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SALUS POPULI SUPREMA LEX ESTO

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



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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April 2, 2012 April 16, 2012	May 1, 2012 May 15, 2012	May 31, 2012 May 31, 2012	June 30, 2012 June 30, 2012

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

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 9—DEPARTMENT OF MENTAL HEALTH Division 10—Director, Department of Mental Health Chapter 5—General Program Procedures

PROPOSED RULE

9 CSR 10-5.240 Health Home

PURPOSE: This rule prescribes a Health Home as an alternative approach to the delivery of healthcare services that promises better experience and better results than traditional care. This rule also establishes the payment methodology for those Community Mental Health Centers (CMHCs) participating as a Health Home.

(1) Definitions.

(A) Community Mental Health Centers (CMHC)—An agency and its approved designee(s) authorized by the Division of Comprehensive Psychiatric Services (CPS) as an entry and exit point into the state

mental health service delivery system for a geographic service area defined by the division.

(B) Department—Missouri Department of Mental Health (DMH).

(C) Electronic Medical Record (EMR) (also referred to as Electronic Health Records (EHR))—An electronic version of a patient's medical history that is maintained by the provider over time and may include all of the key administrative clinical data relevant to that person's care under a particular provider, including demographic, progress notes, problems, medications, vital signs, past medical history, immunizations, laboratory data, and radiology reports. The EMR automates access to information and has the potential to streamline the clinician's workflow. The EMR also has the ability to support other care-related activities directly or indirectly through various interfaces, including evidence-based decision support, quality management, and outcomes reporting.

(D) Health Home (also referred to as Health Care Home)—A site that provides comprehensive primary physical and behavioral health care to Medicaid patients with chronic physical and/or behavioral health conditions, using a partnership or team approach between the Health Home practice's/site's health care staff and patients in order to achieve improved primary care and to avoid hospitalization or emergency room use for conditions treatable by the Health Home.

(E) Learning Collaborative—Group training sessions that CMHCs must attend if they are chosen to participate in the Missouri Medicaid Community Mental Health Center Health Home program.

(F) MO HealthNet Division (MHD)—The Missouri Medicaid agency.

(G) Needy individuals—Individuals receiving medical assistance from Medicaid or the Children's Health Insurance Program (CHIP), or are furnished uncompensated care by the provider, or furnished services at either no cost or reduced cost based on a sliding scale.

(2) Health Home Qualifications.

(A) Initial Provider Qualifications. In order to be recognized as a Health Home, a CMHC must, at a minimum, meet the following criteria:

1. Have a substantial percentage of its patients enrolled in Medicaid, with special consideration given to those with a considerable volume of needy individuals;

2. Have strong, engaged leadership personally committed to and capable of leading the practice through the transformation process and sustaining transformed practice processes as demonstrated through the application process and agreement to participate in learning activities; and that agency leadership have presented the state approved "Paving the Way for Health Homes" PowerPoint introduction to Missouri's Health Home Initiative to all agency staff;

3. Meet the state's minimum access requirements. Prior to implementation of Health Home service coverage, provide assurance of enhanced patient access to the health team, including the development of alternatives to face-to-face visits, such as telephone or email, twenty-four (24) hours per day, seven (7) days per week;

4. Actively use MHD's comprehensive EHR to conduct care coordination and prescription monitoring for Medicaid participants;

5. Utilize an interoperable patient registry to input annual metabolic screening results, track and measure care of individuals, automate care reminders, and produce exception reports for care planning;

6. Routinely use a behavioral pharmacy management system to determine problematic prescribing patterns;

7. Conduct wellness interventions as indicated based on client's level of risk;

8. Complete status reports to document client's housing, legal, employment status, education, custody, etc;

9. Agree to convene regular, ongoing and documented internal Health Home team meetings to plan and implement goals and objectives of practice transformation;

10. Agree to participate in the Centers for Medicare and Medicaid Services (CMS) and state-required evaluation activities;

11. Agree to develop required reports describing CMHC Health Home activities, efforts, and progress in implementing Health Home services;

12. Maintain compliance with all of the terms and conditions as a CMHC Health Home provider or face termination as a provider of CMHC Health Home services; and

13. Present a proposed Health Home delivery model that the state determines to have a reasonable likelihood of being cost effective. Cost effectiveness will be determined based on the size of the Health Home, Medicaid caseload, percentage of caseload with eligible chronic conditions of patients, and other factors to be determined by the state.

(B) Ongoing Provider Qualifications. Each CMHC must also—

1. Within three (3) months of Health Home service implementation, have developed a contract or Memorandum of Understanding (MOU) with regional hospital(s) or system(s) to ensure a formalized structure for transitional care planning, to include communication of inpatient admissions of Health Home participants, as well as maintain a mutual awareness and collaboration to identify individuals seeking emergency department (ED) services that might benefit from connection with a Health Home site, and in addition motivate hospital staff to notify the CMHC primary care nurse manager or staff of such opportunities;

2. Develop quality improvement plans to address gaps and opportunities for improvement identified during and after the application process;

3. Demonstrate continuing development of fundamental Health Home functionality at six (6) months and twelve (12) months through an assessment process to be determined by DMH;

4. Demonstrate improvement on clinical indicators specified by and reported to the state; and

5. Meet accreditation standards approved by the state as such standards are developed.

(3) Scope of Services. This section describes the activities CMHCs will be required to engage in and the responsibilities they will fulfill if recognized as a Health Home provider.

(A) Health Home Services. The Health Home Team shall assure that the following health services are received as necessary by all members of the Health Home:

1. Comprehensive Care Management. Comprehensive care management includes the following services:

A. Identification of high-risk individuals and use of client information to determine level of participation in care management services;

B. Assessment of preliminary service needs;

C. Development of treatment plans, including client goals, preferences, and optimal clinical outcomes;

D. Assignment of health team roles and responsibilities;

E. Development of treatment guidelines that establish clinical pathways for health teams to follow across risk levels or health conditions;

F. Monitoring of individual and population health status and service use to determine adherence to or variance from treatment guidelines; and

G. Development and dissemination of reports that indicate progress toward meeting outcomes for client satisfaction, health status, service delivery, and costs.

2. Care coordination. Care coordination consists of the implementation of the individualized treatment plan (with active client involvement) through appropriate linkages, referrals, coordination, and follow-up to needed services and supports, including referral and linkage to long-term services and supports. Specific care coordination activities include, but are not limited to: appointment scheduling, conducting referrals and follow-up monitoring, participating in hospital discharge processes, and communicating with other

providers and clients/family members. Health Homes must conduct care coordination activities across the health team. The primary responsibility of the Nurse Care Manager is to ensure implementation of the treatment plan for achievement of clinical outcomes consistent with the needs and preferences of the client.

