

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

Entirely new rules are printed without any special 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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

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

PROPOSED AMENDMENT

4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives. The commission is amending the purpose and sections (1)–(4), adding a new section (5), renumbering and amending sections (5)–(7), and renumbering sections (8) and (9).

PURPOSE: This amendment will allow the commission to be better informed about electrical accidents and events that result in significant property loss, injury, or death. In particular, the amendment will require electric utilities and rural electric cooperatives to notify the commission of accidents and events involving human contact with electric current of significant voltage even when the utility or coop-

erative believes the problem originated on the customer's side of the meter.

PURPOSE: This rule prescribes requirements and procedures for the reporting of certain events by electric utilities to the commission to inform the commission of developments [which] that may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain accidents and events[, which] that may have an impact in future electric rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities [incident] accident and event reporting requirements for rural electric cooperatives.

(1) Commencing on September 1, 1991, every electric utility shall accumulate the following information and *[transmit] submit* it to the manager of the Energy Department of the commission, or his/her designee, no later than the last business day of the month following the month to be reported and after that on a monthly basis:

(A) All generating unit outages and derates, excluding hydroelectric generating units and units whose capacity comprises less than one and one-half percent (1 1/2%) of the electric utilities *[installed] accredited* capacity;

[(B)] All fuel purchases for power production purposes, including the terms of those purchases. A copy of the Monthly Report of Cost and Quality of Fuels for Electric Plants on FERC Form No. 423, as submitted to the Federal Energy Regulatory Commission (FERC), will satisfy the requirements of this subsection;

[(C)](B) Monthly as-burned fuel report for each carbon-based fuel generating unit, including the amount of each type of fuel consumed, the British thermal unit (Btu) value of each fuel consumed, and the blending percentages (if applicable);

[(D)](C) Net system input for the electric utility;

[(E)](D) Net hourly generation for each generating unit;

[(F)](E) Megawatt amount and delivery prices of hourly purchases and sales of electricity from or to other electrical services providers, independent power producers, or cogenerators, including the parties to purchases and sales, and the terms of purchases and sales;

1. If adjustments are made to the price of hourly purchases after the purchase is made, provide the amount of the adjustment and the time period over which the adjustment was made;

[(G)](F) Capacity purchases of longer than seven (7) days' duration;

[(H)](G) Planned outages of power production facilities, as they are scheduled or rescheduled. Changes from the planned outage schedule must be reported by telephone or electronic transmission to the manager of the Energy Department of the commission or his/her designee prior to the initiation of the outage, if the changes result in the planned outage schedule being different from the schedule in the most recently submitted monthly report;

[(I)](H) Planned fuel test burns, unit heat-rate tests, and accreditation runs as they are scheduled or rescheduled. Changes from previously planned fuel test burns, unit heat-rate tests, and accreditation runs must be reported by telephone or electronic transmission to the manager of the Energy Department of the commission or his/her designee prior to their initiation, if these changes result in the schedule for fuel test burns, unit heat-rate tests, and accreditation runs being different from the schedule in the most recently submitted monthly report;

[(J)](I) Citations or notices of violation related to power production facilities received from any state or federal utility regulatory agency or environmental agency including, but not limited to, the Federal Energy Regulatory Commission (FERC), the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Natural Resources (DNR), and the

Department of Energy (DOE);

[(K)](J) The terms of new contracts or existing contracts which will be booked to Accounts 310–346 or Accounts 502–546 of the FERC’s Uniform System of Accounts requiring the expenditure by the electric utility of more than one hundred thousand dollars (\$100,000) including, but not limited to, contracts for engineering, consulting, repairs, and modifications or additions to an electric plant; and

[(L)](K) Copies of all written reports on forced generating unit outages of longer than three (3) days, test burns of fuel, heat-rate tests, accreditation runs, and responses to state or federal utility regulatory agencies or environmental agencies including, but not limited to, the FERC, the NRC, the EPA, the DNR, and the DOE, concerning any alleged infractions, deviations, or noncompliance with those agencies’ rules or standards related to power production facilities.

(2) *[Any of t]*The information required in subsections (1)(A) through (I) of this rule *[may]* shall be provided to the manager of the Energy Department of the commission or his/her designee in an electronic format from which the data can be easily extracted for analyses in spreadsheet or database software. *[The electronic files]* All the information required in section (1) may be submitted through the commission’s Electronic Filing and Information System (EFIS).

(3) Every electric utility shall report to the manager of the Energy Department of the commission or his/her designee by telephone or through EFIS by the end of the first business day following discovery, the information described in subsections (3)(A)–(E) below. The electric utility shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report:

(A) Details of any accident or event at a power plant involving serious physical injury or death or property damage in excess of *[one]* two hundred thousand dollars *[(\$ 100,000)]* **(\$200,000)**. A detailed investigative report of the accident or event shall be submitted within ninety (90) days, or if the investigation will take longer than ninety (90) days, a draft of the plan for the investigation shall be submitted within ninety (90) days;

(C) Forced outages of any fossil-fuel fired generating unit(s) *[which constitutes twenty percent (20%) or more of the electric utility’s]* with an accredited capacity of greater than one hundred (100) megawatts that reasonably could be anticipated to last longer than three (3) days, when the unit(s) is forced out due to a common occurrence;

(4) Every electric utility and rural electric cooperative *[report to the manager of the Energy Department of the commission or his/her designee,]* shall notify designated commission personnel by telephone *[or through EFIS, a brief description]* of an accident or event by the end of the first business day following the discovery of any accident *[resulting from electrical contact with its energized electrical supply facilities which results in admission to a hospital or the fatality of an employee or other person or any other accident resulting from electrical contact considered significant by the utility. The electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.]* or event. Accidents or events that shall be reported shall be those resulting from:

(A) Electrical contact, arc, or flash with its energized electrical supply facilities that results in admission to a hospital or the fatality of an employee or other person;

(B) Human contact with electric current of significant voltage within areas where it supplies power or operates energized electrical supply facilities that results in admission to a hospital or the fatality of an employee or other person, even when the source

of the problem is believed to have originated on the customer’s side of the meter, provided the utility or rural electric cooperative first has received proper notice or has actual knowledge of the accident or event; or

(C) Any other accident or event resulting from electrical contact, arc, or flash considered significant by the utility or rural electric cooperative.

(5) The electric utility or rural electric cooperative shall submit to designated commission personnel within five (5) business days following the discovery a written report consisting of an update of the accident or event and any details not available at the time of the initial telephone notification.

[(5)](6) All reports and information submitted by electric utilities and rural electric cooperatives pursuant to this rule shall be subscribed by the president, treasurer, general manager, receiver, or other authorized representative of the electric utility or rural electric cooperative having knowledge of the subject matter and shall be stated to be accurate and complete, and contain no material misrepresentations or omissions, based upon facts of which the person subscribing the report or information has knowledge, information, or belief. *[Any information submitted through EFIS will bear the electronic signature of the utility representative who is submitting it.]*

[(6)](7) The reporting requirements prescribed by this rule shall be in addition to all other reporting requirements prescribed by law.

[(7)](8) The information contained in the reports filed pursuant to this rule shall be subject to the provisions of section 386.480, RSMo, and the use of that information in any proceeding before the commission shall be governed by the terms of 4 CSR 240-2.135 and any protective order issued by the commission in the proceeding, if a protective order has been issued.

[(8)](9) The receipt by the commission or commission staff of reports prescribed by this rule shall not bind the commission or commission staff to the approval or acceptance of, or agreement with, any matter contained in the reports for the purpose of fixing rates or in determining any other issue that may come before the commission.

[(9)](10) Upon proper application and after notice and an opportunity for hearing, the commission, in its discretion, may waive any provision of this rule for good cause shown.

AUTHORITY: sections 386.250 and 394.160, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Oct. 14, 2003, effective April 30, 2004. Amended: Filed Dec. 16, 2009.

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

PRIVATE COST: This proposed amendment will not cost affected 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 amendment with the Missouri Public Service Commission, Steven C. Reed, 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 March 5, 2010, and should include a reference to Commission Case No. EX-2010-0122. Comments may also be submitted via a filing using the commission’s electronic filing and information system (EFIS). A public hearing regarding this proposed amendment is scheduled for March 8, 2010, at 2:00 p.m. at the commission’s offices in the Governor Office Building, 200 Madison Street, Room 305, 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 amendment 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 AMENDMENT

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs. The commission is amending section (16); deleting sections (18), (19), and (21); renumbering sections (20) and (23); and renumbering and amending section (22).

PURPOSE: This amendment clarifies certain effective dates and other administrative procedures for proposed tariff revisions consistent with recent changes in the law.

(16) Requirements For Tariff Filings [Pursuant to Section 392.500, RSMo] That Change Rates For Services.

(A) The commission shall be notified at least ten (10) days in advance of a proposed increase in **individual** rates or charges or a proposed change in any classification or tariff resulting in an increase in rates or charges for competitive telecommunications services. **Commission notice shall be in the form of a tariff filing with a proposed effective date that is at least ten (10) days after the tariff has been filed. Potentially affected customers shall be notified at least ten (10) days prior to the rate increase.**

[1. A proposed increase in rates or charges or a proposed change in any classification or tariff resulting in an increase in rates or charges pursuant to section 392.500 is defined as a rate increase to existing rates or charges for any competitive service.

2. No other tariff changes, except as directed by commission order or as allowed under section (19) below, are permitted on ten (10) day's notice.

3. Commission notice shall be in the form of a tariff filing with a proposed effective date that is ten (10) days after the tariff has been filed.]

(B) The commission shall be notified at least one (1) day in advance of a proposed decrease in **individual** rates or charges or a proposed change in any classification or tariff resulting in a decrease in rates or charges for competitive telecommunications services. **Commission notice shall be in the form of a tariff filing with a proposed effective date that is at least one (1) day after the tariff has been filed.**

[1. A proposed decrease in rates or charges or a proposed change in any classification or tariff resulting in a decrease in rates or charges pursuant to section 392.500 is defined as:

A. A rate decrease to existing rates or charges for any competitive service;

B. A proposal to establish or revise a package of services involving a regulated intrastate service provided all regulated intrastate telecommunications services in the package are currently tariffed on an individual basis.

2. No other tariff changes, except as directed by commission order, are permitted on one (1) day's notice.

3. Commission notice shall be in the form of a tariff fil-

ing with a proposed effective date that is one (1) day after the tariff has been filed.

(C) A thirty (30)-day tariff filing is required to introduce or revise the terms and conditions of any competitive service available on an individual basis. A thirty (30)-day tariff filing is required to eliminate any package of services.]

(C) The commission shall be notified at least one (1) day in advance of either the introduction of a new package of services (as that term is used in section 392.200.12, RSMo Supp. 2009) or a change is made to an existing package of services. The commission shall be notified at least ten (10) days in advance of the elimination of a package of services. Commission notice shall be in the form of a tariff filing with a proposed effective date consistent with required commission notice.

(D) Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. New promotions or changes to existing promotions are allowed to go into effect after one (1) day prior notice to the commission. Promotions must be offered under tariff, and prior notification to the commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a nondiscriminatory manner.

(E) Changes of rates within a previously approved band of rates do not require tariff changes or prior commission notice.

[(18) Except as otherwise provided in this rule, no tariff will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage and allows the full thirty (30) days required by law from date of receipt until effective date requested in the cover letter.]

[(19) Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. Promotions are allowed to go into effect after seven (7) days prior notice to the commission for competitive services and after ten (10) days prior notice to the commission for noncompetitive services. Promotions must be offered under tariff, and prior notification to the commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a nondiscriminatory manner.]

[(20)](18) In the case of a change of name, the telecommunications company shall issue immediately and file with the commission an adoption notice substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date) or the telecommunications company shall file a new tariff under the new name." Specific requirements for filings regarding company name changes are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060. In addition to filing the items in 4 CSR 240-2.060, applicant must notify its customers at or before the next billing cycle of any name change affecting customer recognition of the company and file a copy of that notice with the adoption notice.

[(21) Tariffs sent for filing should be addressed to Secretary, Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102.]

[(22)](19) [Within six (6) months of the effective date of the rule, all] All telecommunications companies shall update the commission's electronic filing system with the current name, address, telephone number, and email address for the regulatory contact person within the telecommunications company[. This information shall be updated in the electronic filing system] within ten (10) business days of when changes occur.

[(23)](20) Waivers regarding compliance with the requirements of this rule granted under previously used rule numbers such as 4 CSR 240-30.010(2)(C) will continue in effect unless otherwise ordered by the commission.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded and readopted: Filed Jan. 28, 2004, effective Sept. 30, 2004. Amended: Filed May 12, 2006, effective Dec. 30, 2006. Amended: Filed Dec. 16, 2009.

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

PRIVATE COST: This proposed amendment will not cost affected 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 amendment with the Missouri Public Service Commission, Steve Reed, 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 March 5, 2010, and should include a reference to Commission File No. TX-2010-0159. Comments may also be submitted via a filing using the commission's electronic filing and information system (EFIS). A public hearing regarding this proposed amendment is scheduled for March 8, 2010, at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305, 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 amendment 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 33—Service and Billing Practices for
Telecommunications Companies**

PROPOSED AMENDMENT

4 CSR 240-33.160 Customer Proprietary Network Information. The commission is amending subsection (7)(F).

PURPOSE: This amendment alters and clarifies the filing compliance requirement.

(7) Safeguards Required for Use of Customer Proprietary Network Information.

(F) A [telecommunications company shall have an officer, as an agent of the company, sign and file with the commission a compliance certificate on an annual basis. The officer shall state in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this section. The] company shall [provide a] **annually submit statements [accompanying the certificate] in its annual report to the commission** explaining how its operating procedures ensure that it is or is not in compliance with the rules in this section. **Such statements will be in a format as described in the commis-**

sion's annual report form. Alternatively, a company may attach to its annual report a copy of its CPNI filing to the Federal Communications Commission if the company does not share CPNI with joint venture partners or independent contractors (except for billing and collection services). If a company does share such CPNI with joint venture partners or independent contractors, then the company must indicate whether confidentiality agreements are used that comply with 4 CSR 240-33.160(3)(A). In addition, the company shall include an explanation of any actions taken against any individual or entity that unlawfully obtains, uses, discloses, or sells CPNI and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. [This filing must be made annually with the commission on or before March 1, for data pertaining to the previous calendar year.]

