Engineered controls accompanied by activity and use limitations;

C. Informational devices, such as—

(I) Deed notices designed to alert actual and potential owners of a property of the environmental condition of the property and to describe property uses and activities associated with acceptable risk in light of those conditions; or

(II) Information management systems, if available and approved by the department;

(M) Definitions beginning with the letter M. [(Reserved);]

**1. “Maximum contaminant level” means the maximum permissible level of a contaminant in drinking water;**

(O) Definitions beginning with the letter O.

1. In the definition for “operational life” in 40 CFR 280.12 incorporated in this rule, substitute “[10 CSR 20-10.070–10 CSR 20-10.074] 10 CSR 26-2.060–10 CSR 26-2.064” for “Subpart G.”

2. The term “out-of-operation,” “out-of-service,” and “out-of-use” are equivalent and mean input or output activity no longer occurs on a regular basis for the tank’s intended purpose.

3. The definition for “owner” in 40 CFR 280.12, is not incorporated in this rule and the definition in section 319.100(9), RSMo, shall be used instead;

(R) Definitions beginning with the letter R.

**1. “Reference concentration” means an estimate, with uncertainty spanning perhaps an order of magnitude, of a continuous inhalation exposure to the human population, including sensitive subgroups, that is likely to be without an appreciable risk of deleterious effects during a lifetime;**

**2. “Reference dose” means an estimate, with uncertainty spanning perhaps an order of magnitude, of a daily oral exposure to the human population, including sensitive subgroups, that is likely to be without an appreciable risk of deleterious effects during a lifetime;**

[1./3. The definition for “regulated substance” in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(14), RSMo, shall be used instead;

[2./4. The definition for “release” in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(15), RSMo, shall be used instead;

**5. “Restrictive covenant” means a servitude creating legal restrictions or obligations with respect to real property related to contamination resulting from a release from a petroleum storage tank as defined in section 319.100, RSMo;**

**6. “Risk-based target level” means the pathway and chemical-specific concentration of a chemical of concern in an environmental medium that meets an acceptable human health risk level. Risk-based target levels are calculated by the department using standard models and default exposure factors, toxicity factors, physical and chemical properties, and contaminant fate and transport parameters and are applicable at tier 1 of the risk-based corrective action process. For each contaminant of concern, the risk-based target level shall be either:**

A. The risk-based target level shown in Tables 7-1(a) through 7-12 of the *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document published by the Department of Natural Resources, PO Box 176, Jefferson City, Missouri 65102-0176, dated January 2009 without any later amendments or additions, which are hereby

incorporated by reference; or

**B. A different value if the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate such risk-based target level;**

(S) Definitions beginning with the letter S.

1. In lieu of the definition for "septic tank" in 40 CFR 280.12, the definition for "septic tank" shall be any watertight, covered receptacle designed and constructed to receive the discharge of sewage, separate solids from liquid, digest organic matter, store liquids through a period of detention, and allow the clarified liquids to discharge to a soil treatment system;

2. "Site" means the current and future areal extent of contamination resulting from a petroleum release inclusive of contamination both on the property at which the contamination originated (i.e., the source property) and on all adjacent and neighboring properties onto which such contamination has or is likely to migrate;

3. "Site-specific target level" means pathway and chemical specific calculated risk-based target levels that are based on site-specific data and an acceptable risk level considered protective of human health and the environment.

A. Site-specific target levels calculated at tier 2 of the risk-based corrective action process using site-specific fate and transport data and the toxicity factors, physical and chemical properties, and exposure factors found in tables B-1, B-2, and B-3, respectively, and default models at Figures B.1 through B.30 found in appendix B of the January 2009 *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document published by the Department of Natural Resources, PO Box 176, Jefferson City, Missouri 65102-0176, dated January 2009 without any later amendments or additions, which are hereby incorporated by reference and are applicable unless the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate the site-specific target levels;

B. Site-specific target levels calculated at tier 3 of the risk-based corrective action process using default, literature-derived, and/or site-specific exposure factors, physical and chemical properties, toxicity factors, and fate and transport data and default, alternative or a combination of default and alternative models are applicable unless the department determines or has determined that a deviation is appropriate based on changes in the scientific data used to calculate the site-specific target levels;

4. "Soil horizon" means a layer of soil having distinct characteristics and varying from adjacent layers;

5. "Source property" means the property on which contamination from a petroleum storage tank originated;

6. "Subsurface soil" means soil and other geologic materials below a depth of thirty-six inches (36") from the ground surface;

7. "Surficial soil" means soil from the ground surface to a depth of thirty-six inches (36");

(U) Definitions beginning with the letter U.

1. In the definition of "upgrade" in 40 CFR 280.12 incorporated in this rule, substitute the words "regulated substance" for the word "product."