3. Health promotion services. Services shall minimally consist of providing health education specific to an individual's chronic conditions, development of self-management plans with the individual, education regarding the importance of immunizations and screening, child physical and emotional development, providing support for improving social networks, and providing health promoting lifestyle interventions, including, but not limited to: substance use prevention, smoking prevention and cessation, nutritional counseling, obesity reduction and prevention, and increasing physical activity. Health promotion services also assist clients to participate in the implementation of the treatment plan and place a strong emphasis on person-centered empowerment to understand and self-manage chronic health conditions.

4. Comprehensive transitional care. Members of the Health Team must provide care coordination services designed to streamline plans of care, reduce hospital admissions, ease the transition to long-term services and supports, and interrupt patterns of frequent hospital emergency department use. Members of the Health Team collaborate with physicians, nurses, social workers, discharge planners, pharmacists, and others to continue implementation of the treatment plan with a specific focus on increasing clients' and family members' ability to manage care and live safely in the community and shift the use of reactive care and treatment to proactive health promotion and self-management.

5. Individual and family support services. Services include, but are not limited to: advocating for individuals and families; assisting with, obtaining, and adhering to medications and other prescribed treatments. In addition, Health Team members are responsible for identifying resources for individuals to support them in attaining their highest level of health and functioning in their families and in the community, including transportation to medically necessary services. A primary focus will be increasing health literacy, ability to self-manage care, and facilitate participation in the ongoing revision of their care/treatment plan. For individuals with developmental disabilities (DD) the Health Team will refer to and coordinate with the approved DD case management entity for services more directly related to habilitation or a particular health care condition.

6. Referral to community and social support. Involves providing assistance for clients to obtain and maintain eligibility for health care, disability benefits, housing, personal need, and legal services, as examples. For individuals with DD, the Health Team will refer to and coordinate with the approved DD case management entity for this service.

(B) Health Home Staffing. Health Home providers will augment their current Community Psychiatric Rehabilitation (CPR) teams by adding a Health Home Director, Physician Leadership, and Nurse Care Managers to provide consultation as part of the Care Team and assist in delivering Health Home services. Clerical support staff will also be funded to assist with Health Home supporting functions.

(C) Learning Activities. CMHCs will be supported in transforming service delivery by participating in statewide learning activities. Given CMHCs' varying levels of experience with practice transformation approaches, the state will assess providers to determine learning needs. CMHCs will therefore participate in a variety of learning supports, up to and including learning collaborative, specifically designed to instruct CMHCs to operate as Health Homes and provide care using a whole person approach that integrates behavioral health, primary care, and other needed services and supports.

1. Learning activities will support providers of Health Home services in addressing the following components:

A. Provide quality-driven, cost-effective, culturally-appropriate, and person-and-family-centered Health Home services;

B. Coordinate and provide access to high-quality health care services informed by evidence-based clinical practice guidelines;

C. Coordinate and provide access to preventive and health promotion services, including prevention of mental illness and substance use disorders;

D. Coordinate and provide access to mental health and substance use services;

E. Coordinate and provide access to comprehensive care management, care coordination, and transitional care across settings;

F. Coordinate and provide access to chronic disease management, including self-management support to individuals and their families;

G. Coordinate and provide access to individual and family supports, including referral to community, social support, and recovery services;

H. Coordinate and provide access to long-term care supports and services;

I. Develop a person-centered care plan for each individual that coordinates and integrates all of his or her clinical and non-clinical health care related needs and services;

J. Demonstrate a capacity to use health information technology to link services, facilitate communication among team members and between the health team and individual and family caregivers, and provide feedback to practices, as feasible and appropriate; and

K. Establish a continuous quality improvement program and collect and report on data that permits an evaluation of increased coordination of care and chronic disease management on individual-level clinical outcomes, experience of care outcomes, and quality of care outcomes at the population level.

(D) Patient Registry. Health Homes shall utilize the DMH/Department of Social Services (DSS) provided EHR patient registry. A patient registry is a system for tracking information that DMH/DSS deems critical to the management of the health of a Health Home's patient population, including dates of delivered and needed services, laboratory values needed to track chronic conditions, and other measures of health status. The registry shall be used for—

1. Patient tracking;
2. Patient risk stratification;
3. Analysis of patient population health status and individual patient needs; and
4. Reporting as specified by DMH.

(E) Data Reporting. CMHCs shall submit to DMH the following reports, as further specified by DMH, within the time frames specified below:

1. Monthly update CMHC report that describes the CMHC's efforts and progress to implement Health Home; including identifying the CMHC leadership and Health Home staffing and providing updates on Health Home enrollment status; and

2. Other reports, as specified by DMH/DSS.

(F) Demonstrated Evidence of Health Home Transformation. CMHCs are required to demonstrate evidence of Health Home transformation on an ongoing basis using measures and standards established by DSS and DMH, and communicated to the CMHCs. Evidence of Health Home transformation includes:

1. Demonstrates development of fundamental health home functionality at six (6) months and twelve (12) months based on an assessment process to be determined by DMH; and

2. Demonstrates improvement on clinical indicators specified by and reported to DMH.

(G) Participation in Evaluation. CMHCs shall participate in an evaluation. Participation may entail responding to surveys and requests for interviews with CMHC staff and clients. CMHCs shall provide all requested information to the evaluator in a timely fashion.

(H) Notification of Staffing Changes. Practices are required to notify DMH within five (5) working days of staff changes in Health Home Director, Physician Leadership, Nurse Care Managers, and Clerical Support Staff.

(4) Patient Eligibility and Enrollment.

(A) Medicaid beneficiaries eligible for Health Home services from recognized CMHC Health Home service providers must meet one (1) of the following criteria:

1. Diagnosed with a serious and persistent mental health condition (adults with Seriously Mentally Ill (SMI) and children with Serious Emotional Disturbance (SED)); or

2. Diagnosed with a mental health condition and substance use disorder; or

3. Diagnosed with a mental health condition and/or substance use disorder, and one other chronic condition (diabetes, Chronic obstructive pulmonary disease (COPD), cardiovascular disease, overweight (body mass index (BMI) > 25), tobacco use, and developmental disability).

(B) Individuals eligible for Health Home services and identified by the state as being an existing service user of a Health Home will be auto-assigned to eligible providers based on qualifying conditions. Individuals will be attributed to the CMHC using a standard patient attribution algorithm adopted by DMH/DSS.

(C) After being assigned to a Health Home, participants will be granted the option to change their Health Home if desired. A participant assigned to a Health Home will be notified by DMH of all available Health Homes sites throughout the state. The notice will—

1. Describe the participant's choice in selecting a new Health Home;

2. Provide a brief description of Health Home services; and

3. Describe the process for the participant to decline receiving Health Home services from the assigned Health Home provider.

(D) Potentially eligible individuals receiving services in the hospital emergency department or as an inpatient will be notified about eligible Health Homes and referred based on their choice of provider. Eligibility for Health Home services will be identifiable through the state's comprehensive Medicaid electronic health record.