AUTHORITY: sections 386.040, 386.250, 392.185(9), and 392.470, RSMo 2000. Original rule filed March 30, 2004, effective Nov. 30, 2004. Amended: Filed Jan. 25, 2008, effective Sept. 30, 2008. Amended: Filed Dec. 16, 2009.

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

PRIVATE COST: This proposed amendment will not cost affected 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 amendment with the Missouri Public Service Commission, Steve Reed, 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 March 5, 2010, and should include a reference to Commission File No. TX-2010-0160. Comments may also be submitted via a filing using the commission's electronic filing and information system (EFIS). A public hearing regarding this proposed amendment is scheduled for March 8, 2010, at 9:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305, 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 amendment 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 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 270—Early Childhood Education**

PROPOSED AMENDMENT

5 CSR 50-270.010 General Provisions Governing Programs Authorized Under the Early Childhood Development Act. The State Board of Education is proposing to amend subsection (1)(B) and the incorporated by reference material.

PURPOSE: This rule establishes policies and standards to administer a program of grants to local public school districts for the provision of early childhood screening, parent education, and programs for developmentally delayed children. Revisions to the administrative

guidelines include changes to the program structure, reimbursement, and recruitment plan.

(1) All programs and projects carried out by school districts under the Early Childhood Development Act (ECDA) shall be conducted in conformity with:

(B) The state “Early Childhood Development Act Program Guidelines and Administrative Manual,” revised [*January 2008/December 2009*], which is incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education (DESE) and is available at the Early Childhood Education Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480[,] or on DESE’s [*Internet*] **website**. This rule does not incorporate any subsequent amendments or additions. The “Early Childhood Development Act Program Guidelines and Administrative Manual” interprets state statutory requirements for the programs and establishes program management procedures consistent with state law and practice.

AUTHORITY: sections 178.691–178.699, RSMo 2000 and section 161.092, RSMo Supp. [2007] 2009. Original rule filed April 4, 1985, effective Sept. 3, 1985. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 4, 2010.

PUBLIC COST: This proposed amendment is estimated to cost the Department of Elementary and Secondary Education \$30,874,186 for Fiscal Year 2011, with the cost recurring annually over the life of the rule subject to appropriations. (*FY 2011 requested budget amount)*

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 the Missouri Department of Elementary and Secondary Education, ATTN: JoAnne Ralston, Director, Early Childhood Education, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

Title: 5 Department of Elementary and Secondary Education
 Division: 50 School Improvement
 Chapter: 270 Early Childhood Education
 Type of Rulemaking: Proposed Amendment
 Rule Number and Name: 5 CSR 50-270.010 General Provisions Governing Programs
 Authorized Under the Early Childhood Development Act

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education (Reimburse Education Agencies)	\$30,874,186* estimated amount for FY2011 with the cost recurring annually over the life of the rule subject to appropriations. (*FY2011 requested budget amount)

III. WORKSHEET**DISTRICT QUOTAS FOR FISCAL YEAR 2011 (2010-2011)**

High Needs	0 TO KE (HN)	Contacts	X \$60	\$14,307,041.00
Non High Needs	0 TO KE (NHN)	Contacts	X \$50	\$11,705,761.00
Screening	1 TO 3 (S1) 3 TO KE (S3)	Children	X \$25	\$ 3,027,950.00
Recruitment and Group Meetings		5% of total allocation		\$ 1,543,709.00
<u>Incarcerated Parents (IP)</u>				
High Needs	0 TO KE (IPHN)	Contacts	X \$ 60	\$284,475.00
Group Meetings	0 TO KE (IPGM)	Meetings	X \$ 75	\$5,250.00

Each school district is provided with a quota based on the previous year's service and the amount of funds appropriated to the program.

High Needs Parent Education for Families with Children Ages Prenatal To Kindergarten Entry (HN)

FY2011 quotas are based on the 46% of the FY2010 allocation. Up to 50% of the Parent Education Services may be used for families with children three to kindergarten entry provided a parent educator certified to use the three to kindergarten entry curriculum delivers the services.

Non High Needs Parent Education for Families with Children Ages Prenatal to Kindergarten Entry (NHN)

FY2011 quotas are based on the 38% of the FY2010 allocation. Up to 50% of the Parent Education Services may be used for families with children three to kindergarten entry provided a parent educator certified to use the three to kindergarten entry curriculum delivers the services.

Screening of Children Ages One and Two (S1)

FY2011 quotas are based on the FY2010 quota.

Screening of Children Ages Three to Kindergarten Entry (S3)

FY2011 quotas are based on the FY2010 quota.

Incarcerated Parent High Needs Parent Education (IPHN)

FY2011 allocation is based on the FY2010 allocation.

Incarcerated Parents Group Meetings (IPGM)

FY2011 quotas are based on 2 group meetings a month for a 12 month period.

IV. ASSUMPTIONS

The rule incorporates by reference *The Early Childhood Development Act Program Guidelines and Administrative Manual*. Aid included under these programs is limited exclusively to school districts. Due to this limitation, the proposed amendment will not require an expenditure of money by or a reduction in income for any person, firm, corporation, association, partnership, proprietorship, or business entity.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 60—Division of Career Education
Chapter 100—Adult Education**

PROPOSED AMENDMENT

5 CSR 60-100.020 Administration of High School Equivalence Program. The State Board of Education is proposing to amend section (1) to comply with changes in compulsory attendance requirements.

PURPOSE: This amendment changes the age that an individual may take the GED to comply with the compulsory age of attendance requirements under section 167.031, RSMo Supp. 2009.

(1) To be eligible to take the General Educational Development (GED) Tests and earn a Missouri High School Equivalence Certificate, a person must be a resident of Missouri (with a Missouri mailing address), and meet one (1) of the following requirements:

(A) Be [eighteen (18)] **seventeen (17)** years of age or older;
[(B) Be seventeen (17) years of age and withdrawn from school at least six (6) months from the last day of school attendance;]

[(C)](B) Be currently enrolled in school and qualify as a participant in an approved Missouri Option Program for at-risk youth; [or]
[(D)](C) Be sixteen (16) [or seventeen (17)] years of age, withdrawn from school, [and] **have successfully completed sixteen (16) units of credit toward high school graduation, and have written permission from the superintendent or principal of the school last attended; or**

1. Have the written permission of the superintendent or principal of the school last attended;

2. Have written permission of the parent or legal guardian, if home schooled; or

3. Be incarcerated or have the written permission of the juvenile judge if under the court's jurisdiction.]

(D) **If home schooled—be sixteen (16) years of age, have met the requirements of section 167.031, RSMo, for course instruction, and have written permission of the parent or legal guardian.**

AUTHORITY: sections 161.092 and 167.031, RSMo Supp. [2007] 2009 and sections 161.093 and 161.095, RSMo 2000. Original rule filed Oct. 10, 1969, effective Oct. 20, 1969. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 4, 2010.

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 the Department of Elementary and Secondary Education, Attention: Don Eisinger, Coordinator, Adult Education and Employment Training, Division of Career Education, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 4—Definitions**

PROPOSED RESCISSION

10 CSR 70-4.010 Definitions. This rule provided a legal description of terms used throughout Division 70.

PURPOSE: This rule is being rescinded and readopted due to the large number of changes and new definitions being proposed.

AUTHORITY: Chapter 278, RSMo 1986. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Amended: Filed Dec. 14, 1982, effective April 11, 1983. Rescinded: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 4—Definitions**

PROPOSED RULE

10 CSR 70-4.010 Definitions

PURPOSE: This rule provides a legal description of terms used throughout Division 70.

(1) Definitions. As used in these rules, unless the context otherwise requires—

(A) Act shall mean The Soil and Water Conservation Districts Law established pursuant to sections 278.060 to 278.155, RSMo;

(B) Agricultural activity shall mean any uses of land on farms for the production and sale of agricultural products that include, but are not limited to, agricultural crops, hay, livestock, poultry, or wood products. Agricultural activity shall not mean uses associated with recreational, residential, or publicly-owned areas;

(C) Allocated funds shall mean the Soil and Water Conservation Incentives Program (program) funds assigned by the Soil and Water Districts Commission (commission) for use pursuant to the act, but shall not mean funds obligated through contracts between soil and water conservation district boards of supervisors and landowners or operators;

(D) Certified technician shall mean a properly authorized Natural Resources Conservation Service (NRCS), Missouri Department of Conservation (MDC), or Missouri Department of Natural Resources (DNR) employee or a soil and water conservation district (district) employee that has received certification through a commission-approved program for planning, designing, installing, or implementing specific conservation practices;

(E) Commission policy shall mean the decisions promulgated by the commission at regularly-scheduled commission meetings. In the event that more than one (1) commission decision has been promulgated for the same issue, the most recent decision shall represent commission policy;

(F) Commission representative shall mean an entity, agent, or person authorized to act on behalf of the commission in the performance of its duties pursuant to the act. Commission representatives may include, but are not limited to: DNR, districts, NRCS, MDC, and

the Office of Administration;

(G) Conflict of interest shall mean any situation in which the decisions of a public official may be influenced by their personal interests or relationships;

(H) Conservation plan shall mean a written record of the objectives of an individual landowner or a group of landowners regarding planned land use and treatment within the identified farm units of the plan for the protection of soil and water resources. A conservation plan shall be developed in cooperation with the districts where the farm units are located and include a description of the locations and schedules for installing or implementing the conservation practices;

(I) Conservation practice, or practice, shall mean any structural or land management practice designed for the purpose of saving the soil and protecting the water resources of the state and implemented and maintained according to standards and specifications approved by the commission;

(J) Department of Natural Resources, or DNR, shall mean the state agency in Missouri that administers the rules, policies, and programs of the commission and provides assistance, training, and support to the districts;

(K) District board of supervisors, or district board, shall mean the local governing body of a soil and water conservation district, elected or appointed pursuant to the act;

(L) Eligible practice shall mean a conservation practice designated as eligible for state financial incentives by the commission pursuant to 10 CSR 70-5.020(1);

(M) Estimated approved costs shall mean the fair and reasonable costs for labor, materials, and equipment, as determined by the commission, that are minimum and necessary for installing or implementing eligible conservation practices with funds available through the program;

(N) Egress shall mean the right or permission to exit from a property. The right of egress is often a contract condition associated with the inspection, certification, and operation and maintenance of conservation practices;

(O) Farm shall mean land that is assigned a Farm Services Agency (FSA) farm number and three (3) acres or more in size on which agriculture activities are normally performed or land of any size from which one thousand dollars (\$1,000) or more of agriculture products are normally sold in a year;

(P) Farm Services Agency, or FSA, shall mean the federal agency in Missouri that maintains records of farm units, landowners, and operators and provides financial incentives for conservation practices through a voluntary partnership with the districts, NRCS, and private landowners;

(Q) Financial incentives shall mean the cost-share and incentive payments available to landowners or operators for installing structural practices and implementing changes to land management techniques;

(R) Gully erosion shall mean the erosion of soil from a narrow channel that is caused by the runoff of water during or immediately after heavy rainfall or snow melt. The distinction between a gully and a rill is depth. A gully is generally an obstacle to farm machinery and is too deep to be smoothed by normal tillage operations; whereas, a rill is of lesser depth and can be smoothed by normal farm tillage;

(S) Ingress shall mean the right or permission to enter a property. The right of ingress is often a contract condition associated with the inspection, certification, and operation and maintenance of conservation practices;

(T) Land representative shall mean the landowner, or a representative of the landowner authorized by a power-of-attorney, of any farm located within an area proposed to be established, and subsequently established, as a soil and water conservation district pursuant to the act. Each farm shall be entitled to representation by a land representative, provided, however, that any land representative must be a taxpayer of the county within which the district is located;

(U) Landowner shall mean any person, firm, or corporation hold-

ing title to any lands located within a district organized or to be organized pursuant to the act. Any landowner may be represented by a notarized proxy not more than one (1) year old;

(V) Maintenance life span shall mean a period of ten (10) years or the expected life of a conservation practice as determined by the commission, whichever is less, during which a landowner or operator is required to maintain the effectiveness of the practice;

(W) Missouri Department of Conservation, or MDC, shall mean the state agency in Missouri that certifies conservation practices and provides engineering, technical assistance, and design expertise to private landowners;

(X) Natural Resources Conservation Service, or NRCS, shall mean the federal agency in Missouri that certifies conservation practices, develops standards and specifications for practices, and provides financial and technical assistance for conservation practices through a voluntary partnership with the districts and private landowners and operators;

(Y) Needs assessment shall mean the process approved by the commission for prioritizing resource concerns in participating districts for the purpose of allocating or obligating state funds for the installation or implementation of conservation practices;

(Z) Obligated funds shall mean program funds committed through contracts between district boards and landowners or operators;

(AA) Operator shall mean the principal person that runs a farm by conducting or supervising the work, making day-to-day management decisions, and incurring expenses for applying or installing conservation practices. The operator could be a landowner, tenant, lessee, or sublessee. In the case of multiple operators, the landowner shall identify the principal farm operator and only that person shall be eligible to enter into contracts for implementing and maintaining conservation practices available to operators. In addition, if the operator is not the landowner, the operator must be authorized by a commission-approved landowner authorization form and listed with FSA as the operator of the applicable farm unit. Any operator may be represented by a notarized proxy not more than one (1) year old;

(BB) Participating district shall mean a soil and water conservation district that has executed a Memorandum of Understanding with the commission pursuant to 10 CSR 70-5.010(1);

(CC) Resource concern shall mean a problem area within a farm unit that is eroding above tolerable soil loss, has active gully erosion, or is impacting water resources. Resource concerns are treated by eligible practices as approved by the commission for each resource concern category. Resource concern categories may include, but are not limited to: sheet, rill, and gully erosion; woodland erosion; irrigation management; animal waste management; sensitive areas; nutrient and pest management; and grazing management;

(DD) Soil and water conservation district, or district, shall mean a county or one (1) or more of its townships that has been established as a soil and water conservation district pursuant to the act. If the district boundaries are less than the area of the county which contains it, but greater than the area of one (1) township, the additional township or townships included in the district need not be contiguous with the first township or with one another, but there shall be only one (1) soil and water conservation district within the boundaries of the same county;

(EE) Soil and water conservation incentive funds shall mean funds available through the program;

(FF) Soil and Water Conservation Incentives Program, or program, shall mean the Soil and Water Conservation Cost-Share Program established pursuant to the act and designed for the purpose of saving the soil and protecting the water resources of the state to preserve the productive power of Missouri agricultural land;

(GG) Soil and Water Districts Commission, or commission, shall mean the agency created by section 278.080, RSMo, for the administration of the soil and water conservation districts pursuant to the act;

(HH) Tolerable soil loss shall mean the maximum annual rate of soil loss in tons per acre that can be tolerated on a particular soil and

still permit the productive and sustainable use of soil resources; and

(II) Working day shall mean Monday through Friday except for observed holidays.