2. The definition for "underground storage tank" or "UST" found in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(16), RSMo, shall be used instead;

3. "Underground storage tank facility" means a facility that has or had one (1) or more petroleum underground storage tanks, as defined in section 319.100, RSMo;

*AUTHORITY: sections 319.100, 319.105, 319.107, 319.III, and 319.II4, RSMo [1994] 2000 and [319.100,] sections 319.109I, 319.132I and 319.137, RSMo Supp. [1998] 2008. This rule originally filed as 10 CSR 20-10.012. Original rule filed April 2, 1990, effective Sept. 28, 1990. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed Feb. 13, 2009.*

*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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

*[10 CSR 20-10.020] 10 CSR 26-2.020 Performance Standards for New Underground Storage Tank Systems. The department is moving the rule and amending section (1).*

*PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority. Terms in subparagraphs (1)(A)4.A. and (1)(B)4.A. are amended for consistency and to clarify intent.*

(1) In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the underground storage tank (UST) system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements:

(A) Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory as follows:

1. The tank is constructed of fiberglass-reinforced plastic and complies with one (1) or more of the following industry codes:

A. Underwriters' Laboratories Standard 1316, *Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products*; or

B. American Society of Testing and Materials Standard D4021-86, *Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks*; or

2. The tank is constructed of steel and cathodically protected in the following manner:

A. The tank is coated with a suitable dielectric material;

B. Field-installed cathodic protection systems are designed by a corrosion expert;

C. Impressed current systems are designed to allow determination of current operating status as required in [10 CSR 20-10.031]10 CSR 26-2.031(1)(C);

D. Cathodic protection systems are operated and maintained in accordance with [10 CSR 20-10.031] 10 CSR 26-2.031 or according to guidelines established by the department; and

E. The following codes and standards may be used to comply with paragraph (1)(A)2. of this rule:

(I) Steel Tank Institute *Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks*;

(II) Underwriters' Laboratories Standard 1746, *Corrosion Protection Systems for Underground Storage Tanks*;

(III) National Association of Corrosion Engineers Standard RP-02-85, *Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems*;

(IV) Underwriters' Laboratories Standard 58, *Standard for Steel Underground Tanks for Flammable and Combustible Liquids*;

3. The tank is constructed of a steel, fiberglass-reinforced plastic composite that complies with one (1) of the following industry codes:

A. Underwriters' Laboratories Standard 1746, *Corrosion Protection Systems for Underground Storage Tanks*; or

B. The Association for Composite Tanks ACT-100, *Specification for the Fabrication of FRP Clad Underground Storage Tanks*;

4. The tank is constructed of metal without additional corrosion protection measures provided that—

A. The tank is installed at a [site] facility that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

B. Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (1)(B)4.A. of this rule for the remaining life of the tank; or

5. The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (1)(A)1.-4. of this rule;

(B) Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as follows:

1. The piping is constructed of fiberglass-reinforced plastic;

2. The following codes and standards may be used to comply with paragraph (1)(B)1. of this rule:

A. Underwriters' Laboratories Subject 971, *UL Listed Non-Metal Pipe*; and

B. Underwriters' Laboratories Standard 567, *Pipe Connectors for Flammable and Combustible and LP Gas*;

3. The piping is constructed of steel and cathodically protected in the following manner:

A. The piping is coated with a suitable dielectric material;

B. Field-installed cathodic protection systems are designed by a corrosion expert;

C. Impressed current systems are designed to allow determination of current operating status as required in [10 CSR 20-10.031]10 CSR 26-2.031(1)(C);

D. Cathodic protection systems are operated and maintained in accordance with [10 CSR 20-10.031] 10 CSR 26-2.031; and

E. The following codes and standards may be used to comply with paragraph (1)(B)3. of this rule:

(I) National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*;

(II) American Petroleum Institute Publication 1615, *Installation of Underground Petroleum Storage Systems*;

(III) American Petroleum Institute Publication 1632, *Cathodic Protection of Underground Petroleum Storage Tanks and*

*Piping Systems*; and

(IV) National Association of Corrosion Engineers Standard RP-01-69, *Control of External Corrosion on Submerged Metallic Piping Systems*;

4. The piping is constructed of metal without additional corrosion protection measures provided that—

A. The piping is installed at a [site] facility that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

B. Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (1)(A)4.A. of this rule for the remaining life of the tank;

5. The following codes may be used to comply with paragraph (1)(B)4. of this rule:

A. National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*; and

B. National Association of Corrosion Engineers Standard RP-01-69, *Control of External Corrosion on Submerged Metallic Piping Systems*; or

6. The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (1)(B)1.-5. of this rule;

(E) Certification of Installation. All owners and operators must ensure that one (1) or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with subsection (1)(D) of this rule by providing a certification of compliance on the UST notification form in accordance with [10 CSR 20-10.022] 10 CSR 26-2.022:

1. The installer has been certified by the tank and piping manufacturers;

2. The installer has been certified or licensed by the department;

3. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation;

4. The installation has been inspected and approved by the department;

5. All work listed in the manufacturer's installation checklists has been completed; or

6. The owner and operator have complied with another method for ensuring compliance with subsection (1)(D) of this rule that is determined by the department to be no less protective of human health and the environment.

**AUTHORITY:** sections 319.105[, RSMo Supp. 1989,] and 319.107, RSMo 2000 and section 319.137 [and 644.041], RSMo [1986] Supp. 2008. This rule originally filed as 10 CSR 20-10.020. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

**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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

**[10 CSR 20-10.021] 10 CSR 26-2.021 Upgrading of Existing Underground Storage Tank Systems.** The department is moving the rule and amending sections (1)–(4).

*PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority.*

(1) Alternatives Allowed. No later than December 22, 1998, all existing underground storage tank (UST) systems must comply with one (1) of the following requirements:

(A) New UST system performance standards in [10 CSR 20-10.020] **10 CSR 26-2.020**;

(C) Closure requirements in [10 CSR 20-10.070–10 CSR 20-10.074] **10 CSR 26-2.060–10 CSR 26-2.064**, including applicable requirements for corrective action in [10 CSR 20-10.060–10 CSR 20-10.067] **10 CSR 26-2.070–10 CSR 26-2.082**.