(E) Health Home providers to which patients have been auto-assigned will receive communication from the state regarding a patient's enrollment in Health Home services. The Health Home will notify other treatment providers about the goals and types of Health Home services as well as encourage participation in care coordination efforts.

(5) Health Home Payment Components.

(A) General.

1. All Health Home payments to a practice site are contingent on the site meeting the Health Home requirements set forth in this rule. Failure to meet these requirements is grounds for revocation of a site's Health Home status and termination of payments specified within this rule.

2. Health Home reimbursement will be in addition to a provider's existing reimbursement for services and procedures and will not change existing reimbursement for a provider's non-Health Home services and procedures.

3. DMH/DSS reserves the right to make changes to the payment methodology after consultation with recognized Health Homes and receipt of required federal approvals.

(B) Types of Payments.

1. Clinical Care Management Per Member Per Month (PMPM). PMPM reimburses for cost of staff primarily responsible for delivery of Health Home services not covered by other reimbursement and whose duties are not reimbursable otherwise by Medicaid.

AUTHORITY: section 630.050, RSMo 2000. Original rule filed Oct. 17, 2011.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions seven hundred thousand dollars (\$700,000) in SFY 2012 and \$1.7 million starting with SFY 2013.

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 opposition to this proposed rule by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Title 9 – Department of Mental Health
Division Title: Division 10 – Director, Department of Mental Health
Chapter Title: Chapter 5 – General Program Procedures**

Rule Number and Name:	9 CSR 10-5.240 Health Home
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Mental Health	SFY 2012 - \$7.1 million; state share of \$.7 million and federal share of \$6.4 million SFY 2013 - \$17 million; state share of \$1.7 million and federal share of \$15.3 million

III. WORKSHEET

	SFY 2012	SFY 2013
Number of Estimated Enrollees	18,000	18,000
PMPM	\$78.74	\$78.74
Estimated Monthly Cost	\$1,417,320	\$1,417,320
Number of Months Payment Made	5	12
SFY Estimated Total Cost	\$7,086,600	\$17,007,840
State Share	10.00%	10.00%
SFY Estimated State Cost	\$708,660	\$1,700,784
Federal Share	90.00%	90.00%
SFY Estimated Federal Cost	\$6,377,940	\$15,307,056

IV. ASSUMPTIONS

See above Worksheet.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 5—Laboratory and Analytical Requirements

PROPOSED AMENDMENT

10 CSR 60-5.010 Acceptable and Alternate Procedures for Analysis. The commission is amending sections (1)–(9).

PURPOSE: This amendment updates the incorporation by reference of analytical methods, detection limits, and practical quantitation levels from the current edition of the Code of Federal Regulations.

(1) Inorganic and Secondary Contaminants. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the inorganic and secondary contaminant analytical methods in paragraphs 40 CFR 141.23(k)(l) and 40 CFR 143.4(b) of the July 1, [2003] 2011, *Code of Federal Regulations*, which are incorporated by reference in this rule. **This does not include later amendments or additions. The Code of Federal Regulations is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.**

(2) Organic Contaminants. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the organic contaminant analytical methods in paragraph 40 CFR 141.24(e) of the July 1, [2003] 2011, *Code of Federal Regulations*, which is incorporated by reference in this rule. **This does not include later amendments or additions. The Code of Federal Regulations is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.**

(3) Microbiological Contaminants and Turbidity. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the microbiological contaminant and turbidity analytical methods in 40 CFR 141.21(f), 40 CFR 141.74(a)(1), and 40 CFR 141.704(a) of the July 1, [2008] 2011, *Code of Federal Regulations*, which are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(4) Radiological Contaminants. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the radiological contaminant analytical methods in paragraphs 40 CFR 141.25(a) and (b) of the July 1, [2003] 2011, *Code of Federal Regulations*, which are incorporated by reference. **This does not include later amendments or additions. The Code of Federal Regulations is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.**

(5) Disinfection By-Products, Residual Disinfectant Concentrations, and Disinfection By-Product Precursors. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the disinfection by-product, residual disinfectant concentration, and disinfection by-product precursor analytical methods in 40 CFR 141.74(a)(2) and 40 CFR 141.131 of the July 1, [2008] 2011, *Code of Federal Regulations*, which are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(6) Sample collection for the contaminants referenced in this rule must be conducted using the sample preservation, container, and maximum holding time procedures specified in the following procedures, which are incorporated by reference, or in accordance with procedures contained in the appropriate analytical method. **The incorporation by reference does not include later amendments or additions. The Code of Federal Regulations is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.**

(A) Inorganic contaminant sample collection procedures in 40 CFR 141.23(k)(2) of the July 1, [2003] 2011, *Code of Federal Regulations* are incorporated by reference.

(B) Total trihalomethane sample collection procedures in 40 CFR 141.30(e) of the July 1, [2003] 2011, *Code of Federal Regulations* are incorporated by reference.

(7) The department may reduce the total number of samples a system must analyze by allowing the use of compositing. Compositing shall be conducted according to the following procedures, which are incorporated by reference. **The incorporation by reference does not include later amendments or additions. The Code of Federal Regulations is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.**

(A) Sample compositing procedures for inorganic contaminants in 40 CFR 141.23(a)(4) of the July 1, [2003] 2011, *Code of Federal Regulations* are incorporated by reference.

(B) Sample compositing procedures for volatile organic contaminants in 40 CFR 141.24(f)(14) of the July 1, [2003] 2011, *Code of Federal Regulations* are incorporated by reference.

(C) Sample compositing procedures for synthetic organic contaminants in 40 CFR 141.24(h)(10) of the July 1, [2003] 2011, *Code of Federal Regulations* are incorporated by reference.

(D) Sample compositing procedures for radiological contaminants in 40 CFR 141.26(a)(4) of the July 1, [2003] 2011, *Code of Federal Regulations* are incorporated by reference.

(E) Sample compositing procedures for lead and copper in 40 CFR 141.88(a)(1)(iv) of the July 1, 2011, *Code of Federal Regulations* are incorporated by reference.

(8) Detection Limits.

(A) Detection limits for inorganic contaminants in 40 CFR 141.23(a)(4)(i) of the July 1, [2008] 2011, *Code of Federal Regulations* are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(B) Practical Quantitation Levels (PQL) for lead and copper in 40 CFR 141.89(a)(1)(ii)(A) and (B) of the July 1, [2008] 2011, *Code of Federal Regulations* are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(C) Detection limit for volatile organic contaminants in 40 CFR 141.24(f)(7) of the July 1, [2008] 2011, *Code of Federal Regulations* are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(D) Detection limits for synthetic organic contaminants in 40 CFR 141.24(h)(13)(ii) and 141.24(h)(18) of the July 1, [2008] 2011, *Code of Federal Regulations* are incorporated by reference. This does

not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(E) Detection limits for radiological contaminants in 40 CFR 141.25(c) of the July 1, [2008] 2011, *Code of Federal Regulations* are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(F) Detection limits for disinfection by-products in 40 CFR 141.64 of the July 1, [2008] 2011, *Code of Federal Regulations* are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

(9) Analytical Methods for Source Water Monitoring. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the analytical methods in 40 CFR 141.402(c) of the July 1, [2008] 2011, *Code of Federal Regulations*, which are incorporated by reference. This does not include later amendments or additions. The *Code of Federal Regulations* is published by the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 and is available by calling toll-free (866) 512-1800 or going to <http://bookstore.gpo.gov>.