AUTHORITY: sections 278.070 and 278.080, RSMo Supp. 2009, section 278.110, RSMo 2000, and Chapter 278, RSMo 2000 and Supp. 2009. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Amended: Filed Dec. 14, 1982, effective April 11, 1983. Rescinded and readopted: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—State Funded Cost-Share Program**

PROPOSED RESCISSION

10 CSR 70-5.010 Apportionment of Funds. This rule established commission guidelines for allocation of funds available for the Missouri State Soil and Water Conservation Cost-Share Program.

PURPOSE: This rule is being rescinded and readopted due to the large number of changes being proposed.

AUTHORITY: sections 278.070 and 278.110, RSMo 2000 and section 278.080, RSMo Supp. 2007. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 26, 2007, effective May 30, 2008. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—Soil and Water Conservation Incentives
Program**

PROPOSED RULE

10 CSR 70-5.010 Allocation of Funds

PURPOSE: This rule establishes commission procedures for the allocation of program funds.

(1) General Availability of Funds. State funds shall be available only to landowners or operators of land located in soil and water conservation districts which have agreed to locally administer the program and have executed a Memorandum of Understanding with the commission setting forth the terms of assistance. To be eligible for state funds, a landowner or operator must obtain approval of a conservation plan for land owned or under their control. However, an approved conservation plan does not ensure that financial incentives will be provided to a landowner or operator.

(2) Annual Allocation of Funds. Funds available to the program for any fiscal year shall be allocated by the commission to participating districts by considering the district needs assessments according to criteria developed by the commission for saving the soil and protecting the water resources of the state.

(A) Fiscal Year Limitations. Funds allocated to the districts, but unobligated at the end of any fiscal year, shall be reallocated by the commission.

(B) Release of Funds for Reallocation. A district board may, at any time, provide written notice to the commission that it is releasing funds for reallocation by the commission that it does not expect to obligate before the end of the fiscal year.

(C) Termination of the Memorandum of Understanding. In the event that the Memorandum of Understanding required by 10 CSR 70-5.010(1) is terminated by any district board or by the commission, all funds unobligated by the district board as of the effective date of termination shall be reallocated by the commission.

(D) Use of Unobligated or Released Funds. Funds unobligated or released by any district board pursuant to 10 CSR 70-5.010(2)(A)–(C) shall be reallocated by the commission to other districts based on the district needs assessments or reserved by the commission for special allocations under 10 CSR 70-5.010(2)(E).

(E) Special Allocations. The commission may withhold funds from the annual allocations under 10 CSR 70-5.010(2) and may reserve funds released by the districts under 10 CSR 70-5.010(2)(A)–(C) for the purpose of allocating funds to districts for special projects pursuant to 10 CSR 70-5.020(7) which the commission considers necessary and of high importance for saving the soil and protecting the water resources of the state.

AUTHORITY: sections 278.070 and 278.080, RSMo Supp. 2009 and section 278.110, RSMo 2000. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 26, 2007, effective May 30, 2008. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded and readopted: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—State Funded Cost-Share Program**

PROPOSED RESCISSION

10 CSR 70-5.040 Cost-Share Rates and Reimbursement Procedures. This rule established cost-share rates and reimbursement procedures.

PURPOSE: This rule is being rescinded and readopted due to the large number of changes being proposed.

AUTHORITY: section 278.080, RSMo Supp. 2007. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—Soil and Water Conservation Incentives Program**

PROPOSED RULE

10 CSR 70-5.040 Contract Payment Rates and Requests

PURPOSE: This rule establishes the procedures for contract payment rates and requests.

(1) Contract Payment Rates. Contract payment rates for the statewide installation or implementation of eligible practices shall not exceed seventy-five percent (75%) of the estimated approved costs or the incentive rates or contract payment limitations established by the commission for resource concern categories or individual practices. However, the commission shall have authority to establish special contract payment rates of up to one hundred percent (100%) of the estimated approved costs, special incentive rates, and contract payment limitations in defined critical areas for: new practices pursuant to 10 CSR 70-5.060(5); special allocations pursuant to 10 CSR 70-5.010(2)(E); special projects pursuant to 10 CSR 70-5.020(7); and priority practices, which the commission considers necessary and of high importance for saving the soil and protecting the water resources of the state.

(2) Contract Payment Requests. After an eligible practice has been installed or implemented by the landowner or operator and certified by a certified technician, the landowner or operator may submit a contract payment request on commission-approved forms provided by the district. Landowners or operators shall submit the necessary forms and receipts as required by commission policy with each contract payment request.

AUTHORITY: sections 278.070 and 278.080, RSMo Supp. 2009. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded and readopted: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—State Funded Cost-Share Program**

PROPOSED RESCISSION

10 CSR 70-5.050 District Administration of the Cost-Share Program. This rule established guidelines for the administration of the Cost-Share Program by the participating districts.

PURPOSE: This rule is being rescinded and readopted due to the large number of changes being proposed.

AUTHORITY: sections 278.070, 278.080, and 278.110, RSMo 1986. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—Soil and Water Conservation Incentives Program**

PROPOSED RULE

10 CSR 70-5.050 District Administration of the Program

PURPOSE: This rule establishes procedures for the administration of the program by the participating districts.

(1) District Board Action on Contracts. The district board of each

participating district shall approve or disapprove each contract and contract change order. The action shall be recorded in the official minutes of the next available district board meeting, and the landowners or operators shall be notified of the action within ten (10) working days. If the contract is approved, the district board shall, at the same time, notify the landowner or operator of the contract payment amount determined pursuant to 10 CSR 70-5.020(4). Special circumstances may arise where district board approval for a contract, contract change order, or contract payment request is appropriate and needed before the next monthly district board meeting. In these cases, the district board shall establish specific criteria for delegating authority to approve that action by a district board member or subcommittee. All such approvals shall be reviewed at the next district board meeting and recorded in the official minutes of that meeting. Contracts may be approved by the district board only when there is a sufficient unobligated fund balance to provide the estimated amount based upon the actual cost information available to the district board. The district board shall not approve any contract in which the installation or implementation of the practice has already begun.

(2) Denial of Contracts by the District Board. The district board of each participating district shall have authority to deny any contract for participation in any program available through the district and administered by the commission. The district board shall notify the landowner or operator of the denial by certified letter, return receipt requested. The landowner or operator may request that the commission conduct a review of his or her contract. The request shall be in writing and mailed to the Soil and Water Districts Commission, PO Box 176, Jefferson City, MO 65102. The request must be received by the commission no later than thirty (30) days from the date the landowner or operator received the denial letter from the district board. If the written request is received by the commission within the thirty (30)-day timeframe, the commission shall schedule a review of the contract at a regularly scheduled meeting of the commission within one hundred twenty (120) days of the district board's denial. The commission shall give the landowner or operator at least twenty (20)-days' notice by letter of the regularly scheduled meeting when the commission will review the contract. The landowner or operator, upon request, may appear before the commission and provide justification for approval of the contract in person, by a representative, or in writing.

(3) District Review of Contract Payment Requests. Upon completion of an eligible practice, the district shall review the contract payment request prepared by the landowner or operator on commission-approved forms pursuant to 10 CSR 70-5.040(2). If the district finds that the practice was installed or implemented properly, and the contract payment request is complete, accurate, and accompanied by all required supporting documentation, then the district board shall approve the contract payment request. If the district determines that the contract payment request is prepared improperly, or that other deficiencies exist, it shall so notify the landowner or operator and provide the landowner or operator with a reasonable opportunity to correct the deficiencies and resubmit the contract payment request.

(4) Contract Violations. If the district becomes aware of an alleged contract violation, a district representative shall investigate the alleged violation and report the results of the investigation to the district board.

(A) If the district board determines that a violation has occurred, it shall notify the landowner or operator of the violation by certified letter, return receipt requested, and require the landowner or operator to correct the problem at his or her own expense within a reasonable and fair period of time.

(B) If the violation is not corrected by the specified period of time, the district board shall notify the landowner or operator by a second certified letter, return receipt requested, that he or she remains in violation of their contract and identify the actions that will be taken by the district board or required of the landowner or operator.

1. If the contract violation is unrelated to the removal, alteration, or modification of the practice, the district board shall notify the landowner or operator that the matter is being referred to the commission for further action.

2. If the practice has been removed, altered, or modified so as to lessen its effectiveness during the maintenance life span of the practice, without prior approval of the district board, the district board shall notify the landowner or operator, or his or her heirs, assignees, or other transferees, of the amount that must be refunded to the program within thirty (30) days after receipt of the district board's letter.

A. The amount to be repaid shall be based on the prorated amount of the payment previously received for the practice or the portion of the practice that has been removed, altered, or modified.

B. If the payment is not received by the district board within thirty (30) days, the matter shall be referred to the commission for further action.

(5) District Assistance to Landowners or Operators. The district shall provide assistance to landowners or operators in completing any commission-approved forms and with any other program matters.

(6) Record Keeping. The district shall maintain records of the funds obligated for conservation practices, program expenditures, and other information, as required by commission policy, using software provided by a commission representative.

(7) Filing System. To provide for efficient processing of requests for contract payments and maintenance of necessary documentation related to the administration of the program, the district shall develop and maintain a filing system which includes copies of all forms completed by the landowner or operator and all other information considered applicable to the installation or implementation of the eligible practices and the financial incentives provided. The files shall be available for inspection by a commission representative or representatives of the state auditor's office during normal business hours of the district.

(8) Delegation of Responsibilities by the District Board. The district board may delegate the following responsibilities to a district board member or subcommittee of the district board:

- (A) Approval or denial of contracts;
- (B) Approval or denial of contract change orders;
- (C) Approval of contract payment requests; or
- (D) Any other responsibilities assigned to district boards, except the following which may not be delegated by the district board:
 1. Development of an annual priority list of preferred practices;
 2. Determination of special contract payment rates;
 3. Recording of maintenance agreements and the rights of ingress and egress;
 4. Assumption of all or a portion of the operation and maintenance responsibilities for landowners or operators;
 5. Determination of contract violations; and
 6. Approval or denial of requests for removing, altering, or modifying practices; and

(E) Any approvals or denials of contracts, contract change orders, or contract payment requests by a district board member or a subcommittee of the district board shall be discussed and approved at the next available district board meeting.

(9) Conflicts of Interest. District board members shall not vote on or use any delegated authority to approve or deny any contracts, contract change orders, or contract payment requests for themselves, any relatives by blood or marriage, or any other person in which they have a conflict of interest.

AUTHORITY: sections 278.070 and 278.080, RSMo Supp. 2009 and section 278.110, RSMo 2000. Original rule filed Aug. 12, 1980,

effective Jan. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded and readopted: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—State Funded Cost-Share Program**

PROPOSED RESCISSION

10 CSR 70-5.060 Commission Administration of the Cost-Share Program. This rule established guidelines for the administration of the Cost-Share Program by the commission.

PURPOSE: This rule is being rescinded and readopted due to the large number of changes being proposed.

AUTHORITY: sections 278.070(4), 278.080(8), and 278.110.8, RSMo Supp. 1995. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—Soil and Water Conservation Incentives
Program**

PROPOSED RULE

10 CSR 70-5.060 Commission Administration of the Program

PURPOSE: This rule establishes procedures for the administration of the program by the commission and its representatives.

(1) Forms and Guidance Documents. A commission representative shall prepare and make available to participating districts all com-

mission-approved forms necessary for district administration. A commission representative shall also prepare and update, as necessary, guidance documents such as handbooks and training manuals for district use in assisting the commission with administration of the program.

(2) Review of Contract Payment Requests. Upon receipt of a district board-approved contract payment request on an appropriate commission-approved form, a commission representative shall review the request and supporting documentation. If the request is determined to be complete and accurate, a commission representative shall provide payment to the landowner or operator.

(3) Incomplete or Inaccurate Contract Payment Requests. If a commission representative determines that the information contained in the contract payment request is incomplete or inaccurate, the district shall be notified of the deficiencies. The district shall then request the necessary corrections from the landowner or operator. No payment shall be authorized until the commission representative has determined that the contract payment request and supporting documentation are complete and accurate. Contract payment conditions (e.g., maintenance agreements, rights of ingress and egress), as determined by the district board, shall not be recorded in the county until the payment has been authorized by the commission representative and received by the landowner or operator.

(4) Contract Violations. If the commission becomes aware of an alleged contract violation, a commission representative shall investigate the alleged violation and report the results of the investigation to the commission and the district board.

(A) If the district board determines that a violation has occurred, it shall notify the landowner or operator of the violation by certified letter, return receipt requested, and require the landowner or operator to correct the violation at his or her own expense within a reasonable and fair period of time.

(B) If the violation is not corrected by the specified period of time, the district board shall notify the landowner or operator by a second certified letter, return receipt requested, that he or she remains in violation of their contract and identify the actions that will be taken by the district board or required of the landowner or operator.

1. If the violation is unrelated to the removal, alteration, or modification of the practice, the district board shall notify the landowner or operator that the matter is being referred to the commission for further action.

2. If the practice has been removed, altered, or modified so as to lessen its effectiveness during the maintenance life span of the practice without prior approval of the district board, the district board shall notify the landowner or operator, or his or her heirs, assignees, or other transferees, of the amount that must be repaid to the program within thirty (30) days after receipt of the district board's second certified letter.

A. The amount to be repaid shall be based on the prorated amount of the payment previously received for the practice or the portion of the practice that has been removed, altered, or modified.

B. If the repayment is not received by the district board within thirty (30) days, the matter shall be referred to the commission for further action.

C. Within thirty (30) days after receiving the second certified letter from the district board, the landowner or operator may dispute the district board's judgment by making a written request to the commission that they review the evidence regarding the district board's decision. The written request shall be mailed to the Soil and Water Districts Commission, PO Box 176, Jefferson City, MO 65102.