(2) Tank Upgrading Requirements. Steel tanks must be upgraded to meet one (1) of the following requirements in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory:

(A) Interior Lining. A tank may be upgraded by internal lining if—

1. The lining is installed in accordance with the requirements of [10 CSR 20-10.033] **10 CSR 26-2.033**; and

2. Within ten (10) years after lining, and every five (5) years after that, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications;

(B) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of the performance standards for new UST systems in [10 CSR 20-10.020] **10 CSR 26-2.020**(1)(A)2.B.–D. and the integrity of the tank is ensured using one (1) of the following methods:

1. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;

2. The tank has been installed for less than ten (10) years and is monitored monthly for releases in accordance with release detection methods [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(D)–(H);

3. The tank has been installed for less than ten (10) years and is assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of release detection method [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(C). The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three and six (3–6) months following the first operation of the cathodic protection system; or

4. The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is

no less protective of human health and the environment than paragraphs (2)(B)1.–3. of this rule; and

(C) Internal Lining Combined With Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection if—

1. The lining is installed in accordance with the requirements of [10 CSR 20-10.033] **10 CSR 26-2.033**; and

2. The cathodic protection system meets the requirements of [10 CSR 20-10.020] **10 CSR 26-2.020**(1)(A)2.B.–D.

(3) Piping Upgrading Requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory and must meet the requirements of [10 CSR 20-10.020] **10 CSR 26-2.020**(1)(B)3.B.–D.

(4) Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in [10 CSR 20-10.020] **10 CSR 26-2.020**(1)(C).

*AUTHORITY: sections 319.105 and 319.107, RSMo [Supp. 1989] 2000 and [644.026, RSMo Supp. 1993] section 319.137, RSMo Supp. 2008. This rule originally filed as 10 CSR 20-10.021. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

*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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

**[10 CSR 20-10.022] 10 CSR 26-2.022 Notification Requirements.** The department is moving the rule and amending sections (2), (4), (6), and (7).

*PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26,*



*Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority.*

(2) Any owner who brings a UST system in-use after September 28, 1990, must, within thirty (30) days of bringing the tank in-use, register the completed UST system on forms [provided by] available from the department, **ATTN: Tanks Section, PO Box 176, Jefferson City, MO 65102-0176 or at www.dnr.mo.gov**. Note: Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out-of-operation on or before January 1, 1974, were required to notify the state in accordance with the Hazardous and Solid Waste Amendments of 1984, P.L. 98-616, on a form published by Environmental Protection Agency (EPA) on November 8, 1985 (50 FR 46602), unless notice was given pursuant to section 103(c) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Owners and operators who have not complied with the notification requirements may use forms [provided by] available from the department.

(4) All owners and operators of new UST systems must certify in the notification form compliance with the following requirements:

(A) Installation of tanks and piping in [10 CSR 20-10.020/10 CSR 26-2.020(1)(E)];

(B) Cathodic protection of steel tanks and piping under [10 CSR 20-10.020/10 CSR 26-2.020(1)(A) and (B)];

(C) Financial responsibility in [10 CSR 20-11.090 through 10 CSR 20-11.112] 10 CSR 26-3.090–10 CSR 26-3.112; and

(D) Release detection in [10 CSR 20-10.041] 10 CSR 26-2.041 and [10 CSR 20-10.042] 10 CSR 26-2.042.

(6) All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping comply with the requirements in [10 CSR 20-10.020/10 CSR 26-2.020(1)(D)].

(7) The department shall issue a Certificate of Registration for any tanks which meet the requirements in sections (1) through (5) of this rule and [10 CSR 20-10.020] 10 CSR 26-2.020 and [10 CSR 20-10.021] 10 CSR 26-2.021. The Certificate of Registration shall be valid for five (5) years except as described in section (8) of this rule.

**AUTHORITY:** sections 319.103, 319.105, 319.107, 319.111, 319.114, and 319.123, RSMo [1994] 2000 and section 319.137, RSMo Supp. [1998] 2008. This rule originally filed as 10 CSR 20-10.022. Original rule filed April 2, 1990, effective Sept. 28, 1990. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed Feb. 13, 2009.

**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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on

August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.030] 10 CSR 26-2.030 **Spill and Overfill Control.** The department is moving the rule and amending section (2).

**PURPOSE:** The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority.

(2) The owner and operator must report, investigate, and clean up any spills and overfills in accordance with [10 CSR 20-10.053] 10 CSR 26-2.053.

**AUTHORITY:** sections 319.105[,] and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.041, RSMo 1986]. This rule originally filed as 10 CSR 20-10.030. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

**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:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**



[10 CSR 20-10.031] **10 CSR 26-2.031 Operation and Maintenance of Corrosion Protection.** The department is moving the rule and amending subsection (1)(D).

*PURPOSE:* The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the **Code of State Regulations**. The authority for the rule is amended to reflect the actual and appropriate authority.

(1) All owners and operators of steel underground storage tank (UST) systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

(D) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with [10 CSR 20-10.034] **10 CSR 26-2.034**) to demonstrate compliance with the performance standards in this rule. These records must provide the following:

1. The results of the last three (3) inspections required in subsection (1)(C) of this rule; and
2. The results of testing from the last two (2) inspections required in subsection (1)(B) of this rule.