AUTHORITY: section 640.100, RSMo Supp. [2009] 2010, and section 640.125.1, RSMo 2000. Original rule filed May 4, 1979, effective Sept. 14, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 7—Reporting**

PROPOSED AMENDMENT

10 CSR 60-7.020 Reporting Requirements for Lead and Copper Monitoring. The commission is amending sections (1), (5), and (6).

PURPOSE: This amendment adopts new federal reporting requirements from the Lead and Copper Rule Short-Term Revisions.

(1) Reporting requirements for lead and copper tap water monitoring and for water quality parameter monitoring.

(A) Except as provided in paragraph (1)(A)7. **of this rule**, a water system shall report to the department the [following] information **required by this subsection** for all tap water samples and all water quality parameter samples specified in 10 CSR 60-15.080 within the first ten (10) days following the end of each applicable monitoring period specified in 10 CSR 60-15.070, 10 CSR 60-15.080, and 10 CSR 60-15.090 (such as, every six (6) months, annually, or every three (3) years)/:/. **For monitoring periods with a duration less than six (6) months, the end of the monitoring period is the last date samples can be collected during that period as specified in 10 CSR 60-15.070 and 10 CSR 60-15.080. The water system shall report—**

1. The results of all tap samples for lead and copper including the location of each site and the criteria under 10 CSR 60-15.070(1) under which the site was selected for the system's sampling pool;

2. Documentation for each tap water lead or copper sample for which the water system requests invalidation pursuant to 10 CSR 60-15.070(6)/:;;

3. The ninetieth percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 10 CSR 60-15.010(3)(C)), unless the department calculates the system's ninetieth percentile lead and copper levels under section (8) of this rule;

4. With the exception of initial tap sampling conducted pursuant to 10 CSR 60-15.070(4)(A), the system shall specify any site which was not sampled during previous monitoring periods and include an explanation of why sampling sites have changed;

5. The results of all tap samples for pH and, where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under 10 CSR 60-15.080(2)–(5);

6. The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 10 CSR 60-15.080(2)–(5); and

7. A water system shall report the results of all water quality parameter samples collected under 10 CSR 60-15.080(3)–(6) during each six (6)-month monitoring period specified in 10 CSR 60-15.080(4) within the first ten (10) days following the end of the monitoring period unless the department has specified a more frequent reporting requirement.

(B) For a non-transient non-community water system, or a community water system meeting the criteria of 10 CSR 60-15.060/(3)(G)1. and 2.)/(2)(G) and that does not have enough taps that can provide first-draw samples, the system must either:/—

1. Provide written documentation to the department identifying standing times and locations for enough non-first-draw samples to make up its sampling pool under 10 CSR 60-15.070(2)(E) by the start of the first applicable monitoring period under 10 CSR 60-15.070(4) that commences after April 11, 2000, unless the department has waived prior department approval of non-first-draw sample sites selected by the system pursuant to 10 CSR 60-15.070(2)(E); or

2. If the department has waived prior approval of non-first-draw sample sites selected by the system, identify, in writing, each site that did not meet the six (6)-hour minimum standing time and the length of standing time for that particular substitute sample collected pursuant to 10 CSR 60-15.070(2)(E) and include this information with the lead and copper tap sample results required to be submitted pursuant to paragraph (1)(A)1. of this rule.

(C) [No later than sixty (60) days after the addition of a new source or any change in water treatment, unless the department requires earlier notification, a water system deemed to have optimized corrosion control under 10 CSR 60-15.020(2)(C), a water system subject to reduced monitoring

pursuant to 10 CSR 60-15.070(4)(D), or a water system subject to a monitoring waiver pursuant to 10 CSR 60-15.070(6), shall send written documentation to the department describing the change. In those instances where prior department approval of the treatment change or new source is not required, water systems are encouraged to provide the notification to the department beforehand to minimize the risk that the treatment change or new source will adversely affect optimal corrosion control.] At a time specified by the department, or if no specific time is designated by the department, then as early as possible prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control under 10 CSR 60-15.020(3)(C), a water system subject to reduced monitoring pursuant to 10 CSR 60-15.070(4)(D), or a water system subject to a monitoring waiver pursuant to 10 CSR 60-15.070(7) shall submit written documentation to the department describing the change or addition. The department must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Examples of long-term treatment changes include the addition of a new treatment process or modification of an existing treatment process. Examples of modifications include switching secondary disinfectants, switching coagulants (for example, alum to ferric chloride), and switching corrosion inhibitor products (for example, orthophosphate to blended phosphate). Long-term changes can include dose changes to existing chemicals if the system is planning long-term changes to its finished water pH or residual inhibitor concentration. Long-term treatment changes would not include chemical dose fluctuations associated with daily raw water quality changes.

(D) Any small system applying for a monitoring waiver under 10 CSR 60-15.070(6), or subject to a waiver granted pursuant to 10 CSR 60-15.070(6)(C), shall provide the following information to the state in writing by the specified deadline:

1. By the start of the first applicable monitoring period in 10 CSR 60-15.070(4), any small water system applying for a monitoring waiver shall provide the documentation required to demonstrate that it meets the waiver criteria of 10 CSR 60-15.070(6)(A)-(B).;

2. No later than nine (9) years after the monitoring previously conducted pursuant to 10 CSR 60-15.070(6)(B) or 10 CSR 60-15.070(6)(D)1., each small system desiring to maintain its monitoring waiver shall provide the information required by 10 CSR 60-15.070(6)(D)1. and 2.; and

3. No later than sixty (60) days after it becomes aware that it is no longer free of lead-containing and/or copper-containing material, as appropriate, each small system with a monitoring waiver shall provide written notification to the state, setting forth the circumstances resulting in the lead-containing and/or copper-containing materials being introduced into the system and what corrective action, if any, the system plans to remove these materials.