D. If the written request is received by the commission within the thirty (30)-day timeframe:

(I) The commission shall schedule the review of the violation at a regularly scheduled meeting of the commission within one hundred twenty (120) days of the district board's denial.

(II) A commission representative shall give the landowner

or operator at least twenty (20)-days' notice by letter of the regularly scheduled meeting when the commission will review the violation.

(III) The landowner or operator, upon request, may appear before the commission and provide justification for his or her actions in person, by a representative, or in writing.

(IV) If the commission determines that no violation has occurred or that extenuating circumstances justify the landowner's or operator's actions, the district board's requirement for repayment shall be withdrawn, and a commission representative shall so notify the landowner or operator of its decision by certified letter, return receipt requested.

(V) If, however, the commission determines that the violation did occur, a commission representative shall so notify the landowner or operator by certified letter, return receipt requested, that repayment is required within thirty (30) days after receipt of the commission representative's letter.

(C) If the required repayment is not received from the landowner or operator within thirty (30) days after receipt of the commission representative's letter or if all contract violations have not been corrected at the landowner's or operator's expense within the time specified by the commission, the commission may refer the matter to the Office of the Attorney General for further action.

(5) New Practices. The commission shall have authority to conduct a pilot project for the purpose of testing the development and implementation of new practices appropriate for future soil and water conservation resource needs. Any pilot project shall be conducted for a specified period of time within a defined critical area determined by the commission.

AUTHORITY: sections 278.070 and 278.080, RSMo Supp. 2009 and section 278.110, RSMo 2000. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed July 29, 2009, effective Aug. 8, 2009, expires Feb. 25, 2010. Rescinded and readopted: Filed Jan. 4, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Bryan Hopkins, Director, Soil and Water Conservation Program, PO Box 176, 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 12—DEPARTMENT OF REVENUE

Division 30—State Tax Commission

Chapter 3—Local Assessment of Property and Appeals From Local Boards of Equalization

PROPOSED AMENDMENT

12 CSR 30-3.010 Appeals From the Local Board of Equalization. The commission is amending subsection (1)(B).

PURPOSE: This amendment will allow new property owners the chance to appeal the assessment of their property when the prior owner was not notified of an increase or when there is insufficient time to appeal to the board of property after the property is transferred.

(1) Every owner of real property or tangible personal property shall have the right to appeal from the decision of the local board of equalization, upon compliance with the following rules:

(B) A complaint appealing a property assessment shall be filed not later than September 30 or within thirty (30) days of the decision of the board of equalization, whichever is later.

1. In any county or the City of St. Louis, **the owner may appeal directly to the State Tax Commission (a)** where the assessor fails to notify the **current** owner of the property[, or the predecessor in title or interest,] of an initial assessment or an increase in assessment from the previous year, prior to **thirty (30) days before** the deadline for filing an appeal to the board of equalization, [the owner may appeal directly to the State Tax Commission] **including instances in which real property was transferred and the prior owner was notified, or (b) where a new owner purchased real property less than thirty (30) days before the deadline for filing an appeal to the board of equalization or later in the tax year, regardless if the assessment is an initial assessment, an increase or decrease in assessment, or an assessment established in the prior year.** Appeals under this paragraph shall be filed within thirty (30) days after a county official mailed a tax statement or otherwise first communicated the assessment or the amount of taxes to the owner or on or before December 31 of the tax year in question, whichever is later. Proof of late notice, **the date of purchase, and/or notice sent to the prior owner** shall be attached to, or set forth in, the complaint.

2. A property owner who, due to lack of notice, files an appeal directly with the State Tax Commission after tax statements are mailed shall pay his or her taxes under protest pursuant to the requirements of section 139.031[. 1], RSMo, and the county collector shall upon receiving either the payment under protest or the notice specified in section [140.430] **138.430**, RSMo, impound all portions of taxes which are in dispute. Payment of taxes without a section 139.031[. 1], RSMo, protest and prior to the time when the State Tax Commission's notice under section 138.430.4, RSMo, is received by the county collector[,] will result in disbursement of taxes and dismissal of complainant's appeal;

AUTHORITY: section 138.430, RSMo Supp. 2009. This rule was previously filed as 12 CSR 30-2.030. Original rule filed Dec. 13, 1983, effective March 12, 1984. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 21, 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 Sandy Wankum, Administrative Secretary, State Tax Commission, PO Box 146, Jefferson City, MO 65102, (573) 751-2414. 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 12—DEPARTMENT OF REVENUE

Division 30—State Tax Commission

Chapter 3—Local Assessment of Property and Appeals From Local Boards of Equalization

PROPOSED AMENDMENT

12 CSR 30-3.025 Collateral Estoppel. The commission is amending this rule by deleting section (5).

PURPOSE: This amendment cleans up the rule since the section being deleted will be incorporated into another rule.

[(5) A taxpayer who acquires title to or interest in property after the close of the board of equalization appeal hearings may not appeal to the commission for that tax year if the predecessor in title or interest had not appealed to the board of equalization for the year in which the transfer occurred. If the predecessor in title or interest had appealed to the board of equalization, and if such predecessor or successor in title or interest timely filed an appeal to the commission which is still active at the time of transfer of title or interest, the successor in title or interest may then complete the appeal process for that tax year before the commission. If the predecessor in title or interest litigated the issue of assessed valuation of the subject property in the odd-numbered year, the successor in title or interest to the same property may not lodge an appeal in the following even-numbered year for the same property unless there has been new construction or improvements as defined in 12 CSR 30-3.001.]

AUTHORITY: sections 138.320, 138.431, and 138.432, RSMo [1994] 2000 and sections 137.115 and 138.430, RSMo Supp. [1999] 2009. Original rule filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed July 19, 2000, effective Feb. 28, 2001. Amended: Filed Dec. 21, 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 Sandy Wankum, Administrative Secretary, State Tax Commission, PO Box 146, Jefferson City, MO 65102, (573) 751-2414. 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 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 4—Agricultural Land Productive Values**

PROPOSED AMENDMENT

12 CSR 30-4.010 Agricultural Land Productive Values. The commission is amending this rule to adjust agricultural land values.

PURPOSE: This rule complies with the requirement of section 137.021, RSMo, to publish a range of productive values for agricultural and horticultural land for the ensuing tax year.

(1) Agricultural Land Grades and Values. The following are definitions of agricultural land grades and the productive values of each:

(A) Grade #1. This is prime agricultural land. Condition of soils is highly favorable with no limitations that restrict their use. Soils are deep, nearly level (zero to two percent (0–2%) slope) or gently sloping with low erosion hazard and not subject to damaging overflow. Soils that are consistently wet and poorly drained are not placed in Grade #1. They are easily worked and produce dependable crop yields with ordinary management practices to maintain productivity—both soil fertility and soil structure. They are adapted to a wide variety of crops and suited for intensive cropping. Use value: *[nine*

hundred eighty-five dollars (\$985)] one thousand two hundred seventy dollars (\$1,270);

(B) Grade #2. These soils are less desirable in one (1) or more respects than Grade #1 and require careful soil management, including some conservation practices on upland to prevent deterioration. This grade has a wide range of soils and minimum slopes (mostly zero to five percent (0–5%)) that result in less choice of either crops or management practices. Primarily bottomland and best upland soils. Limitations—

1. Low to moderate susceptibility to erosion;
2. Rare damaging overflows (once in five to ten (5–10) years); and

3. Wetness correctable by drainage. Use value: *[eight hundred ten dollars (\$810)] one thousand forty-four dollars (\$1,044);*

(C) Grade #3. Soils have more restrictions than Grade #2. They require good management for best results. Conservation practices are generally more difficult to apply and maintain. Primarily good upland and some bottomland with medium productivity. Limitations—

1. Gentle slope (two to seven percent (2–7%));
2. Moderate susceptibility to erosion;
3. Occasional damaging overflow (once in three to five (3–5) years) of Grades #1 and #2 bottomland; and

4. Some bottomland soils have slow permeability, poor drainage, or both. Use value: *[six hundred fifteen dollars (\$615)] seven hundred ninety-three dollars (\$793);*

(D) Grade #4. Soils have moderate limitations to cropping that generally require good conservation practices. Crop rotation normally includes some small grain (for example, wheat or oats), hay, or both. Soils have moderately rolling slopes and show evidence of serious erosion. Limitations—

1. Moderate slope (four to ten percent (4–10%));
2. Grade #1 bottomland subject to frequent damaging flooding (more often than once in two (2) years), or Grades #2 and #3 bottomland subject to occasional damaging flooding (once every three to five (3–5) years);
3. Poor drainage in some cases; and

4. Shallow soils, possibly with claypan or hardpan. Use value: *[three hundred eighty-five dollars (\$385)] four hundred ninety-six dollars (\$496);*

(E) Grade #5. Soils are not suited to continuous cultivation. Crop rotations contain increasing proportions of small grain (for example, wheat or oats), hay, or both. Upland soils have moderate to steep slopes and require conservation practices. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));
2. Grades #2 and #3 bottomland subject to frequent damaging flooding (more than once in two (2) years) and Grade #4 bottomland subject to occasional damaging flooding; and

3. Serious drainage problems for some soils. Use value: *[one hundred ninety-five dollars (\$195)] one hundred forty-seven dollars (\$147);*

(F) Grade #6. Soils are generally unsuited for cultivation and are limited largely to pasture and sparse woodland. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));
2. Severe erosion hazards present;
3. Grades #3 and #4 bottomland subject to frequent damaging flooding (more than once in two (2) years), and Grade #5 bottomland subject to occasional damaging flooding (once every three to five (3–5) years); and

4. Intensive management required for crops. Use value: *[one hundred fifty dollars (\$150)] one hundred thirteen dollars (\$113);*

(G) Grade #7. These soils are generally unsuited for cultivation and may have other severe limitations for grazing and forestry that cannot be corrected. Limitations—

1. Very steep slopes (over fifteen percent (15%));
2. Severe erosion potential;

3. Grades #5 and #6 bottomland subject to frequent damaging flooding (more than once in two (2) years);

4. Intensive management required to achieve grass or timber productions; and

5. Very shallow topsoil. Use value: *[seventy-five dollars (\$75)]* **fifty-seven dollars (\$57)**;

(H) Grade #8. Land capable of only limited production of plant growth. It may be extremely dry, rough, steep, stony, sandy, wet or severely eroded. Includes rivers, running branches, dry creek and swamp areas. The lands do provide areas of benefit for wildlife or recreational purposes. Use value: thirty dollars (\$30); and

(I) Definitions. The following are definitions of flooding for purposes of this rule:

1. Damaging flooding. A damaging flood is one that limits or affects crop production in one (1) or more of the following ways:

A. Erosion of the soil;

B. Reduced yields due to plant damage caused by standing or flowing water;

C. Reduced crop selection due to extended delays in planting and harvesting; and

D. Soil damage caused by sand and rock being deposited on the land by flood waters;

2. Frequent damaging flooding. Flooding of bottomlands that is so frequent that normal row cropping is affected (reduces row crop selection); and

3. Occasional damaging flooding. Flooding of bottomland that is so infrequent that producing normal row crops is not compromised in most years.

(2) Forest Land and Horticultural Land. The following prescribes the treatment of forest land and horticultural land:

(A) Forest land, whose cover is predominantly trees and other woody vegetation, should not be assigned to a land classification grade based on its productivity for agricultural crops. Forest land of two (2) or more acres in area, which if cleared and used for agricultural crops, would fall into land grades #1–#5 should be placed in land grade #6; or if land would fall into land grades #6 or #7 should be placed in land grade #7. Forest land may or may not be in use for timber production, wildlife management, hunting, other outdoor recreation or similar uses; and

(B) Land utilized for the production of horticultural crops should be assigned to a land classification grade based on productivity of the land if used for agricultural crops. Horticultural crops include fruits, ornamental trees and shrubs, flowers, vegetables, nuts, Christmas trees and similar crops which are produced in orchards, nurseries, gardens or cleared fields.

AUTHORITY: section 137.021, RSMo 2000. Original rule filed Dec. 13, 1983, effective March 12, 1984. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 21, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions forty-six thousand dollars (\$46,000) statewide.

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 Sandy Wankum, Administrative Secretary, State Tax Commission, PO Box 146, Jefferson City, MO 65102, (573) 751-2414. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
 PUBLIC COST**

- I. Department Title:** Department of Revenue
Division Title: Division 30 State Tax Commission
Chapter Title: Chapter 4 Agricultural Land Productivity Value

Rule Number and Name:	12 CSR-30.4.010 Agricultural Land Productivity Value
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
114 County Assessors	\$46,000 statewide

III. WORKSHEET

The cost of updating productivity grade values would be negligible. The cost of generating notices of increased assessments and mailing them to the taxpayers would be very roughly estimated as follows:

- Thirty-five percent of the 655,000 agricultural parcels, or 230,000, would be affected.
- Estimating that the average agricultural taxpayer with land in grades one through four owns three agricultural parcels (or two agricultural parcels and a residential parcel that could receive an increase notice) would reduce the number of impact notices to be mailed to approximately 76,667.
- Estimating the cost to print and mail each notice at \$0.60, the total cost statewide would be \$46,000.

IV. ASSUMPTIONS

Title 15—ELECTED OFFICIALS
Division 40—State Auditor
Chapter 4—Audits of Fire Protection Districts in St.
Louis and Greene Counties

PROPOSED AMENDMENT

15 CSR 40-4.010 Requirements for Districts. The state auditor is amending sections (3) and (4).

PURPOSE: This amendment updates auditing requirements to comply with various provisions of generally accepted government auditing standards.

(3) The district shall require from the independent auditor an engagement letter which sets out all essential particulars. A copy of the engagement letter shall be submitted to the state auditor for his/her review. *[before commencement of audit fieldwork. The purpose of this review is to provide reasonable assurance that the district has contractually committed an auditor to provide services to satisfy requirements of 15 CSR 40-4. The contents of this letter should include, but are not limited to:*

(A) Period for which the financial statements are audited;

(B) Purpose of the audit;

(C) Scope of the audit, including consideration of the internal control structure and tests of compliance with applicable laws and regulations;

(D) Provisions that the auditor will communicate, in writing, to the district material weaknesses or reportable conditions in the internal control structure, instances of noncompliance with applicable laws and regulations and other areas of possible improvement;

(E) Provision that all workpapers, etc., will be made available to the state auditor for his/her review upon his/her request;

(F) Provision that the auditor will comply with applicable rules issued by the state auditor under 15 CSR 40;

(G) Provision that the auditor will discuss with the district any factors s/he may discover which would prevent him/her from issuing an unqualified opinion on the financial statements and allow the district and the auditor the opportunity to arrive at a resolution acceptable to both;

(H) Statement of the auditor's responsibility for detection of errors, irregularities and illegal acts; and

(I) The estimated cost of the audit and the rates which are the basis for that estimate.]