*AUTHORITY:* sections 319.105 and 319.107, **RSMo 2000** and section 319.137, **RSMo Supp. 2008** [1989 and 644.041, **RSMo 1986**]. This rule originally filed as 10 CSR 20-10.031. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

*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 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.032] **10 CSR 26-2.032 Compatibility.** The department is moving the rule.

*PURPOSE:* The rule number is amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the **Code of State**

*Regulations.* The authority for the rule is amended to reflect the actual and appropriate authority.

*AUTHORITY:* section[s] 319.105, **RSMo 2000** and section 319.137, **RSMo Supp. [1989] 2008** [and 644.041, **RSMo 1986**]. This rule originally filed as 10 CSR 20-10.032. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

*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 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.033] **10 CSR 26-2.033 Repairs Allowed.** The department is moving the rule and amending subsections (2)(D) and (2)(E).

*PURPOSE:* The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the **Code of State Regulations**. The authority for the rule is amended to reflect the actual and appropriate authority.

(2) The repairs must meet the following requirements:

(D) Repaired tanks and piping must be tightness tested in accordance with release detection methods [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(C) and [10 CSR 20-10.044] **10 CSR 26-2.044**(1)(B) within thirty (30) days following the date of the completion of the repair, except as provided in the following paragraphs—

1. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally-recognized association or an independent testing laboratory;

2. The repaired portion of the UST system is monitored monthly for releases by one (1) of the release detection methods in [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(D)–(H); or

3. Another test method is used that is determined by the department to be no less protective of human health and the environment than those listed in paragraphs (2)(D)1. and 2.;

(E) Within six (6) months following the repair of any cathodically

protected UST system, the cathodic protection system must be tested with the methods for operation and maintenance of corrosion protection in *[10 CSR 20-10.031/10 CSR 26-2.031(1)(B) and (C) to ensure that it is operating properly; and*

*AUTHORITY: sections 319.105[,] and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.041, RSMo 1986]. This rule originally filed as 10 CSR 20-10.033. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

*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 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**

*[10 CSR 20-10.034] 10 CSR 26-2.034 Reporting and Record [k]Keeping. The department is moving the rule and amending the rule title and section (1).*

*PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. Terms within the rule are amended for consistency and clarity. The "Request for Records" form is deleted from the rule because it is no longer used by the department. The authority for the rule is amended to reflect the actual appropriate authority.*

(1) Owners and operators of underground storage tank (UST) systems must cooperate fully with inspections, monitoring, and testing conducted by the department, as well as requests for document submission, testing, and monitoring by the owner or operator.

(A) Reporting. Owners and operators must submit the following information to the department:

1. Notification for all UST systems by the notification requirements in *[10 CSR 20-10.022/ 10 CSR 26-2.022;*

2. Reports of all releases including suspected releases (*[10 CSR 20-10.050/ 10 CSR 26-2.050)*, spills and overfills (*[10 CSR 20-10.053/ 10 CSR 26-2.053)*, and confirmed releases (*[10 CSR 20-10.061/ 10 CSR 26-2.071);*

3. Corrective actions planned or taken including initial abatement measures (*[10 CSR 20-10.062/ 10 CSR 26-2.072)*, initial site characterization (*[10 CSR 20-10.063/ 10 CSR 26-2.073)*, free product removal (*[10 CSR 20-10.064/ 10 CSR 6-2.074)*, investigation of soil and groundwater cleanup (*[10 CSR 20-10.065/ 10 CSR 26-2.076)*, and corrective action plan (*[10 CSR 20-10.066/ 10 CSR 26-2.079);* and

4. A notification before permanent closure or change in service (*[10 CSR 20-10.071/ 10 CSR 26-2.061).*

(B) Record [k]Keeping. Owners and operators must maintain the following information:

1. A corrosion expert's analysis of *[site] facility* corrosion potential if corrosion protection equipment is not used (*[10 CSR 20-10.020/10 CSR 26-2.020(1)(A)4. and (1)(B)4.);*

2. Documentation of operation of corrosion protection equipment (*[10 CSR 20-10.031/ 10 CSR 26-2.031);*

3. Documentation of UST system repairs (*[10 CSR 20-10.033/10 CSR 26-2.033(2)(F);*

4. Recent compliance with release detection requirements (*[10 CSR 20-10.045/ 10 CSR 26-2.045);* and

5. Results of the site investigation conducted at permanent closure (*[10 CSR 20-10.074/ 10 CSR 26-2.064).*

(C) Availability and Maintenance of Records. Owners and operators must keep the records required either—

1. At the UST *[site] facility* and immediately available for inspection by the department; or

2. At a readily available alternative *[site] location* and be provided for inspection to the department within three (3) working days or five (5) calendar days upon receipt of a written request. A written request shall be made in the following manner:

A. The department shall provide a written request at the time of inspection to *[site] facility* personnel; or

B. In the cases of unattended *[sites] facilities* or inspections conducted after normal business hours (8:00 a.m. to 5:00 p.m., local time, Monday through Friday), written notice shall be made by certified mail; or

3. If the owner or operator fails to meet the requirements of paragraph (1)(C)2., the department may order or otherwise require that owner or operator to maintain records *[on-site] at the facility* per paragraph (1)(C)1.; or

4. In the case of permanent closure records required under *[10 CSR 20-10.074/ 10 CSR 26-2.064)*, owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the *[site] facility* or an alternative *[site] location* as indicated in this section.