(5) Lead Service Line Replacement Reporting Requirements. Systems shall report the following information to the department to demonstrate compliance with the requirements of 10 CSR 60-15.050:

(A) [Within] Not later than twelve (12) months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in 10 CSR 60-15.050(1), the system [shall demonstrate in writing] must submit written documentation to the department [that it has conducted a materials evaluation, including the evaluation] of the material evaluation conducted as required in 10 CSR 60-15.070(1), [to] identify the initial number of lead service lines in its distribution system at the time the system exceeds the lead action level, and [shall] provide the department with the system's schedule for replacing annually at least seven percent (7%) of the initial number of lead service lines in its distribution system;

(B) [Within] Not later than twelve (12) months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in 10 CSR 60-15.050(1), and every twelve (12) months after that, the system shall demonstrate to the department in writing that the system has either—

1. Replaced in the previous twelve (12) months at least seven percent (7%) of the initial lead service lines (or a greater number of lines specified by the department under 10 CSR 60-15.050(5)) in its distribution system; or

2. Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to 10 CSR 60-15.070(2)(C), is less than or equal to 0.015 milligrams per liter (mg/LL). In those cases, the total number of lines replaced or which meet the criteria in 10 CSR 60-15.050(2), or both, shall equal at least seven percent (7%) of the initial number of lead lines identified under subsection (5)(A) of this rule (or the percentage specified by the department under 10 CSR 60-15.050(5));

(C) The annual letter submitted to the department under subsection (5)(B) of this rule shall contain the following information:

1. The number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule/;/. **The total number of lines replaced and/or which meet the criteria in 10 CSR 60-15.050(3) shall equal at least seven percent (7%) of the initial number of lead lines identified under subsection (5)(A) of this rule or the percentage specified by the department under 10 CSR 60-15.050(5); and**

2. The number and location of each lead service line replaced during the previous year of the system's replacement schedule; and

3. If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling; and

(6) Public Education Program Reporting Requirements.

(A) Any water system that is subject to the public education requirements in 10 CSR 60-15.060 shall, within ten (10) days after the end of each period in which the system is required to perform public education tasks in accordance with 10 CSR 60-15.060[(3)](2), submit written documentation to the department that contains/;—

1. A demonstration that the system has delivered the public education materials that meet the content requirements in 10 CSR 60-15.060(1) [and (2)] and the delivery requirements in 10 CSR 60-15.060[(3)](2); and

2. A list of all the newspapers, radio stations, television stations, facilities, and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(C) **No later than three (3) months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the department along with a certification that the notification has been distributed in a manner consistent with the requirements of 10 CSR 60-15.060(4).**

AUTHORITY: section 640.100, RSMo [2000] Supp. 2010. Original rule Aug. 4, 1992, effective May 6, 1993. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Amended: Filed Oct. 17, 2011.

PUBLIC COST: This proposed amendment is anticipated to cost publicly-owned public water systems approximately forty thousand one hundred twenty-eight dollars (\$40,128) annually for the duration of the rule and two thousand six hundred forty dollars (\$2,640) in one-time costs.

PRIVATE COST: This proposed amendment is anticipated to cost eighteen (18) privately-owned public water systems approximately two thousand one hundred sixty dollars (\$2,160) in one-time costs and two hundred fifty-seven (257) privately-owned public water systems

approximately thirty-two thousand eight hundred thirty-two dollars (\$32,832) annually for the duration of the rule.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the **Missouri Register** page number and explain why you agree or disagree with the proposed change.*

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 10 - Department of Natural Resources**
Division Title: 60 - Safe Drinking Water Commission
Chapter Title: 7 - Reporting

Rule Number and Name:	10 CSR 60-7.020 Reporting Requirements for Lead and Copper Monitoring
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Publicly-owned community and nontransient noncommunity water systems that change treatment to comply with the Stage 2 Disinfectants/Disinfection By-products Rule	\$2,640 one-time notification cost
Publicly-owned community and nontransient noncommunity water systems that must comply with the Lead and Copper Rule	\$40,128 annually for the duration of the rule

III. WORKSHEET

- 22 publicly owned systems changing treatment x 4 hours x \$30/hour = \$2,640
- 570 systems x 55% publicly owned x 8 hours x \$16/hour = \$40,128

IV. ASSUMPTIONS

- Approximately 40 systems will convert their disinfectant residual from free chlorine to chloramines to comply with the Stage 2 Disinfectants/Disinfection Byproducts Rule. Twenty two of these systems are publicly owned. MDNR assumes it will take each system approximately 4 hours at \$30 per hour to assemble the information necessary to report to MDNR.
- MDNR assumes that the new reporting requirement in this rule for water systems to submit a copy of the consumer notification of tap results and a certification that notification was done properly will take an average of 8 hours per system at \$16 per hour.
- Fifty-five percent of the community and nontransient noncommunity systems in Missouri are publicly owned.
- According to the 2011 Census of Missouri Public Water Systems, there are 1,470 community systems and 241 nontransient noncommunity systems. Taking into account that the majority of water systems are on three year reduced monitoring schedules, MDNR estimates that annually approximately 570 systems will be reporting to MDNR. Of these 570 systems, 313 are publicly owned.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 10 - Department of Natural Resources
Division Title: 60 - Safe Drinking Water Commission
Chapter Title: 7 - Reporting**

Rule Number and Name	10 CSR 60-7.020 Reporting Requirements for Lead and Copper Monitoring
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 proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
18	Privately-owned community and nontransient noncommunity water systems that change treatment to comply with the Stage 2 Disinfectants/Disinfection Byproducts Rule	\$2,160 in one-time costs
257	Privately-owned community and nontransient noncommunity water systems that must comply with the Lead and Copper Rule	\$32,832 in annual costs for the duration of the rule

III. WORKSHEET

- 18 privately owned systems x 4 hours x \$30/hour = \$2,160
- 570 systems x 45% privately owned x 8 hours x \$16/hour = \$32,832

IV. ASSUMPTIONS

1. Approximately 40 systems will convert their disinfectant residual from free chlorine to chloramines to comply with the Stage 2 D/DBPR. Eighteen of these systems are privately owned. MDNR assumes it will take each system approximately 4 hours at \$30 per hour to assemble the information necessary to report to MDNR.
2. MDNR assumes that the new reporting requirement in this rule for water systems to submit a copy of the consumer notification of tap results and a certification that notification was done properly will take an average of 8 hours per system at \$16 per hour.
3. Forty five percent of the community and nontransient noncommunity systems in Missouri are privately owned.
4. According to the 2011 Census of Missouri Public Water Systems there are 1470 community systems and 241 nontransient noncommunity systems. Taking into account that the majority of water systems are on three year reduced monitoring schedules, MDNR estimates that annually approximately 570 systems will be reporting information to MDNR. Of these 570 systems, 257 are privately owned.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 8—Public Notification**

PROPOSED AMENDMENT

10 CSR 60-8.030 Consumer Confidence Reports. The commission is amending subsection (3)(D).

PURPOSE: This amendment adopts new federal Consumer Confidence Report requirements from the Lead and Copper Rule Short-Term Revisions.

(3) Required Additional Health Information.