(4) The district *[must]* shall file a copy of the completed audit report with the state auditor within six (6) months after the close of the audit period. If any audit report fails to comply with promulgated rules, the state auditor *[will]* shall notify the district and specify the defects. If the specified defects are not corrected within ninety (90) days from the date of the state auditor's notice to the district, or if a copy of the required audit report has not been received by the state auditor within the specified time, the state auditor *[will]* shall make, or cause to be made, the required audit at the expense of the district.

AUTHORITY: section 321.690, RSMo [Supp. 1993] 2000. Original rule filed May 12, 1978, effective Sept. 11, 1978. Amended: Filed Dec. 2, 1985, effective Feb. 13, 1986. Amended: Filed June 14, 1994, effective Nov. 30, 1994. Amended: Filed Dec. 17, 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 Missouri State Auditor's Office, PO Box 869, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 40—State Auditor
Chapter 4—Audits of Fire Protection Districts in St.
Louis and Greene Counties

PROPOSED AMENDMENT

15 CSR 40-4.020 Standards for Auditing and Financial Reporting. The state auditor is amending sections (1), (3), and (4) and deleting section (2).

PURPOSE: This amendment updates auditing requirements to comply with various provisions of generally accepted government auditing standards.

(1) The independent auditor shall meet all requirements of Chapter 326, RSMo. *The auditor must be able to demonstrate that s/he meets the independence criteria contained in], and the code of professional ethics and rules of conduct promulgated by the Missouri State Board of Accountancy.*

[(2) The independent auditor shall provide to the state auditor reasonable notification of any entrance or exit conferences held with the district. This notification shall be sufficiently in advance to allow the state auditor to attend the entrance or exit conference at his/her discretion. Upon request, the independent auditor shall provide a draft copy of the audit report and management letter to the state auditor prior to the exit conference.]

[(3)](2)The audit shall conform to the standards [for auditing of governmental organizations, programs, activities and functions as] (hereafter referred to as "generally accepted government auditing standards") established by the [c]Comptroller [g]General of the United States and applicable to financial audits of government entities, programs, activities, and functions.

[(4)](3) The contents of the financial [statements, supplementary data and accompanying notes] report shall be presented in conformity with generally accepted accounting principles.

AUTHORITY: section 321.690, RSMo [Supp. 1993] 2000. Original rule filed May 12, 1978, effective Sept. 11, 1978. Amended: Filed Dec. 2, 1985, effective Feb. 13, 1986. Amended: Filed June 14, 1994, effective Nov. 30, 1994. Amended: Filed Dec. 17, 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 Missouri State Auditor's Office, PO Box 869, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 40—State Auditor
Chapter 4—Audits of Fire Protection Districts in St. Louis and Greene Counties

PROPOSED AMENDMENT

15 CSR 40-4.030 Contents of Audit Reports. The state auditor is amending sections (2) and (3) and adding section (4).

PURPOSE: This amendment updates auditing requirements to comply with various provisions of generally accepted government auditing standards.

(2) [All] The audit report/s] shall contain:

[(B) A report on the financial statements;]

[(C)](B) [Combined] The financial statements and [appropriate note disclosures;] other information required by generally accepted accounting principles; and

[(D) Other financial information which includes, but is not limited to, the following:

1. Supplemental schedule of expenditures/expenses by object, if not included in the financial statements;

2. Tax rates and assessed valuation;

3. Schedule of insurance in force which shall include, in addition to other information, the agent for each policy; and

4. Principal officeholders who held office during the period under audit, compensation received by each official in performance of his/her duty and all other compensation or reimbursement of expenses made by the district to each officeholder; and]

(C) The auditor's reports required by generally accepted government auditing standards: a report of the financial statements and other financial information and a report on internal control over financial reporting and on compliance and other matters.

[(E) A report on the consideration of the internal control structure, a report on the tests of compliance with applicable laws and regulations and a management letter communicating areas of possible improvement not otherwise reported.] The required scope of audit for the reports [and management letter] is set forth in 15 CSR 40-4.040[(3)]. The reports [and management letter] shall include the findings and recommendations, if any, which the auditor developed during his/her audit and the district's responses to those findings and recommendations. [The reports and management letter shall also indicate the nature of previous recommendations and the extent to which the district has implemented those recommendations.]

(3) [If the district or the auditor deems it appropriate,] The audit report/s] may contain or utilize [the following:] a statistical section to include other information

[(A) A history and organization section prepared by the district (unaudited);

(B) Comparative financial data for one (1) or more years; and

(C) Other statements, exhibits, schedules or analyses as] deemed necessary or appropriate by the district [or the auditor].

(4) As part of, or along with, the audit report, the auditor shall submit a management letter communicating areas of possible improvement not otherwise reported.

AUTHORITY: section 321.690, RSMo [Supp. 1993] 2000. Original rule filed May 12, 1978, effective Sept. 11, 1978. Amended: Filed Dec. 2, 1985, effective Feb. 13, 1986. Amended: Filed June 14, 1994, effective Nov. 30, 1994. Amended: Filed Dec. 17, 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 Missouri State Auditor's Office, PO Box 869, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 40—State Auditor
Chapter 4—Audits of Fire Protection Districts in St. Louis and Greene Counties

PROPOSED AMENDMENT

15 CSR 40-4.040 Scope of Audit. The state auditor is amending sections (2) and (3) and deleting section (4).

PURPOSE: This amendment updates auditing requirements to comply with various provisions of generally accepted government auditing standards.

(2) The independent auditor shall prepare an engagement letter in accordance with generally accepted government auditing standards. The contents of this letter should include, but are not limited to:

(A) Provision that all audit documentation will be made available to the state auditor for his/her review upon his/her request; and

(B) Provision that the auditor will comply with applicable rules issued by the state auditor under 15 CSR 40.

[(2)](3) The audit shall include those tests of the accounting records and other audit[ing] procedures which the independent auditor considers necessary in the circumstances to conform to [the] generally accepted government auditing standards. [for auditing of governmental organizations, programs, activities and functions as established by the comptroller general of the United States.]

[(3)](A) As part of the audit [described in section (2)], the auditor [will] shall obtain an understanding of the district and its environment, including its internal control [structure,] and assess [control] the risk [and report any material weaknesses or reportable conditions] of material misstatement of the financial statements. The auditor [will] shall also test compliance with provisions of applicable laws, [and] regulations, [and report all material instances of noncompliance. As a part of, or in addition to, audit tests or procedures which may be necessary for the audit, the auditor shall—]contracts, and grant agreements.

[(A) Review systems, procedures and management practices, including:

1. Review cash management practices to the extent necessary to determine whether significant improvements appear practicable and economically justifiable;

2. Evaluate the purchasing function to the extent necessary to determine that the district generally receives fair value, for example, bidding of significant purchases; that purchases generally represent items consistent with the function of the district; and that there is not significant likelihood of misuse or misappropriation of the district's resources through the purchasing process;

3. Review fixed asset records and procedures to the extent necessary to determine that fixed assets are properly recorded, physically controlled and in the possession of the district;

4. Review fidelity bond coverages to determine that all persons with access to assets of the district appear covered in sufficient amounts;

5. Evaluate the budgeting practices to the extent necessary to determine whether significant improvements appear practicable and economically justifiable;

6. Review related party transactions;

7. Review evaluate other areas as required by the district; and

8. Review significant areas or matters which come to the attention of the auditor;

(B) The auditor will note areas of possible improvement in the district's systems, procedures and management practices. In evaluating district systems, procedures and management practices, the auditor should consider whether improvements appear practicable and economically justifiable.

(C) Test compliance with applicable laws and regulations, including:

1. Design the audit to provide reasonable assurance of detecting errors, irregularities and illegal acts that could have a direct and material effect on the financial statements;

2. Be aware of the possibility of illegal acts that could have an indirect and material effect on the financial statements; and

3. Test compliance with other legal provisions as s/he deems necessary or appropriate in the circumstances.]

[(D)](B) Legal provisions which the auditor should consider in [his/her] the audit include, but are not limited to, the following]:

1. Article III, Sections 38(a) and 39(3) and Article VI, Section 25, *Constitution of Missouri* limitations on use of funds and credit;

2. Article VI, Section 26, *Constitution of Missouri* limitations on indebtedness without popular vote;

3. Article VI, Section 29, *Constitution of Missouri* application of funds derived from public debts;

4. Article VII, Section 6, *Constitution of Missouri* penalty for nepotism;

5. Chapter 67, RSMo, budgetary requirements;

6. Sections 70.210 to 70.230 and [S]section 432.070, RSMo, contracts;

7. Section 105.145, RSMo, annual report;

8. Chapter 105, RSMo, conflict of interest;

9. Chapter 108, RSMo, bond issues; and

10. Chapter 321, RSMo, fire protection districts[.];

[11. Other applicable portions of the *Constitution of Missouri* and the *Missouri Revised Statutes*;

12. Applicable sections of *Code of State Regulations*;

and

13. Other applicable legal provisions.]

[(4) The auditor shall report on the reviews and examinations required by this rule in a management letter as set forth in 15 CSR 40-4.030(2)(E).]

AUTHORITY: section 321.690, RSMo [Supp. 1993] 2000. Original rule filed May 12, 1978, effective Sept. 11, 1978. Amended: Filed Dec. 2, 1985, effective Feb. 13, 1986. Amended: Filed June 14, 1994, effective Nov. 30, 1994. Amended: Filed Dec. 17, 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 Missouri State Auditor's Office, PO Box 869, 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System
of Missouri
Chapter 5—Retirement, Options and Benefits

PROPOSED AMENDMENT

16 CSR 10-5.010 Service Retirement. The Public School Retirement System of Missouri is amending sections (2) and (6).

PURPOSE: This amendment changes the length of the required termination period from sixty (60) to thirty (30) days, changes the manner in which a retiree may be employed by a covered school district during the termination period, implements pro rata limitations on hours worked and earnings allowed, and requires the employer and retiree to keep a log of hours worked and earnings during retirement.

(2) The earliest date on which service retirement may become effective is the first day of the calendar month following the calendar month in which the services of the member are terminated, or the first day of the calendar month following the filing of the Application for Service Retirement, whichever is later; except that the earliest date on which service retirement may become effective for a member retiring after receiving credit for a year of membership service shall be July 1, the first day of the fiscal year following the termination of services. Termination from employment covered by the retirement system prior to the effective date of retirement is required to be eligible for a retirement benefit. A member shall not be deemed to have terminated employment if the member is employed in [a position] **any capacity by an employer** covered by the retirement system within [sixty (60) days] **one (1) month** after his or her effective date of retirement. A member shall not be deemed to have terminated employment if, prior to receipt of his or her first benefit payment, the member executes a contract for employment in [a position] **any capacity by an employer** covered by the retirement system that commences on or after the execution of such contract. The member shall be required to repay any benefit payments paid if it is determined that the member did not terminate employment covered by the retirement system.

(6) Part-time employment is any employment which is less than full-time. Temporary-substitute employment is any employment either in a position held by a regularly employed person who is temporarily absent[,] or in a position which is temporarily vacant. A retired member may be employed by a district included in the system to serve on a part-time or temporary-substitute basis in any capacity not to exceed five hundred fifty (550) hours in any one (1) school year and through such employment may earn an amount not in excess of the compensation limit set forth in this rule and section 169.560, RSMo, without a discontinuance of the retired member's retirement allowance. The limit on compensation shall be determined as set forth in section 169.560, RSMo. If the position or positions did not previously exist, a retired member may earn up to fifty percent (50%) of the annual compensation payable for the position within the district that is most comparable to the position filled by the retired member without exceeding the compensation limit. If such employment exceeds either the limitation on hours worked or the limitation on compensation, payment of benefits to the retired member shall cease until the employment terminates or a new school year begins. This rule shall not apply to employment with a state college, a state

university, or any state agency. **The employer covered by the Public School Retirement System of Missouri and the retiree shall maintain a log of all dates worked, hours worked, wage earned, and the employer. The employer and retiree shall provide a copy of the work log upon request of retirement system.**

Employee Name:		School Year:	
Date Worked	Hours Worked	Wage Earned	Employer

The working after retirement limits set forth in section 169.560, RSMo, shall be applied on a pro rata basis as provided below to a retiree's hours of work during the school year in which the retiree's date of retirement is effective.

Effective date of retirement	Hours allowed after retirement for school year
July 1	550
August 1	504
September 1	458
October 1	413
November 1	367
December 1	321
January 1	275
February 1	229
March 1	183
April 1	138
May 1	92
June 1	0

The working after retirement limits set forth in section 169.560, RSMo, shall be applied on a pro rata basis as provided below to a retiree's base salary to determine the retiree's earnings limit during the school year in which the retiree's date of retirement is effective.

Effective date of retirement	Percentage of base salary allowed after retirement for school year
July 1	50%
August 1	46%
September 1	42%
October 1	38%
November 1	33%
December 1	29%
January 1	25%
February 1	21%
March 1	17%
April 1	13%
May 1	8%
June 1	0%

AUTHORITY: section 169.020, RSMo Supp. [2006] 2009. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 4, 2010.

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 Public School and Education Employee Retirement Systems of Missouri, Attn: Maria Walden, PO Box 268, Jefferson City, Missouri 65102-0268. 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System
of Missouri
Chapter 5—Retirement, Options and Benefits**

PROPOSED AMENDMENT

16 CSR 10-5.020 Disability Retirement. The Public School Retirement System of Missouri is amending section (5).

PURPOSE: This amendment will provide the Public School Retirement System of Missouri the ability to require the member to submit to a periodic examination or provide the board of trustees with a completed Certification of Disability Status form for disability retirement as set forth in the method of qualification and limitations as provided in sections 169.060, 169.070, and 169.075, RSMo.