**DEPARTMENT OF NATURAL RESOURCES**  
**DIVISION OF ENVIRONMENTAL QUALITY**  
**WATER POLLUTION CONTROL PROGRAM**

file: \_\_\_\_\_ County  
UT \_\_\_\_\_

**REQUEST FOR RECORDS**  
**UNDERGROUND STORAGE TANK**  
**INSPECTION**

Date: \_\_\_\_\_  
Time: \_\_\_\_\_

*Pursuant to 10 CSR 20-10.034(1)(C)2. the Department of Natural Resources requests the records concerning the underground storage tanks facility located at:*

Facility name: \_\_\_\_\_

Facility address: \_\_\_\_\_  
be provided to Missouri Department of Natural Resources

\_\_\_\_\_ Office

Mailing address: \_\_\_\_\_

Street address: \_\_\_\_\_

(City) (State) (Zip Code)

within three (3) working days or five (5) calendar days of this notice.

This request was made on \_\_\_\_\_

\_\_\_\_\_ (Date & Time)

by: \_\_\_\_\_

(Inspector name)

(Inspector office)

(Inspector phone)

and was given to:

\_\_\_\_\_ (Site person name)

Signed:

\_\_\_\_\_ (Inspector)

**AUTHORITY:** sections 319.107[,] and 319.111, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.021, RSMo 1986]. This rule originally filed as 10 CSR 20-10.034. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

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

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.040] 10 CSR 26-2.040 General Requirements for Release Detection for All Underground Storage Tank Systems. The department is moving the rule and amending sections (1)–(4).

**PURPOSE:** The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations, and the authority for the rule is amended to reflect the actual appropriate authority.

(1) Owners and operators of new and existing underground storage tank (UST) systems must provide a method, or combination of methods, of release detection that—

(C) Meets the performance requirements for tanks in [10 CSR 20-10.043] 10 CSR 26-2.043 or for piping in [10 CSR 20-10.044] 10 CSR 26-2.044, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that tank method in [10 CSR 20-10.043]10 CSR 26-2.043(1)(B)–(D) or piping method in [10 CSR 20-10.044]10 CSR 26-2.044(1)(A) and (B) with a probability of detection of ninety-five percent (95%) and a probability of false alarm of five percent (5%).

(2) When a release detection method for tanks in [10 CSR 20-10.043] 10 CSR 26-2.043 or for piping in [10 CSR 20-10.044] 10 CSR 26-2.044 indicates a release may have occurred, owners and operators must notify the department in accordance with [10 CSR 20-10.050–10 CSR 20-10.053] 10 CSR 26-2.050–10 CSR 26-2.053.

(3) Owners and operators of all UST systems must comply with the release detection requirements of [10 CSR 20-10.040–10 CSR 20-10.045] 10 CSR 26-2.040–10 CSR 26-2.045 by the following dates based on the year of installation:

(4) Any existing UST system that cannot apply a method of release detection that complies with the requirements of [10 CSR 20-10.040–10 CSR 20-10.045] 10 CSR 26-2.040–10 CSR 26-2.045 must complete the closure procedures in [10 CSR 20-10.070–10 CSR 20-10.074] 10 CSR 26-2.060–10 CSR 26-2.064 by the date on which release detection is required for that UST system under section (3) of this rule.

**AUTHORITY:** sections 319.105, 319.107, and 319.111, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.040. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.041] **10 CSR 26-2.041 Requirements for Petroleum Underground Storage Tank Systems.** The department is moving the rule and amending section (1).

*PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations, and the authority for the rule is amended to reflect the actual appropriate authority.*

(1) Owners and operators of petroleum underground storage tanks (UST) systems must provide release detection for tanks and piping as follows:

(A) Tanks. Tanks must be monitored at least every thirty (30) days for releases using one (1) of the methods listed in [10 CSR 20-10.043/10 CSR 26-2.043(1)(D)–(H)] except that—

1. UST systems that meet new or upgraded standards in [10 CSR 20-10.020] **10 CSR 26-2.020** or [10 CSR 20-10.021] **10 CSR 26-2.021** and the monthly inventory control requirements in [10 CSR 20-10.043/10 CSR 26-2.043(1)(A)] or (B) may use tank tightness testing ([10 CSR 20-10.043/10 CSR 26-2.043(1)(C)]) at least every five (5) years until December 22, 1998, or until ten (10) years after the tank is installed or upgraded under [10 CSR 20-10.021/10 CSR 26-2.021(2)], whichever is later;

2. UST systems that do not meet the performance standards in [10 CSR 20-10.020] **10 CSR 26-2.020** or [10 CSR 20-10.021] **10 CSR 26-2.021** may use monthly inventory controls ([10 CSR 20-10.043/10 CSR 26-2.043(1)(A)] or (B)) and annual tank tightness testing ([10 CSR 20-10.043/10 CSR 26-2.043(1)(C)]) until December 22, 1998, when the tank must be upgraded under [10 CSR 20-10.021] **10 CSR 26-2.021** or permanently closed under [10 CSR 20-10.071] **10 CSR 26-2.061**; and

3. Tanks with capacity of five hundred fifty (550) gallons or less may use manual tank gauging ([10 CSR 20-10.043/10 CSR 26-2.043(1)(B)]); and

(B) Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one (1) of the following requirements:

1. Pressurized piping. Underground piping that conveys regulated substances under pressure must—

A. Be equipped with an automatic line leak detector in [10 CSR 20-10.044/10 CSR 26-2.044(1)(A)]; and

B. Have an annual line tightness test conducted in accordance with [10 CSR 20-10.044/10 CSR 26-2.044(1)(B)] or have monthly monitoring conducted in accordance with [10 CSR 20-10.044/10 CSR 26-2.044(1)(C)]; and

2. Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three (3) years and in accordance with [10 CSR 20-10.044/10 CSR 26-2.044(1)(B)] or use a monthly monitoring method conducted in accordance with [10 CSR 20-10.044/10

**CSR 26-2.044(1)(C)].** No release detection is required for suction piping that is designed and constructed to meet the following standards:

A. The below-grade piping operates at less than atmospheric pressure;

B. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

C. Only one (1) check valve is included in each suction line;

D. The check valve is located directly below and as close as practical to the suction pump; and

E. A method is provided that allows compliance with subparagraphs (1)(B)2.A.–D. of this rule to be readily determined (for example, the check valve can be visually inspected).

*AUTHORITY: sections 319.105 and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.041. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.042] **10 CSR 26-2.042 Requirements for Hazardous Substance Underground Storage Tank Systems.** The department is moving the rule and amending section (1).

*PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations; the authority for the rule is amended to reflect the actual appropriate authority; and the term "site" in subparagraph (1)(B)5.B. is changed to "facility" for consistency and clarity.*

(1) Owners and operators of hazardous substance underground storage tank (UST) systems must provide release detection that meets the following requirements:

(A) Release detection at existing UST systems must meet the requirements for petroleum UST systems in [10 CSR 20-10.041] **10 CSR 26-2.041**. By December 22, 1998, all hazardous substance UST systems must meet the release detection requirements for new systems in subsection (1)(B) of this rule;

(B) Release detection at new hazardous substance UST systems must meet the following requirements:

1. Secondary containment systems must be designed, constructed, and installed to—

A. Contain regulated substances released from the tank system until they are detected and removed;

B. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

C. Be checked for evidence of a release at least every thirty (30) days;

2. Double-walled tanks must be designed, constructed, and installed to—

A. Contain a release from any portion of the inner tank within the outer wall; and

B. Detect the failure of the inner wall;

3. External liners (including vaults) must be designed, constructed, and installed to—

A. Contain one hundred percent (100%) of the capacity of the largest tank within its boundary;

B. Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

C. Surround the tank completely (that is, it is capable of preventing lateral as well as vertical migration of regulated substances);

4. Underground piping must be equipped with secondary containment that satisfies the requirements of paragraph (1)(B)1. of this rule (for example, trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in [10 CSR 20-10.044] **10 CSR 26-2.044**(1)(A); and

5. Other methods of release detection may be used if owners and operators—

A. Demonstrate to the department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(B)–(H) can detect a release of petroleum;

B. Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance and the characteristics of the UST [site] facility; and

C. Obtain approval from the department to use the alternate release detection method before the installation and operation of the new UST system.

**AUTHORITY:** sections 319.105 and 319.107, *RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]*. This rule originally filed as 10 CSR 20-10.042. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

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

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.043] **10 CSR 26-2.043 Methods of Release Detection for Tanks.** The department is moving the rule and amending section (1).

**PURPOSE:** The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*; the authority for the rule is amended to reflect the actual appropriate authority; and the term “site” in paragraphs (1)(E)6. and (1)(F)7. is changed to “area” in both instances for consistency and clarity.

(1) Each method of release detection for underground storage tanks (UST) used to meet the requirements of petroleum UST leak detection in [10 CSR 20-10.041] **10 CSR 26-2.041** must meet the following:

(B) Manual Tank Gauging. Manual tank gauging must meet the following requirements:

1. Tank liquid level measurements are taken at the beginning and ending of a period of at least thirty-six (36) hours during which no liquid is added to or removed from the tank;

2. Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period;

3. The equipment used is capable of measuring the level of product over the full range of the tank’s height to the nearest one-eighth inch (1/8”);

4. A leak is suspected and subject to the requirements of [10 CSR 20-10.050–10 CSR 20-10.053] **10 CSR 26-2.050–10 CSR 26-2.053** if the variation between beginning and ending measurements exceeds the following weekly or monthly standards:

A. Tanks of five hundred fifty (550)-gallon capacity or less are allowed a weekly standard of ten (10) gallons per reading and a monthly average of five (5) gallons per reading;

B. Five hundred fifty-one to one thousand (551–1,000)-gallon capacity tanks are allowed a difference of thirteen (13) gallons per week and a monthly average of seven (7) gallons;

C. One thousand one to two thousand (1,001–2,000)-gallon capacity tanks are allowed a difference of twenty-six (26) gallons per week and a monthly average of thirteen (13) gallons;

D. Five hundred fifty-one to one thousand (551–1,000)-gallon capacity tanks with dimensions no greater than sixty-four inches by seventy-three inches (64” × 73”) are allowed a difference of nine (9) gallons per week and monthly average of four (4) gallons, provided that a period of at least forty-four (44) hours during which no

liquid is added to or removed from the tank is allowed to pass between tank liquid level measurements; and

E. One thousand (1,000)-gallon capacity tanks with dimensions of forty-eight inches by one hundred twenty-eight inches (48" × 128") are allowed a difference of twelve (12) gallons per week and a monthly average of six (6) gallons, provided that a period of at least fifty-eight (58) hours during which no liquid is added to or removed from the tank is allowed to pass between tank liquid level measurements; and