(D) [Systems which detect lead above the action level in more than five percent (5%), and up to and including ten percent (10%), of homes sampled:] Every Consumer Confidence Report must include the following lead-specific information:

1. [Must include a short informational statement about the special impact of lead on children using language such as: "Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791)."] A short informational statement about lead in drinking water and its effects on children. The statement must include the following information: "If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. [NAME OF UTILITY] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline (1-800-426-4791) or at <http://www.epa.gov/safewater/lead>"; and

2. The water system [M] may write its own educational statement, but only in consultation with the department.

[(E) Community water systems that detect total trihalomethanes (TTHM) above 0.080 mg/l, but below the MCL in 10 CSR 60-4.090, as an annual average, monitored and calculated under the provisions of 10 CSR 60-4.090, must include health effects language prescribed by paragraph (73) of Appendix C.]

AUTHORITY: section 640.100, RSMo Supp. [2009] 2010 and section 640.125.1, RSMo 2000.* Original rule filed July 1, 1999, effective March 30, 2000. Amended: Filed March 17, 2003, effective Nov. 30, 2003. Amended: Filed Feb. 27, 2009, effective Oct. 30, 2009. Amended: Filed April 14, 2010, effective Dec. 30, 2010. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper**

PROPOSED AMENDMENT

10 CSR 60-15.010 General Requirements. The commission is amending subsection (3)(C) and section (7).

PURPOSE: This amendment adopts changes to the rule required by the federal Lead and Copper Rule Short-Term Revisions. For a public water system that has been allowed to collect fewer than five (5) samples, the sample result with the highest concentration is considered the ninetieth percentile value. All water systems must provide a consumer notice of lead tap water monitoring results to persons served at the taps that are tested.

(3) Lead and Copper Action Levels.

(C) The ninetieth percentile lead and copper levels shall be computed as follows:

1. The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number one (1) for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken;

2. The number of samples taken during the monitoring period shall be multiplied by 0.9;

3. The contaminant concentration in the numbered sample yielded by the calculation in paragraph (3)(C)2. is the ninetieth percentile contaminant level; [and]

4. For water systems serving fewer than one hundred (100) people that collect five (5) samples per monitoring period, the ninetieth percentile is computed by taking the average of the highest and second highest concentrations[.]; and

5. For a public water system that has been allowed by the department to collect fewer than five (5) samples in accordance with 10 CSR 60-15.070(3), the sample result with the highest concentration is considered the ninetieth percentile value.

(7) Public Education Requirements. Pursuant to 10 CSR 60-15.060, all water systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested. Any system exceeding the lead action level shall implement the public education requirements contained in 10 CSR 60-15.060.

AUTHORITY: section 640.100, RSMo Supp. [1989] 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.020 Applicability of Corrosion Control Treatment Steps to Small, Medium-Size, and Large Water Systems. The commission is amending subsection (1)(B) and section (2).

PURPOSE: This amendment requires the water system to receive department approval prior to implementing long-term treatment changes and clarifies when a water system that exceeds an action level must perform corrosion control studies. These changes to the state rule are required by the federal Lead and Copper Rule Short-Term Revisions.

(1) A large system (serving more than fifty thousand (50,000) persons) shall complete the corrosion control treatment steps as follows unless it is deemed to have optimized corrosion control under paragraph (1)(B)1. or 2. of this rule.

(B) A large system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one (1) of the following criteria. Any such large system deemed to have optimized corrosion control, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the department determines appropriate to ensure optimal corrosion control treatment is maintained.

1. The system demonstrates to the satisfaction of the department that it has conducted activities equivalent to the corrosion control steps applicable to large systems. If the department makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with 10 CSR 60-15.030(7). Water systems deemed to have optimized corrosion control shall operate in compliance with the department-designated optimal water quality control parameters in accordance

with 10 CSR 60-15.030(8) and continue to conduct lead and copper tap and water quality parameter sampling in accordance with 10 CSR 60-15.070(4)(C) and 10 CSR 60-15.080(4). A system shall provide the department with the following information in order to support this determination:

A. The results of all test samples collected for each of the water quality parameters in 10 CSR 60-15.030(3)(C);

B. A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in 10 CSR 60-15.030(3)(A), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

C. A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

D. The results of tap water samples collected in accordance with 10 CSR 60-15.070 at least once every six (6) months for one (1) year after corrosion control has been installed.

2. The water system submits results of tap water monitoring conducted in accordance with 10 CSR 60-15.070 and source water monitoring conducted in accordance with 10 CSR 60-15.090 that demonstrates for two (2) consecutive six (6)-month monitoring periods that the difference between the ninetieth percentile tap water lead level, computed under 10 CSR 60-15.010(3)(C), and the highest source water lead concentration is less than the practical quantitation level for lead specified in 10 CSR 60-5.010/(5)(H)/(8)(B).

A. Those systems whose highest source water lead level is below the method detection limit may also be deemed to have optimized corrosion control under this paragraph if the ninetieth percentile tap water lead level is less than or equal to the practical quantitation level for lead for two (2) consecutive six (6)-month monitoring periods.

B. Any water system deemed to have optimized corrosion control in accordance with this paragraph (1)(B)2. shall continue monitoring for lead and copper at the tap no less frequently than once every three (3) calendar years using the reduced number of sites specified in 10 CSR 60-15.070(3) and collecting the samples at times and locations specified in 10 CSR 60-15.070(4)(D)4.

C. Any water system deemed to have optimized corrosion control pursuant to this paragraph (1)(B)2. shall notify the department in writing pursuant to 10 CSR 60-7.020(1)(C) of any **upcoming long-term** changes in treatment or the addition of a new source **as described in that subsection**. The department *[may require any such system to conduct additional monitoring or to take other action the department deems appropriate to ensure that such system maintains minimal levels of corrosion in the distribution system]* **must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system.**

D. A system is not deemed to have optimized corrosion control pursuant to this paragraph (1)(B)2. and shall implement corrosion control treatment pursuant to subparagraph (1)(B)2.E. of this rule unless it meets the copper action level.

E. Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under paragraph (1)(B)2. shall implement corrosion control treatment in accordance with the deadlines in subsection (2)(A) of this rule. Any such large system shall adhere to the schedule specified in subsection (2)(A) of this rule for medium-size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control under paragraph (1)(B)2. of this rule.

(2) A small system (serving fewer than three thousand three hundred (3,300) persons) and a medium-size system (serving three thousand three hundred one to fifty thousand (3,301–50,000) persons) shall complete the corrosion control treatment steps specified as follows unless it is deemed to have optimized corrosion control under paragraph (2)(B)1., 2., or 3. of this rule:

(A) Treatment Steps and Deadlines for Small and Medium-Size Systems.

1. The system shall conduct initial tap sampling (10 CSR 60-15.070(4)(A) and 10 CSR 60-15.080(2)) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under 10 CSR 60-15.070(4)(D). A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment (10 CSR 60-15.030(1)) within six (6) months after **the end of the monitoring period during which** it exceeds one (1) of the action levels.