(5) The recipient of disability benefits may be required to submit to periodic examinations until age sixty (60) by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year. **If the member fails to submit to a periodic examination or provide the board of trustees with a completed Certification of Disability Status form, the member's disability benefit shall be suspended until such certification of the member's continued disability is received by the board of trustees.**

AUTHORITY: section 169.020, RSMo Supp. [2005] 2009. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 4, 2010.

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 Public School and Education Employee Retirement Systems of Missouri, Attn: Maria Walden, PO Box 268, Jefferson City, Missouri 65102-0268. 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System
of Missouri
Chapter 6—The Public Education Employee Retirement
System of Missouri**

PROPOSED AMENDMENT

16 CSR 10-6.060 Service Retirement. The Public Education Employee Retirement System of Missouri is amending sections (1) and (4).

PURPOSE: This amendment changes the length of the required termination period from sixty (60) to thirty (30) days, changes the manner in which a retiree may be employed by a covered school district during the termination period, implements pro rata limitations on hours worked, and requires the employer and retiree to keep a log of hours worked during retirement.

(1) The earliest date on which retirement may become effective is the first day of the calendar month following the calendar month in which the services of the member are terminated, or the first day of the calendar month following the filing of the application for retirement, whichever is later; except that the earliest date on which retirement may become effective for a member who receives a year of membership service credit for the final school year in which the member serves shall be July 1 next following the member's last day of service. Termination from employment covered by the retirement system prior to the effective date of retirement is required to be eligible for a retirement benefit. A member shall not be deemed to have terminated employment if the member is employed in *[a position] any capacity by an employer* covered by the retirement system within *[sixty (60) days] one (1) month* after his or her effective date of retirement. A member shall not be deemed to have terminated employment if, prior to receipt of his or her first benefit payment, the member executes a contract for employment in *[a position] any capacity for an employer* covered by the retirement system that commences on or after the execution of such contract. The member shall be required to repay any benefit payments paid if it is determined that the member did not terminate employment covered by the retirement system.

(4) A retiree may serve as an employee of a district included in the system on a part-time or temporary-substitute basis not to exceed five hundred fifty (550) hours in a school year and continue to receive a retirement allowance. To be considered as serving on a temporary-substitute basis, a person must be serving for a regular employee who is temporarily absent or in a position which is temporarily vacant. **The employer covered by the Public Education Employee Retirement System of Missouri and the retiree shall maintain a log of all dates worked, hours worked, wage earned, and the employer in substantially the same form as provided below. The employer and retiree shall provide a copy of the work log upon request of retirement system.**

Employee Name:		School Year:	
Date Worked	Hours Worked	Wage Earned	Employer

The working after retirement limits set forth in section 169.660.2, RSMo, shall be applied on a pro rata basis as provided below to a retiree's hours of work during the school year in which the retiree's date of retirement is effective.

Effective date of retirement	Hours allowed after retirement for school year
July 1	550
August 1	504
September 1	458
October 1	413
November 1	367
December 1	321
January 1	275
February 1	229
March 1	183
April 1	138
May 1	92
June 1	0

AUTHORITY: section 169.610, RSMo Supp. [2006] 2009. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 4, 2010.

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 Public School and Education Employee Retirement Systems of Missouri, Attn: Maria Walden, PO Box 268, Jefferson City, Missouri 65102-0268. 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System
of Missouri
Chapter 6—The Public Education Employee Retirement
System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.070 Disability Retirement. The Public Education Employee Retirement System of Missouri is amending sections (1), (2), (4), (5), and (6) and adding new sections (7) and (8).

PURPOSE: This amendment will provide the ability for our members of the Public Education Employee Retirement Systems to have the effective date of disability retirement be retroactive up to sixty (60) days prior to the filing of the application for disability retirement as set forth in the method of qualification and limitations as provided in section 169.663, RSMo. This amendment will also provide the Public Education Employee Retirement Systems the ability to require the member to submit to a periodic examination or provide the board of trustees with a completed Certification of Disability Status form for disability retirement as set forth in the method of qualification and limitations as provided in section 169.663, RSMo.

(1) A member claiming disability retirement must file a written application for retirement with the board of trustees on a form provided by the board. If a member, because of physical or mental disability, is unable to make application for disability retirement, the written application may be completed by a guardian or trustee designated by a court, and the completed application shall be accompanied by a certified copy of the court order designating the guardian or trustee. If a member indicates in his/her application for disability retirement (see 16 CSR 10-5.020) that s/he has applied for disability benefits provided by the Social Security Act, the Award Letter or certified copy thereof, issued by the Social Security Administration, will serve as evidence that disability exists.

(2) If a member is not eligible for disability benefits, as provided by the Social Security Act, because of insufficient coverage, the board of trustees, acting upon the recommendation of the medical adviser, shall designate one (1) or more physicians for examinations and reports. The medical adviser shall evaluate the reports and shall recommend to the board of trustees. The board shall determine whether or not disability exists. shall designate a medical adviser whose duty shall be to assign applicants for disability benefits to physicians for examinations and reports. The medical adviser shall report to the board on the

findings of the examining physicians and the board of trustees shall act on these findings. The recipient of disability benefits may be required to submit to periodic examinations until age sixty (60) by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year.

(4) If disability shall cease to exist before the recipient of the disability benefits reaches age sixty (60), as evidenced by the cessation of benefits by the Social Security Administration or by examination by physicians selected and paid by the board of trustees, his/her disability benefits shall cease and his/her membership status as of the date of his/her disability retirement shall be restored. **If the member is required to submit to a periodic examination and the member fails to submit to the examination or provide the board of trustees with a completed Certification of Disability Status form, the member's disability benefit shall be suspended until such certification of the member's continued disability is received by the board of trustees.**

(5) *[The earliest date on which a member's disability retirement can become effective is the first day of the calendar month following the month for which his/her last salary payment or sick-leave payment was made, or the first day of the calendar month following the calendar month in which his/her completed application was received, whichever is later.]* **The payment of the first disability benefits to a member shall be made not later than the calendar month immediately following the month in which the claim is approved. The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that payment shall not be made for such time as the member is receiving any salary from an employer, and provided that benefits shall not accrue for more than sixty (60) days prior to the date of filing application.**

(6) Any person who is receiving a disability retirement allowance from the retirement system and who has attained age sixty (60) may be employed in any capacity for, and receive income of any amount from, any employer except a school district included in the retirement system. Notwithstanding any provision of section 169.660, RSMo, to the contrary, any such person may be employed in a district included in the retirement system on a part-time or temporary-substitute basis up to a total of five hundred fifty (550) hours in a school year without a discontinuance of the retirement allowance as set forth in section 169.660, RSMo, and 16 CSR 10-6.060(4).

(7) **Any person who is receiving a disability retirement allowance from the retirement system and who has not attained age sixty (60) may not be employed in any capacity by a district included in the retirement system and continue to receive the retirement allowance. Any such person may not be employed in any capacity for any other employer; the compensation for which employment would constitute a livelihood, and continue to receive the retirement allowance. The executive director, and/or the board of trustees, shall determine what constitutes a livelihood in such instance.**

(8) **The surviving spouse, children of a deceased disability retiree, or both, shall have the same rights to benefits under section 169.670, RSMo, as does the surviving spouse, children, or both, of a member who dies while employed in a district included in the retirement system.**

AUTHORITY: section 169.610, RSMo [1994] Supp. 2009. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. Amended: Filed June 15, 1994, effective Nov. 30, 1994. Amended: Filed Oct. 15, 1997, effective April 30, 1998. Amended: Filed Jan. 4, 2010.

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 Public School and Education Employee Retirement Systems of Missouri, Attn: Maria Walden, PO Box 268, Jefferson City, Missouri 65102-0268. 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 22—MISSOURI CONSOLIDATED
HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

PROPOSED AMENDMENT

22 CSR 10-2.010 Definitions. The Missouri Consolidated Health Care Plan is amending the purpose; deleting sections (2), (7), (8), (10), (64), (66), (79), and (81); renumbering and amending sections (3)–(6), (9), (11)–(63), (65), (67)–(78), (80), and (82)–(92); and adding new sections (6), (9)–(12), (14)–(18), (20), (24), (30), (34), (35), (41), (43), (45)–(47), (49), (50), (53), (59), (60), (64), (69), (70), (72), (76), (80), (82), (83), (99), (101), (102), (104), (106), (108)–(110), (114), (116), (119), (122), (125)–(127), and (130).

PURPOSE: This amendment includes changes to the policy of the board of trustees in regard to the definitions of the Missouri Consolidated Health Care Plan.

PURPOSE: This rule establishes the policy of the board of trustees [regarding] in regard to the [key terms] definitions of the Missouri Consolidated Health Care Plan relative to state members.

[(2) Actively at work. You are considered actively at work when performing in the customary manner all of the regular duties of your occupation with the employer either at one (1) of the employer's regular places of business or at some location which the employer's business requires you to travel to perform your regular duties or other duties assigned by your employer. You are also considered to be actively at work on each day of a regular paid vacation or nonworking day on which you are not totally disabled, but only if you are performing in the customary manner all of the regular duties of your occupation with the employer on the immediately preceding regularly scheduled workday.]

*[(3)](2) Administrative appeal. [Appeal procedures] **A written request submitted by or on behalf of a member** involving Missouri Consolidated Health Care Plan (MCHCP) administrative issues such as eligibility, effective dates of coverage, **plan changes**, etc.*

*[(4)](3) Administrative guidelines. [The] **Instructive** interpretation of the plan document [as approved by the plan administrator,] developed for administration of the plan. The administrative guidelines may be changed upon approval of the executive director or his/her designee. Benefits provided shall be those in effect at the time services are rendered.*

[(5)](4) Adverse determination. When the claims administrator reviews an admission, availability of care, continued stay, or other health care service and decides that it is not medically necessary,

appropriate, or effective. Therefore, payment for the requested service is denied, reduced, or terminated.

[(6)](5) Allowable expense. Charges for services rendered or supplies furnished by a health plan that would qualify as covered expenses and for which the program pays in whole or in part, subject to any deductible, coinsurance, or table of allowance included in the program.

[(7) Automatic reinstatement maximum. The maximum annual amount that can be reinstated to an individual's lifetime benefit.]

[(8) Benefit year. The twelve (12)-month period beginning January 1 and ending December 31. All annual deductibles and benefit maximums accumulate during the benefit year.]

(6) Appeal. A written complaint submitted by or on behalf of a member regarding one (1) of the following:

(A) Availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review; or

(B) Claim payment, handling, or reimbursement for pharmacy benefits or health care services.

(7) Benefit period. The three hundred sixty-five (365) days immediately following the first date of like services.

[(9)](8) Benefits. Amounts payable by the plan as determined by the schedule of benefits and their limitations and exclusions as interpreted by the plan administrator.

[(10) Care Support Program. A voluntary program that helps manage a chronic condition with outpatient treatment.]

(9) Birthday rule. If both parents have medical coverage, the primary plan for dependent children is the plan of the parent whose birthday occurs first in the calendar year. If birthdays occur on the same day, the parent's coverage that has been in effect longest is primary.

(10) Board. The board of trustees of the Missouri Consolidated Health Care Plan.

(11) Calendar year. The period of time from January 1 through December 31. This is the period during which the total amount of annual benefits is calculated. All annual deductibles and benefit maximums accumulate during the calendar year.

(12) Chiropractic services. The examination, diagnosis, adjustment, manipulation, and treatment of malpositioned articulations and structures of the body, directed toward restoring and maintaining the normal neuromuscular and musculoskeletal function and health.

[(11)](13) Claims administrator. An organization or group responsible for the processing of claims and associated services for the plan's self-insured benefit programs, including but not limited to the preferred provider organization (PPO) (also known as the co-/pay plan) and health maintenance organization (HMO) type plans.

(14) Coinsurance. The shared portion of payment between the plan and the subscriber where each pays a percentage of covered charges.

(15) Comprehensive major medical. A plan that provides for cost sharing to be applied to all covered expenses such as deductible or coinsurance.

(16) Congenital defect. Existing or dating from birth. Acquired through development while in the uterus.

(17) Convenient care clinics (CCCs). Health care clinics located in retail stores, supermarkets, and pharmacies that treat routine family illnesses and provide preventive health care services. They are sometimes referred to as "retail-based clinics" or "walk-in medical clinics." CCCs are usually staffed by nurse practitioners or physician assistants. Some CCCs, however, are staffed by physicians.

(18) Coordination of benefits. Communication, adjustment, and reconciliation procedures between multiple benefit plans covering the same member for purposes of covering services and expenses relating to plan benefits.

[(12)](19) Co-/pay plan. A set of benefits similar to a health maintenance organization option.

(20) Copayment. A set dollar amount that the covered individual must pay for specific services.

[(13)](21) Cosmetic surgery. A procedure performed primarily for psychological purposes or to preserve or improve appearance rather than restore the anatomy and/or functions of the body which are lost or impaired due to illness or injury.

[(14)](22) Covered benefits and charges. A schedule of covered services and charges, including chiropractic services, which are payable under the plan. The benefits covered under each type of plan are outlined in the applicable rule in this chapter.

[(15)](23) Custodial care. Services and supplies furnished primarily to assist an individual to meet the activities of daily living. Activities of daily living include such things as bathing, feeding, administration of oral medicines, or other services that can be provided by persons without the training of a health care provider or that do not entail *[or]* and require the continuing attention of trained medical or paramedical personnel.

(24) Date of service. Date medical services are received or performed.

[(16)](25) Deductible. The amount of expense the member must pay before the plan begins to pay for covered services and supplies. This amount is not reimbursable by the plan.

[(17)](26) Dependent-only participation. Participation of certain survivors of *[employees]* subscribers. Dependent participation may be further defined to include the deceased *[employee's]* subscriber's:

- (A) Spouse only;
- (B) Child(ren) only; or
- (C) Spouse and child(ren).

[(18)](27) Dependents. The lawful spouse of the employee, the employee's unemancipated child(ren), and certain survivors of employees, as provided in the plan document and these rules, for whom application has been made and has been accepted for participation in the plan.

[(19)](28) Diagnostic charges. The Usual, Customary, and Reasonable (UCR) charges or the network discounted rate (NDR) for x-ray or laboratory examinations made or ordered by a physician in order to detect a medical condition.

[(20)](29) Disposable supplies. Medical supplies that *[D]*do not withstand prolonged use and are periodically replaced. Includes, but not limited to, colostomy and ureterostomy bags.