5. Use of manual tank gauging must comply with the following size restrictions:

A. Tanks of five hundred fifty (550) gallons or less nominal capacity may use this as the sole method of release detection;

B. Tanks of five hundred fifty-one to one thousand (551-1,000)-gallon capacity with dimensions no greater than sixty-four inches by seventy-three inches (64" × 73") and tanks of one thousand (1,000)-gallon capacity with dimensions of forty-eight inches by one hundred twenty-eight inches (48" × 128") may use this as the sole method of release detection;

C. Tanks of five hundred fifty-one to two thousand (551-2,000) gallons may use the method in place of inventory control in *10 CSR 20-10.043/10 CSR 26-2.043*(1)(A); and

D. Tanks of greater than two thousand (2,000) gallons nominal capacity may not use this method for release detection;

(D) Automatic Tank Gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

1. The automatic product level monitor test can detect a two-tenths (0.2)-gallon-per-hour leak rate from any portion of the tank that routinely contains product; and

2. Inventory control (or equivalent test) meeting the requirements in *10 CSR 20-10.043/10 CSR 26-2.043*(1)(A) is conducted;

(E) Vapor Monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

1. The materials used as backfill are sufficiently porous and permeable (for example, gravel, sand, or crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

2. The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (for example, gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

3. The measurement of vapors by the monitoring device is not rendered inoperative by *[the]* groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than thirty (30) days;

4. The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

5. The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component(s) of that substance, or a tracer compound placed in the tank system;

6. In the UST excavation zone, the *[site]* area is assessed to ensure compliance with the requirements in paragraphs (1)(E)1.-4. of this rule and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

7. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(F) Groundwater Monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:

1. The regulated substance stored is immiscible in water and has a specific gravity of less than one (1);

2. The groundwater is within twenty feet (20') from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is at least one hundredth centimeter per second (0.01 cm/sec) (for example, the soil should

consist of gravels, coarse to medium sands, coarse silts, or other permeable materials);

3. The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

4. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

5. Monitoring wells or devices shall intercept the excavation zone or are as close to it as is technically feasible;

6. The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth inch (1/8") of free product on top of the groundwater in the monitoring wells;

7. The *[site]* area is assessed within and immediately below the UST system excavation zone to ensure compliance with the requirements in paragraphs (1)(F)1.-5. of this rule. The site assessment also establishes the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

8. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(G) Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains product and also meets one (1) of the following requirements:

1. For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;

2. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier.

A. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (less than one millionth centimeter per second (10<sup>-6</sup> cm/sec) for the regulated substance stored) to direct a release to the monitoring point and permit its detection.

B. The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected.

C. For cathodically protected tanks the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system.

D. *[The g]*Groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than thirty (30) days.

E. The *[site]* area is assessed to ensure that the secondary barrier is always above the groundwater and not in a twenty-five (25)-year flood plain, unless the barrier and monitoring designs are for use under these conditions.

F. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

3. For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner is compatible with the substance stored; and

4. The provisions outlined in the Steel Tank Institute's *Standard for Dual Wall Underground Storage Tanks* may be used as guidance for aspects of the design and construction of underground steel double-walled tanks; and

*AUTHORITY: sections 319.105 and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.043. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.*

**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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Division [20]26—[Clean Water Commission]  
Petroleum and Hazardous Substance Storage Tanks  
Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.044] **10 CSR 26-2.044 Methods of Release Detection for Piping.** The department is moving the rule and amending section (1).

**PURPOSE:** The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*, and the authority for the rule is amended to reflect the actual appropriate authority.

(1) Each method of release detection for piping used to meet the requirements of release detection for underground storage tanks (UST) in [10 CSR 20-10.041] **10 CSR 26-2.041** must be conducted in the following manner:

(C) Applicable Tank Methods. Any of the methods in [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(E)–(H) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

**AUTHORITY:** sections 319.105 and 319.107, *RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]*. This rule originally filed as 10 CSR 20-10.044. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

**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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Chapter [10]2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.045] **10 CSR 26-2.045 Release Detection Record [k]Keeping.** The department is moving the rule and amending the rule title and section (1).

**PURPOSE:** The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*; the authority for the rule is amended to reflect the actual appropriate authority; and the term “on-site” in subsection (1)(C) is changed to “at the facility” for clarity and consistency.

(1) All underground storage tank (UST) system owners and operators must maintain records in [10 CSR 20-10.034] **10 CSR 26-2.034** demonstrating compliance with applicable release detection requirements in [10 CSR 20-10.040–10 CSR 20-10.045] **10 CSR 26-2.040–10 CSR 26-2.045**. These records must include the following:

(B) The results of any sampling, testing, or monitoring must be maintained for at least one (1) year, or for another reasonable period of time determined by the department, except that the results of tank tightness testing conducted in accordance with [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(C) must be retained until the next test is conducted; and

(C) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located [on-site] **at the facility** must be maintained for at least one (1) year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five (5) years from the date of installation.

**AUTHORITY:** sections 319.105 and 319.107, *RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]*. This rule originally filed as 10 CSR 20-10.045. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

**PUBLIC COST:** This proposed amendment will not 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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**Division [20]26—[Clean Water Commission]**  
**Petroleum and Hazardous Substance Storage Tanks**  
**Chapter [10]2—Underground Storage Tanks—Technical Regulations**

**PROPOSED AMENDMENT**

[10 CSR 20-10.050] 10 CSR 26-2.050 **Release Reporting [of Suspected Releases].** The department is moving the rule, amending the rule title and sections (1) and (2), and adding sections (1) and (3)–(5).