2. Within twelve (12) months after a system exceeds the lead or copper action level, the department may require the system to perform corrosion control studies (10 CSR 60-15.030(2)). *If the department does not require the system to perform these studies, the department shall specify optimal corrosion control treatment (10 CSR 60-15.030(4))* within the following time frames:

A. For medium-size systems, within eighteen (18) months after **the end of the monitoring period during which** that system exceeds the lead or copper action level; or

B. For small systems, within twenty-four (24) months after **the end of the monitoring period** that system exceeds the lead or copper action level.

3. If the department requires a system to perform corrosion control studies under paragraph (2)(A)2. of this rule, the system shall complete the studies (10 CSR 60-15.030(3)) within eighteen (18) months after the department requires that those studies be conducted.

4. If the system has performed corrosion control studies under paragraph (2)(A)2. of this rule, the department shall designate optimal corrosion control treatment (10 CSR 60-15.030(4)) within six (6) months after completion of paragraph (2)(A)3. of this rule.

5. The system shall install optimal corrosion control treatment (10 CSR 60-15.030(6)) within twenty-four (24) months after the department designates that treatment.

6. The system shall complete follow-up sampling (10 CSR 60-15.070(4)(B) and 10 CSR 60-15.080(3)) within thirty-six (36) months after the department designates optimal corrosion control treatment.

7. The department shall review the system's installation of treatment and designate optimal water quality control parameters (10 CSR 60-15.030(7)) within six (6) months after completion of paragraph (2)(A)6. of this rule.

8. The system shall operate in compliance with the department-designated optimal water quality control parameters (10 CSR 60-15.030(8)) and continue to conduct tap sampling as specified in 10 CSR 60-15.070(4)(C) and 10 CSR 60-15.080(4);

AUTHORITY: section 640.100, RSMo [2000] Supp. 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Amended: Filed Oct. 17, 2011.

PUBLIC COST: This proposed amendment is anticipated to cost the Department of Natural Resources approximately seventeen thousand ninety-four dollars (\$17,094) annually for as long as the rule is in effect.

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public

Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 10 - Department of Natural Resources
Division Title: 60 - Safe Drinking Water Commission
Chapter Title: 15 - Lead and Copper**

Rule Number and Name:	10 CSR 60-15.020 Applicability of Corrosion Control Treatment Steps to Small, Medium-Size and Large Water Systems
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Natural Resources	\$17,094 annually as long as the rule is in effect

III. WORKSHEET

40 water systems X 16 hours X \$26.71 = \$17,094

IV. ASSUMPTIONS

1. MDNR must review a water system's plans to add a new source or make long-term modifications to treatment.
2. Approximately 40 systems will convert their disinfectant residual from free chlorine to chloramines to comply with the Stage 2 Disinfectants/Disinfection By-products Rule.
3. This information will be reviewed by an Environmental Engineer II with an hourly salary of \$26.71.
4. MDNR estimates that it will take an average of 16 hours to review information on new sources or treatment changes to ensure the finished water remains non corrosive.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.040 Source Water Treatment Requirements. The commission is amending subsection (1)(A).

PURPOSE: This amendment clarifies when a system exceeding the action level must make a treatment recommendation to the department. This change to the state rule is required by the federal Lead and Copper Rule Short-Term Revisions.

(1) The following are deadlines for completing source water treatment steps:

(A) A system exceeding the lead or copper action level shall complete lead and copper source water monitoring under 10 CSR 60-15.090(2) and make a treatment recommendation to the department [within six (6) months] no later than one hundred eighty (180) days after [exceeding] the end of the monitoring period during which the lead or copper action level was exceeded;

AUTHORITY: section 640.100, RSMo Supp. [1989] 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.050 Lead Service Line Replacement Requirements. The commission is amending section (2), adding a new section (3), and renumbering the subsequent sections.

PURPOSE: The amendment adopts lead service line replacement requirements from the federal Lead and Copper Rule Short-Term Revisions.

(2) A water system shall replace annually at least seven percent (7%)

of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portion(s) owned by the system, based upon a materials evaluation, including the evaluation required under 10 CSR 60-15.070(1) and relevant legal authorities (e.g., contracts, local ordinances) regarding the portion owned by the system. The first year of lead service line replacement shall begin on the [date the action level was exceeded in tap sampling referenced in] first day following the end of the monitoring period in which the action level was exceeded under section (1) of this rule. If monitoring is required annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs. If the department has established an alternate monitoring period, then the end of the monitoring period will be the last day of that period.

(3) Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by section (7) of this rule shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under section (4) of this rule. The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year (seven percent (7%) lead service line replacement is based on a fifteen (15)-year replacement program, so, for example, systems resuming lead service line replacement after previously conducting two (2) years of replacement would divide the updated inventory by thirteen (13)). For those systems that have completed a fifteen (15)-year lead service line replacement program, the department will determine a schedule for replacing or retesting lines that were previously tested out under the replacement program when the system re-exceeds the action level.

[(3)](4) A system is not required to replace an individual lead service line if the lead concentration in all service line samples from that line, taken pursuant to 10 CSR 60-15.070(2)(C), is less than or equal to 0.015 milligrams per liter (mg/LL).

[(4)](5) A water system shall replace that portion of the lead service line that it owns. In cases where the system does not own the entire lead service line, the system shall notify the owner of the line, or the owner's authorized agent, that the system will replace the portion of the service line that it owns and shall offer to replace the owner's portion of the line. A system is not required to bear the cost of replacing the privately-owned portion of the line, nor is it required to replace the privately-owned portion where the owner chooses not to pay the cost of replacing the privately-owned portion of the line, or where replacing the privately-owned portion would be precluded by department, local, or common law. A water system that does not replace the entire length of the service line also shall complete the following tasks:

(A) At least forty-five (45) days prior to commencing with the partial replacement of a lead service line, the water system shall provide notice to the resident(s) of all buildings served by the line explaining that they may experience a temporary increase of lead levels in their drinking water, along with guidance on measures consumers can take to minimize their exposure to lead. The department may allow the water system to provide this notice less than forty-five (45) days prior to commencing partial lead service line replacement where such replacement is in conjunction with emergency repairs. In addition, the water system shall inform the resident(s) served by the line that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content, as prescribed under 10 CSR 60-15.070(2)(C), within seventy-two (72) hours after the

completion of the partial replacement of the service line. The system shall collect the sample and report the results of the analysis to the owner and the resident(s) served by the line within three (3) business days of receiving the results. Mailed notices postmarked within three (3) business days of receiving the results shall be considered "on time"; and

(B) The water system shall provide the information required by subsection (4)(A) of this rule to the residents of individual dwellings by mail or by other methods approved by the department. In instances where multi-family dwellings are served by the line, the water system shall have the option to post the information at a conspicuous location.