(30) Doctor/physician. A licensed practitioner of the healing arts, as approved by the plan administrator, including:

- (A) Doctor of medicine;
- (B) Doctor of osteopathy;
- (C) Podiatrist;
- (D) Optometrist;
- (E) Chiropractor;
- (F) Psychologist;
- (G) Doctor of dental surgery; or

(H) Qualified practitioner of spiritual healing whose organization is generally recognized for health insurance reimbursement purposes and whose principles and practice of spiritual healing are well established and recognized.

[(21)](31) Durable medical equipment (DME). Equipment able to withstand repeated use for the therapeutic treatment of an active illness or injury. Such equipment is not covered under the plan if it could be useful to a person in the absence of an illness or injury and could be purchased without a physician's prescription.

[(22)](32) Eligibility date. Refer to 22 CSR 10-2.020 for effective date provisions.

(A) Newly-hired employees and their eligible dependents, or employees rehired after their participation terminates and their eligible dependents, are eligible to participate in the plan on the first day of the month following the employee's date of employment or reemployment.

(B) Employees transferred from a state department with coverage under another medical care plan into a state department covered by this plan and their eligible dependents who were covered by the other medical care plan *[will be]* are eligible for participation *[subject to any applicable pre-existing conditions as outlined in the plan document]* immediately.

(C) Employees who terminate all employment with the state (not simply move from one (1) agency to another) and are rehired as a new state employee before termination of participation, and their eligible dependents who were covered by the plan, will be eligible for participation immediately.

(D) Employees who terminate all employment with the state (not simply move from one (1) agency to another) and are rehired as a new state employee in the subsequent month, and their eligible dependents who were covered by the plan, will be eligible for participation retroactive to the date following termination of participation **or at the employee's choice, on the first day of the month following the employee's date of rehire.**

[(23)](33) Emancipated child(ren). A child(ren) who is:

- (A) Employed on a full-time basis;
- (B) Eligible for group health benefits in his/her own behalf;
- (C) Maintaining a residence separate from his/her parents or guardian, except for full-time students in an accredited school or institution of higher learning; or
- (D) Married.

(34) Emergency. Any medical condition leading a prudent layperson to seek immediate medical attention. This normally means the sudden onset of a health condition that manifests itself by acute symptoms and severity (including severe pain). Examples of medical emergencies include, but are not limited to:

- (A) Conditions placing a person's health in significant jeopardy;
- (B) Serious impairment to a bodily function;
- (C) Serious dysfunction of any bodily organ or part;
- (D) Inadequately controlled pain; or
- (E) Situations when the health of a pregnant woman or her unborn child are threatened.

(35) Emergency room. The section of a hospital equipped to fur-

nish emergency care to prevent the death or serious impairment of the covered person.

[(24)](36) Employee and dependent participation. Participation of an employee and the employee's eligible dependents. Any individual eligible for participation as an employee is not eligible as a dependent, except as noted in 22 CSR 10-2.020(1)(A)3. Dependent participation may be further defined to include the participating employee's:

- (A) Spouse only;
- (B) Child(ren) only; or
- (C) Spouse and child(ren).

[(25) Employee only participation. Participation of an employee without participation of the employee's dependents, whether or not the employee has dependents.]

[(26)](37) Employees. Employees of the state and present and future retirees from state employment who meet the eligibility requirements as prescribed by state law.

[(27)](38) Employer. The state department **or agency** that employs the eligible employee as defined above.

[(28)](39) Executive director. The *[administrator]* **chief executive officer** of the Missouri Consolidated Health Care Plan (MCHCP) who *[reports directly to the plan administrator]* **shall have charge of the offices, records, and employees of the plan, subject to the direction of the board.**

[(29)](40) Experimental/Investigational/Unproven. A treatment, procedure, device, or drug that meets any of the criteria listed below is considered experimental/investigational/unproven~~[,]~~ and is not eligible for coverage under the plan. Reliable evidence includes anything determined to be such by the plan administrator, in the exercise of its discretion, and may include published reports and articles in the medical and scientific literature generally considered to be authoritative by the national medical professional community. Experimental/investigational/unproven is defined as a treatment, procedure, device, or drug that the plan administrator determines, in the exercise of its discretion:

(A) Has not received the approval of the U.S. Food and Drug Administration for marketing the drug or device at the time it is furnished, if such approval is required by law;

(B) Is shown by reliable evidence to be the subject of ongoing Phase I clinical trials or under study to determine its maximum tolerated dose, its toxicity, **its safety, its efficiency, or its efficacy** as compared with the standard means of treatment or diagnosis; or

(C) Is shown by reliable evidence that the consensus of opinion among experts regarding the treatment, procedure, device, or drug is that further studies or clinical trials are necessary to determine its maximum tolerated dose, its toxicity, its safety, its efficacy, or its efficiency as compared with the standard means of treatment or diagnosis.

(41) First eligible. The first thirty-one (31)-day period after a member's employment date in which the member and his/her dependents may enroll in an MCHCP plan. As a member acquires new dependents, his/her first eligible period is the first thirty-one (31) days from the date the dependent meets the eligibility requirements for coverage under the plan.

[(30)](42) Formulary *[drugs]*. A list of drugs *[preferred]* covered by the **pharmacy program** claims administrator *[of the pharmacy program]* and as allowed by the plan administrator.

(43) Generic drug. The chemical equivalent of a brand-name drug with an expired patent. The color or shape may be different, but the active ingredients must be the same for both.

~~[(31)](44)~~ **Grievance.** A written complaint submitted by or on behalf of a member regarding either:

(A) Availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review; or

(B) Claims payment, handling, or reimbursement for health care services.

(45) Group health plan. A plan maintained by an employer or an employee organization to provide medical care or other health services, directly or indirectly, to employees, former employees, and their families, including but not limited to Medicare and Medicaid plans.

(46) Handbook. The summary plan document prepared for members explaining the terms, conditions, and all material aspects of the plan and benefits offered under the plan, a copy of which is incorporated by reference into this rule. The full text of material incorporated by reference will be made available to any interested person at the Missouri Consolidated Health Care Plan, 832 Weathered Rock Court, Jefferson City, MO 65101, 2010 State Member Handbook (January 1, 2010). It does not include any later amendments or additions.

(47) Health assessment. A questionnaire about a member's health and lifestyle habits which qualifies the member for participation in the *Lifestyle Ladder* program to earn the incentive premium.

~~[(32)](48)~~ **Health maintenance organization (HMO).** A plan that provides for a wide range of comprehensive health care services for a specified group at a fixed periodic prepayment.

(49) Health savings account (HSA). A tax-advantaged savings account that may be used to pay current or future qualified medical expenses. Enrollment in the plan's qualified High Deductible Health Plan is required for participation in an HSA. HSA funds can be used to help pay the deductible, coinsurance, and any qualified medical expenses not covered by the health plan.

(50) High Deductible Health Plan (HDHP). A health plan with higher deductibles than a traditional health plan that, when combined with an HSA, provides a tax-advantaged way to help save for future medical expenses.

~~[(33)](51)~~ **Home health agency.** An agency certified by Medicare and the Missouri Department of Health and Senior Services, or any other state's licensing or certifying body, to provide health care services to persons in their homes.

~~[(34)](52)~~ **Hospice.** *[A facility or program designed to provide a caring environment for supplying the physical and emotional needs of the terminally ill.]* A public agency, private organization, or a subdivision of either that primarily engages in providing care to terminally ill individuals, meets the conditions of participation for hospices, holds a valid Medicare provider agreement, and is licensed pursuant to state law.

(53) Hospice facility. A public or private organization, certified by Medicare and any other state's licensing or certifying body, primarily engaged in providing palliative, supportive, and other related care for a covered person diagnosed as terminally ill. The facility must have an interdisciplinary medical team consisting of at least one (1) physician, one (1) registered nurse, one (1) social worker, one (1) volunteer, and a volunteer program. A hospice facility is not a facility or part thereof which is primarily a place for rest, custodial care, the aged, drug addicts, alcoholics, or a hotel or similar institution.

~~[(35)](54)~~ **Hospital.**

(A) An institution operated pursuant to law and primarily engaged in providing on an inpatient basis medical, diagnostic, and surgical facilities, all of which must be provided on its premises, under the supervision of a staff of one (1) or more physicians and with twenty-four (24)-hour-a-day nursing service by a registered nurse (RN) on duty or call.

(B) An institution not meeting all the requirements of ~~[(35)](54)(A)~~ *[of this rule]* above, but which is accredited as a hospital by the Joint Commission on Accreditation of Health Care Organizations.

(C) An institution operated principally for treating sick and injured persons through spiritual means and recognized as a hospital under Part A, Hospital Insurance Benefits for the Aged of Medicare (Title I of Public Law 89-97).

(D) A psychiatric residential treatment center accredited by the Joint Commission on Accreditation of Health Care Organizations on either an inpatient or outpatient basis.

(E) A residential alcoholism, chemical dependency, or drug addiction treatment facility accredited by the Joint Commission on Accreditation of Health Care Organizations or licensed or certified by the state of jurisdiction.

(F) In no event shall the term hospital include a skilled nursing facility or any institution or part thereof which is used primarily as a skilled nursing facility, nursing home, rest home, or facility for the aged.

~~[(36)](55)~~ **Hospital copayment.** Set dollar amount a subscriber must pay for each hospital admission.

~~[(37)](56)~~ **Hospital room charges.** The hospital's most common charge for semi-private accommodations, *[unless]* or the most common charge for a private room if that is the only type of room available or if a private room has been recommended by a physician and approved by the claims administrator or the plan administrator.

~~[(38)](57)~~ **Illness.** Any bodily sickness, disease, or mental/nervous disorder. For purposes of this plan, pregnancy is considered as any other illness.

~~[(39)](58)~~ **Incident.** A definite and separate occurrence of a condition.

(59) Infertility. Any medical condition causing the inability or diminished ability to reproduce.

(60) Infertility services. Services including confinement, treatment, or other services related to the restoration of fertility or the promotion of conception.

~~[(40)](61)~~ **Injury.** A condition that results independently of an illness and all other causes and is a result of an external force or accident.

~~[(41)](62)~~ **Inpatient.** Confined to a registered bed. Patient in hospital, skilled nursing facility, hospice facility, or free-standing chemical dependency treatment center.

~~[(42)](63)~~ **Legend.** Any drug that requires a prescription from either a physician or a practitioner, under either federal or applicable state law, in order to be dispensed.

(64) Life events. Events occurring in an individual's life to include: marriage, birth, adoption, or placement of children.

~~[(43)](65)~~ **Lifetime.** The period of time *[you or your]* a member or the member's eligible dependents participate in the plan.

~~[(44)](66)~~ **Lifetime maximum.** The maximum amount payable by a

medical plan during a covered member's life.

[(45)](67) Medical benefits coverage. Services that are received from providers recognized by the plan and are covered benefits under the plan.

[(46)](68) Medically necessary. Treatments, procedures, services, or supplies that the plan administrator determines, in the exercise of its discretion:

(A) Are expected to be of clear clinical benefit to the patient; and

(B) Are appropriate for the care and treatment of the injury or illness in question; and

(C) Conform to standards of good medical practice as supported by applicable medical and scientific literature. A treatment, procedure, service, or supply must meet all criteria listed above to be considered medically necessary and to be eligible for coverage under the plan. In addition, the fact that a *[health care]* provider has prescribed, ordered, or recommended a treatment, procedure, service, or supply does not, in itself, mean that it is medically necessary as defined above. Further, the treatment, procedure, service, or supply must not be specifically excluded from coverage under this plan.

(69) Member. Any person covered as either a subscriber or a dependent in accordance with the terms and conditions of the plan.

(70) Morbid obesity. Body Mass Index (BMI) greater than or equal to forty (40) or BMI greater than or equal to thirty-five (35) with at least two (2) or more of the following uncontrolled co-morbidities: coronary heart disease, type 2 diabetes mellitus, clinically significant obstructive sleep apnea, pulmonary hypertension, hypertension, or other obesity related conditions approved by the plan administrator based on clinical review.

[(47)](71) Network provider. A physician, hospital, pharmacy, etc., that is contracted with the *[medical]* plan.

(72) Non-embedded deductible. The family deductible that must be met before claim payments begin, applicable when two (2) or more family members are covered in the HDHP.

[(48)](73) Non-formulary. A drug not contained on the *[health plan's or the]* pharmacy program's formulary list *[or preferred drug list]* but may be covered under the terms and conditions of the plan.

[(49)](74) Non-network provider or non-participating provider. Any physician, hospital, pharmacy, etc., that does not have a contract with the *[health]* plan *[or the pharmacy program]*.

[(50)](75) Nurse. A registered nurse (RN), licensed practical nurse (LPN), or licensed vocational nurse (LVN). Nurse shall also include an employee of an institution operated principally for treating sick and injured persons through spiritual means which meets the requirements of a hospital as defined in this rule.

(76) Nursing home. An institution operated, pursuant to law, primarily for custodial care or for patients convalescing from illness or injury, under the supervision of a physician or registered nurse and having twenty-four (24)-hour nursing care. Also, an institution meeting the preceding criteria which is established for the treatment of sick and injured persons through spiritual means and is operated under the authority of organizations which are recognized under Medicare.

[(51)](77) Open enrollment period. A period designated by the plan during which subscribers may enroll, switch, or change their level of

coverage in any of the available health care options with the new coverage becoming effective as of the beginning of the new plan year.

[(52)](78) Out-of-area. Applies to claims of members living in specified zip code areas where the number of available providers does not meet established criteria.

[(53)](79) Out-of-network. Providers that do not participate in the member's health or pharmacy plan.

(80) Out-of-pocket maximum. The maximum amount the member must pay before the plan begins paying one hundred percent (100%) of covered charges for the remainder of the calendar year.

[(54)](81) Outpatient. Treatment either outside a hospital setting or at a hospital when room and board charges are not incurred.

(82) Outpatient observation stay. Services furnished by a hospital on the hospital's premises, including use of a bed and periodic monitoring by a hospital's staff, that are reasonable and necessary to evaluate an outpatient's condition or determine the need for a possible admission to the hospital as an inpatient. Most observation services are less than twenty-four (24) hours. Members may receive observation services in the emergency room, an observation unit, the intensive care unit, or a regular floor.

(83) Palliative services. Care provided by a team approach that improves the quality of life for patients and their families facing problems associated with life-threatening illness through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial, and spiritual.