**PURPOSE:** The rule is amended to clarify release reporting requirements and to specify a telephone number to be called when reporting a release to the department.

**(1) The requirements of this rule are solely for the purposes of this chapter. Other reporting requirements under other local, state, and federal authorities and for other purposes might not be satisfied by meeting the requirements of this rule.**

[[1]](2) Owners and operators of underground storage tank (UST) systems must report to the department [within] by telephone at (573) 634-2436 as soon as is practical but no later than twenty-four (24) hours and follow the procedures for release investigation and confirmation in [10 CSR 20-10.052 for any] 10 CSR 26-2.052 upon discovery of one (1) or more of the following conditions:

(A) [The discovery by owners and operators or others of r/Released regulated substances [at the UST site] on the property on which a UST system is located, on an adjacent or nearby property, or in the surrounding area. [such as the presence of free product or vapors in soils, basements, sewer and utility lines and nearby surface water]] Indications of released regulated substances might include, but are not limited to, the presence of petroleum or petroleum-related constituents in soil, groundwater, or surface water and the presence of petroleum or petroleum vapors in soil, basements, and within or adjacent to sewer and other utility lines;

(B) Unusual UST system operating conditions observed by owners and operators, including, but not limited to, [such as the] erratic behavior of product dispensing equipment, the sudden loss of product from the UST system not accounted for by normal operations, or an unexplained presence of water in [the tank]] one (1) or more USTs, unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; and

(C) Monitoring results from a release detection method required under [10 CSR 20-10.041] 10 CSR 26-2.041 and [10 CSR 20-10.042] 10 CSR 26-2.042 that indicate a release may have occurred unless[—]

[1. The] the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced and additional monitoring does not confirm the initial result[; and].

[2. In the case of inventory control,] If inventory control is the method for release detection and a second month of data does not confirm the initial result[.], owners and operators must contact the department within seven (7) days of the collection of the second month of data and need not continue release investigation and confirmation activities under 10 CSR 26-2.052 unless the results of the system test or site check indicate a release has occurred.

(3) Owners and operators of underground storage tank (UST) systems must report to the department by telephone at (573) 634-2436 as soon as is practical but no later than twenty-four (24) hours upon discovery of a spill or overflow of petroleum or a hazardous substance or substances from an UST system. Owners and operators must contain and immediately clean up the release and begin corrective action in accordance with 10 CSR 26-2.053.

(4) If a release of a hazardous substance equals or is in excess of its reportable quantity, owners and operators must immediately report the release to the National Response Center under Sections 102 and 103 of CERCLA (40 CFR 302.6) and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40) and begin corrective action in accordance with 10 CSR 26-2.053.

(5) Upon confirmation of a release in 10 CSR 26-2.052, or after a release from an UST system is identified in any other manner, owners or operators must report the release to the department by telephone at (573) 634-2436 as soon as is practical but no later than twenty-four (24) hours of confirmation or discovery and comply with 10 CSR 26-2.071.

**AUTHORITY:** section 319.109, RSMo Supp. 2008. [sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.] This rule originally filed as 10 CSR 20-10.050. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

**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 cost private entities approximately nine hundred ninety-four dollars (\$994) in the aggregate.

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**FISCAL NOTE****PRIVATE COST****I. RULE NUMBER**

<u>Rule Number and Name</u> 10 CSR 26-2.050 Release Reporting
<u>Type of Rulemaking</u> Rule amendment

**II. SUMMARY OF FISCAL IMPACT**

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate as to the aggregate cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> <li>• Retail automotive fueling stations</li> <li>• Fleet operations</li> <li>• Automotive service and repair facilities</li> <li>• Manufacturing operations</li> <li>• Other owners and operators of underground storage tank systems</li> </ul>	>2,000 <sup>1</sup>	\$994.00

**III. Worksheet**

$$(\$25.00/60 \times 10) + (\$0.08/\text{min} \times 10.00) \times (10 \times 20) = \$993.33$$

**IV. Assumptions**

The department proposes to consolidate requirements in 10 CSR 20-10.050 and 10 CSR 20-10.053 for reporting of releases from underground storage tank systems into 10 CSR 26-2.050. In addition, both rules will be renumbered and moved from rule division 20 to new rule division 26 within the Code of State Regulations. Simultaneously, language will be added to 10 CSR 26-2.050 to clarify applicability of the rule and requirements

<sup>1</sup> The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

when inventory control is used to detect underground storage tank releases and a specific telephone number for reporting releases is added.

The department assumes that the proposed rule amendments will clarify release reporting requirements such that the number of release reports received by the department will increase. In addition, the number of releases considered reportable is likely to increase due to the addition of a provision requiring reporting when contaminant concentrations exceed default target levels and when the volume of a release is unknown.

The department assumed the following in estimating that the aggregate private entity cost of the amended rule will be greater than \$500:

- 10 additional release reports per year
- Rule in place as amended for 20 years
- \$4.97 per report
  - Salary of person making report: \$25/hr
  - Time to make report: 10 minutes
  - Long distance charge for call: \$0.08/min

Based on these assumptions, the total aggregate private entity cost of the proposed amendments to rule 10 CSR 26-2.050 is approximately \$994.00.