[(55)](84) Partial hospitalization. A distinct and organized intensive ambulatory treatment service, less than twenty-four (24)-hour daily care specifically designed for the diagnosis and active treatment of a mental/nervous disorder when there is a reasonable expectation for improvement or to maintain the individual's functional level and to prevent relapse or hospitalization.

(A) Partial hospitalization programs must provide diagnostic services; services of social workers; psychiatric nurses and staff trained to work with psychiatric patients; individual, group, and family therapies; activities and occupational therapies; patient education; and chemotherapy and biological treatment interventions for therapeutic purposes.

(B) The facility providing the partial hospitalization must prepare and maintain a written plan of treatment for each patient. The plan must be approved and periodically reviewed by a physician.

[(56)](85) Participant. Any employee or dependent accepted for membership in the plan.

[(57)](86) Pharmacy benefit manager (PBM). Acts as a link between the parties involved in the delivery of prescription drugs to health plan members. The PBM designs, implements, and manages the overall drug benefit of the plan[,] and processes claims payments.

[(58)](87) Physically or mentally disabled. The inability of a person to be self-sufficient as the result of a condition diagnosed by a physician as a continuing condition.

[(59)](88) Physician/Doctor. A licensed practitioner of the healing arts, acting within the scope of his/her practice as licensed under section 334.021, RSMo.

[(60)](89) Plan. The program of health care benefits established by the trustees of the Missouri Consolidated Health Care Plan as authorized by state law.

[[61]](90) Plan administrator. The trustees of the Missouri Consolidated Health Care Plan. As such, the board is the sole fiduciary of the plan, has all discretionary authority to interpret its provisions and to control the operation and administration of the plan, and whose decisions are final and binding on all parties.

[[62]](91) Plan document. The statement of the terms and conditions of the plan as promulgated by the plan administrator in this chapter.

[[63]](92) Plan year. Same as *[benefit] calendar year*.

[[64]] *Point-of-service (POS). A plan which provides a wide range of comprehensive health care services, like an HMO, if in-network providers are utilized, and like a PPO plan, if non-network providers are utilized.]*

[[65]](93) Pre-admission testing. X-rays and laboratory tests conducted prior to a hospital admission which are necessary for the admission.

[[66]] *Pre-authorization. A cost control procedure that requires the service or medication to be approved in advance by the doctor and/or the plan. Without prior authorization, the plan may not pay for the test, drug, or service.]*

[[67]](94) Pre-certification *[program]*. Also known as pre-admission certification, pre-admission review, and pre-certification. The process of obtaining certification or authorization from the plan for routine hospital admissions and surgical or diagnostic procedures (inpatient or outpatient).

[[68]](95) Pre-existing condition. A condition for which *[you have] a member has* incurred medical expenses or received treatment *[within the three (3) months]* prior to *[your] the* effective date of coverage.

[[69]](96) Preferred provider organization (PPO). An arrangement with providers where discounted rates are given to members of the plan who, in turn, are offered a financial incentive to use these providers.

[[70]](97) Prevailing fee. The fee charged by the majority of dentists.

[[71]](98) Primary care physician (PCP). A physician (usually an internist, family/general practitioner, or pediatrician) who has contracted with and been approved by *[an HMO or POS. The PCP is accountable for all medical services of members including referrals. The PCP supervises other provided care such as services of specialists and hospitalization]* a medical plan.

(99) Prior authorization. A cost control procedure that requires the service or medication to be approved in advance by the doctor and/or the plan. Without prior authorization, the plan may not pay for the test, drug, or service. Also know as pre-authorization or pre-notification.

[[72]](100) Prior plan. The terms and conditions of a plan in effect for the period preceding coverage in the *[MCHCP] plan*.

(101) Private duty nursing. Private duty nursing services, nursing care on a full-time basis in the member's home, or home health aides.

(102) Proof of eligibility. Documentation required by the plan to determine a dependent's qualification for health insurance coverage.

[[73]](103) Proof of insurance. Evidence in written form from an insurance company that provides verification of coverage for a given period of time.

(104) Proof of prior group coverage. If a member or his/her dependents enroll in the plan due to loss of coverage, the member must provide proof of prior group coverage. This includes a letter from the previous insurance carrier or former employer which states all the following:

- (A) Date coverage was or will be terminated;**
- (B) Reason for coverage termination; and**
- (C) List of dependents covered.**

[[74]](105) Prostheses. An artificial extension that replaces a missing part of the body. Prostheses are typically used to replace parts lost by injury (traumatic) or missing from birth (congenital) or to supplement defective parts.

(106) Protected health information. Any information, whether oral or recorded in any form or medium that is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse. This information also relates to the past, present, or future physical or mental health or condition of the individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to the individual.

[[75]](107) Provider. Hospitals, physicians, chiropractors, medical agencies, or other specialists who provide medical care within the scope of his/her practice and are recognized under the provisions *[and administrative guidelines]* of the plan. Provider also includes a qualified practitioner of an organization which is generally recognized for health insurance reimbursement purposes and whose principles and practices of spiritual healing are well established and recognized.

(108) Provider directory. A listing of network providers within a health plan.

(109) Prudent layperson. An individual possessing an average knowledge of health and medicine.

(110) Qualified Medical Child Support Order (QMCSO). A child support order from a court of competent jurisdiction or state child care agency, which requires the plan to provide coverage for a dependent child or an enrollee if the plan normally provides coverage for dependent children.

[[76]](111) Reconstructive surgery. A procedure performed to restore the anatomy and/or functions of the body that are lost or impaired due to an injury or illness.

[[77]](112) Refractions. A record of the patient's preference for the focusing of the eyes that can then be used to purchase eyeglasses. It is the portion of the eye exam that determines what prescription lens provides the patient with the best possible vision.

[[78]](113) Rehabilitation facility. A legally operating institution, or distinct part of an institution, that has a transfer agreement with one (1) or more hospitals and is primarily engaged in providing comprehensive multi-disciplinary physical restorative services, post-acute hospital, and rehabilitative inpatient care and is duly licensed by the appropriate government agency to provide such services.

(A) It does not include institutions that provide only minimal care, custodial care, ambulatory or part-time care services, or an institution that primarily provides treatment of mental/nervous disorders, substance abuse, or tuberculosis, except if such facility is licensed,

certified, or approved as a rehabilitation facility for the treatment of mental/nervous conditions or substance abuse in the jurisdiction where it is located, or is accredited as such a facility by the Joint Commission for the Accreditation of Health Care Organizations (JCAHO) or the Commission for the Accreditation of Rehabilitation Facilities.

(114) Retiree. A former employee who, at the time of termination of employment, met the eligibility requirements as outlined in subsection 22 CSR 10-2.020(5)(B) and is currently receiving a monthly retirement benefit from one (1) of the retirement systems listed in such rule.

[(79)] Review agency. A company responsible for administration of clinical management programs.]

[(80)](115) Second opinion program. A consultation and/or exam with a physician qualified to perform the procedure who is not affiliated with the attending physician/surgeon, for the purpose of evaluating the medical necessity and advisability of undergoing a surgical procedure or receiving a service.

[(81)] Severe obesity. Body Mass Index (BMI) greater than or equal to forty (40) or BMI greater than or equal to thirty-five (35) with at least two (2) or more of the following uncontrolled co-morbidities: coronary heart disease, type 2 diabetes mellitus, clinically significant obstructive sleep apnea, pulmonary hypertension, hypertension or other obesity related conditions which will be considered based on clinical review.]

(116) Skilled nursing care. Care which must be performed by, or under the supervision of, licensed personnel and meets criteria as established by the claims administrator.

[(82)](117) Skilled nursing facility (SNF). An institution which meets fully each of the following requirements:

(A) It is operated pursuant to law and is primarily engaged in providing, for compensation from its patients, the following services for persons convalescing from sickness or injury: room, board, and twenty-four (24)-hour-a-day nursing service by one (1) or more professional nurses and nursing personnel as are needed to provide adequate medical care;

(B) It provides the services under the supervision of a proprietor or employee who is a physician or registered nurse; and it maintains adequate medical records and has available the services of a physician under an established agreement, if not supervised by a physician or registered nurse; and

(C) A skilled nursing facility shall be deemed to include institutions meeting the criteria in *[section (81) of]* this rule which are established for the treatment of sick and injured persons through spiritual means and are operated under the authority of organizations which are recognized under Medicare (Title I of Public Law 89-97).

[(83)](118) Sound natural teeth. Teeth and/or tissue that is viable, functional, and free of disease. A sound natural tooth has no decay, fillings on no more than two (2) surfaces, no gum disease associated with bone loss, no history of root canal therapy, is not a dental implant, and functions normally in chewing and speech.

(119) Specialty care physician/specialist. A physician who is not a primary care physician and provides medical services to members concentrated in a specific medical area of expertise.

[(84)](120) Specialty *[drugs]* medications. High cost drugs that are primarily self-injectible but sometimes oral medications.

[(85)](121) State. Missouri.

(122) Step therapy. Designed to encourage use of therapeutically-equivalent, lower-cost alternatives before stepping up to more expensive therapy. It is especially for people who take prescription drugs regularly to treat ongoing medical conditions and is developed under the guidance and direction of independent, licensed doctors, pharmacists, and other medical experts.

[(86)](123) Subrogation. The substitution of one (1) "party" for another. Subrogation entitles the insurer to the rights and remedies that would otherwise belong to the insured (the subscriber) for a loss covered by the insurance policy. Subrogation allows the plan to stand in the place of the participant and recover the money directly from the other insurer.

[(87)](124) Subscriber. The employee or member who elects coverage under the plan.

(125) Subscriber only participation. Participation of a subscriber without participation of the subscriber's dependents, whether or not the subscriber has dependents.

(126) Surgery. Any operative or invasive diagnostic procedure performed in the treatment of an injury or illness by an instrument or cutting procedure through any natural body opening or incision.

(127) Surgery center (ambulatory). A hospital based, sponsored, or independently-owned facility that performs surgery.

[(88)](128) Survivor. A member who meets the requirements of subsection 22 CSR 10-2.020(5)(A).

[(89)](129) Unemancipated child(ren). A natural child(ren), a legally adopted child(ren) or a child(ren) placed for adoption, and a dependent disabled child(ren) over twenty-five (25) years of age (during initial eligibility period only and appropriate documentation may be required by the plan), and the following:

(A) Stepchild(ren);

(B) Foster child(ren) for whom the employee is responsible for health care;

(C) Grandchild(ren) for whom the employee has legal custody and is responsible for providing health care; and

(D) Other child(ren) for whom the employee is legal custodian subject to specific approval by the plan administrator.

1. Except for a disabled child(ren) as described in section *[(58)]*(87) of this rule, an unemancipated child(ren) is eligible from birth to the end of the month in which s/he is emancipated, as defined here, or attains age twenty-five (25) (see **paragraph 22 CSR 10-2.020(3)(D)2.** for continuing coverage on a handicapped child(ren) beyond age twenty-five (25)); and

(E) Stepchild(ren) who are not domiciled with the employee, provided the natural parent who is legally responsible for providing coverage is also covered as a dependent under the plan.

(130) Urgent care. Medically necessary services in order to prevent rapid and/or serious deterioration in a member's health as a result of injury or illness. Urgent care serves as an alternative to the hospital emergency room and the personal physician when a timely appointment is not available. Urgent care is appropriate for injuries too severe to be seen in a primary care physician office but not severe enough to require treatment in a hospital emergency department.

(131) Urgent care centers. Medical facilities that provide extended or twenty-four (24)-hour service to treat minor conditions at a lower cost than emergency room treatment.

[(90)](132) Usual, Customary, and Reasonable charge.

(A) Usual. The fee a physician most frequently charges the majority of his/her patients for the same or similar services.

(B) Customary. The range of fees charged in a geographic area by physicians of comparable skills and qualifications for the same performance of similar service.

(C) Reasonable. The flexibility to take into account any unusual clinical circumstances involved in performing a particular service.

(D) A formula is used to determine the customary maximum. The customary maximum is the usual charge submitted by ninety percent (90%) of the doctors for ninety percent (90%) of the procedures reported.

[(91)](133) Utilization review. Evaluation of the necessity, appropriateness, and efficiency of the use of medical services, procedures, and facilities on a prospective, concurrent, or retrospective basis.

[(92)](134) Vested subscriber. A member who meets the requirements of **subsection 22 CSR 10-2.020(5)(B)**.

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Dec. 22, 2009, effective Jan. 1, 2010, expires June 29, 2010. Amended: Filed Jan. 4, 2010.*

PUBLIC COST: This proposed amendment will cost the Missouri Consolidated Health Care Plan \$387,006,125 annually in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities \$115,616,203 annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Richard Bowles, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 22 - Missouri Consolidated Health Care Plan
Division Title: Division 10
Chapter Title: Chapter 2**

Rule Number and Name:	22 CSR 10-2.010 Definitions
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Consolidated Health Care Plan	\$387,006,125

III. WORKSHEET

Estimated cost is the annual cost of the MCHCP providing health care plans to all state employees and eligible retirees and dependents for calendar year 2010.

IV. ASSUMPTIONS

- **Total enrollment as of December 14, 2009 (data used the CY2010 projection);**
- **Calendar year 2010 membership would remain relatively stable;**
- **Calendar year 2010 rates based on projections of self-insured premiums as developed by MCHCP's actuary.**
- **Actual costs will vary based upon actual utilization of services.**

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 22 - Missouri Consolidated Health Care Plan
Division Title: Division 10
Chapter Title: Chapter 2**

Rule Number and Title:	22 CSR 10-2.010 Definitions
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
106,070 individuals enrolled in MCHCP plans for CY 2010	Individuals enrolled in MCHCP plans for CY 2010	\$ 115,616,203

III. WORKSHEET

Estimated cost is the annual cost for all MCHCP subscribers' premium costs for calendar year 2010.

IV. ASSUMPTIONS

- Total enrollment as of December 14, 2009 (data used the CY2010 projection);
- Calendar year 2010 membership would remain relatively stable;
- Calendar year 2010 rates based on projections of self-insured premiums as developed by MCHCP's actuary, and insured premiums developed by Mercy Health Plans;
- Actual costs for individual subscribers will vary based upon actual utilization of services. The above summary of fiscal impact does not include these out-of-pocket costs that members will incur at the time of service.