[(5)](6) The department shall require a system to replace lead service lines on a shorter time schedule than that required by this section, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The department shall make this determination in writing and notify the system of its finding within six (6) months after the system is triggered into lead service line replacement based on monitoring referenced in section (1) of this rule.

[(6)](7) Any system may cease replacing lead service lines whenever first-draw tap samples collected pursuant to 10 CSR 60-15.070(4)(C) meet the lead action level during each of two (2) consecutive monitoring periods and the system submits the results to the department. If the first-draw tap samples in any such water system after that exceed the lead action level, the system shall recommence replacing lead service lines, pursuant to section (2) of this rule.

[(7)](8) To demonstrate compliance with sections (1)-[(4)](5) of this rule, a system shall report to the department the information specified in 10 CSR 60-7.020(5).

AUTHORITY: section 640.100, RSMo [2000] Supp. 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper**

PROPOSED RESCISSION

10 CSR 60-15.060 Public Education and Supplemental Monitoring Requirements. This rule set public education content and mode of delivery requirements for public water systems with lead or copper action level exceedances. It also addressed supplemental monitoring and notification of results for any customer who requested that monitoring.

PURPOSE: This rule is being rescinded, and a new rule with the same subject matter is being adopted in its place.

AUTHORITY: section 640.100, RSMo 2000. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Rescinded: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 15—Lead and Copper**

PROPOSED RULE

10 CSR 60-15.060 Public Education Requirements

PURPOSE: This rule sets forth the content and mode of delivery of written and broadcast materials to be used by water systems when action levels have been exceeded. It also addresses the water system's responsibility when a customer requests supplemental monitoring after an action level has been exceeded.

(1) Content of Written Public Education Materials.

(A) Community water systems and non-transient non-community water systems. Water systems must include the following elements in printed materials (for example, brochures and pamphlets) in the same order as listed below. In addition, language in paragraphs (1)(A)1., 2., and 4. of this rule must be included in the materials, exactly as written, except for the text in brackets in these paragraphs for which the water system must include system-specific information. Any additional information presented by a water system must be consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the department prior to delivery. The department may require the system to obtain approval of the content of written public materials prior to delivery.

1. IMPORTANT INFORMATION ABOUT LEAD IN YOUR

DRINKING WATER. [INSERT NAME OF WATER SYSTEM] found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

2. Health effects of lead. Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

3. Sources of lead.

A. Explain what lead is.

B. Explain possible sources of lead in drinking water and how lead enters drinking water. Include information on home/building plumbing materials and service lines that may contain lead.

C. Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

4. Discuss the steps the consumer can take to reduce their exposure to lead in drinking water.

A. Encourage running the water to flush out the lead.

B. Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

C. Explain that boiling water does not reduce lead levels.

D. Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

E. Suggest that parents have their child's blood tested for lead.

5. Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

6. For more information, call us at [INSERT YOUR NUMBER] [(IF APPLICABLE), or visit our website at [INSERT YOUR WEBSITE HERE]]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit U.S. Environmental Protection Agency's (EPA's) website at <http://www.epa.gov/lead> or contact your health care provider.

(B) Community Water Systems. In addition to including the elements specified in subsection (1)(A) of this rule, community water systems must—

1. Tell consumers how to get their water tested; and

2. Discuss lead in plumbing components and the difference between low lead and lead free.

(2) Delivery of Public Education Materials.

(A) For public water systems serving a large proportion of non-English speaking consumers, as determined by the department, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(B) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with 10 CSR 60-15.070, and that is not already conducting public education tasks under this section, must conduct the public education tasks under this section within sixty (60) days after the end of the monitoring period in which the exceedance occurred.

1. Deliver printed materials meeting the content requirements of section (1) of this rule to all bill paying customers.

2. Contact customers who are most at risk.

A. Contact customers who are most at risk by delivering education materials that meet the content requirements of section (1) of this rule to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially-affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of section (1) of this rule to all organizations on the provided lists.

B. Contact customers who are most at risk by delivering materials that meet the content requirements of section (1) of this rule to the following organizations that are located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users:

(I) Public and private schools or school boards;

(II) Women, Infants and Children (WIC) and Head Start programs;

(III) Public and private hospitals and medical clinics;

(IV) Pediatricians;

(V) Family planning clinics; and

(VI) Local welfare agencies.

C. Make a good faith effort to locate the following organizations within the service area and deliver materials that meet the content requirements of section (1) of this rule to them, along with an informational notice that encourages distribution to all potentially-affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area.

(I) Licensed childcare centers.

(II) Public and private preschools.

(III) Obstetricians-gynecologists and midwives.

3. No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in brackets for which the water system must include system-specific information: [INSERT NAME OF WATER SYSTEM] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call [INSERT NAME OF WATER SYSTEM] [or visit (INSERT YOUR WEBSITE HERE)]. The message or delivery mechanism can be modified in consultation with the department; specifically, the department may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

4. Post material meeting the content requirements of section (1) of this rule on the water system's website if the system serves a population greater than one hundred thousand (100,000).

5. Submit a press release to newspapers, television stations, and radio stations.

6. In addition to paragraphs (2)(B)1. through 5. of this rule, systems must implement at least three (3) activities from one (1) or more categories listed below. The educational content and selection of these activities must be determined in consultation with the department.

A. Public Service Announcements.

B. Paid advertisements.

C. Public area information displays.

D. Emails to customers.

E. Public meetings.

F. Household deliveries.

G. Targeted individual customer contact.

H. Direct material distribution to all multi-family homes and institutions.

I. Other methods approved by the department.

7. For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the department has established an alternate monitoring period, the last day of that period.

(C) As long as a community water system exceeds the action level, it must repeat the activities pursuant to subsection (2)(B) of this rule as described in paragraphs (2)(C)1. through 4. of this rule.

1. A community water system shall repeat the tasks contained in paragraphs (2)(B)1., 2., and 6. of this rule every twelve (12) months.

2. A community water system shall repeat tasks contained in paragraph (2)(B)3. of this rule with each billing cycle.

3. A community water system serving a population greater than one hundred thousand (100,000) shall post and retain material on a publicly accessible website pursuant to paragraph (2)(B)4. of this rule.

4. The community water system shall repeat the task in paragraph (2)(B)5. of this rule twice every twelve (12) months on a schedule agreed upon with the department. The department can allow activities in subsection (2)(B) of this rule to extend beyond the sixty (60)-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the department in advance of the sixty (60)-day deadline.

(D) Within sixty (60) days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks pursuant to subsection (2)(E) of this rule), a non-transient non-community water system shall deliver the public education materials specified by section (1) of this rule as follows:

1. Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

2. Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient non-community water system. The department may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

3. For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the department has established an alternate monitoring period, the last day of that period.

(E) A non-transient non-community water system shall repeat the tasks contained in subsection (2)(D) of this rule at least once during each calendar year in which the system exceeds the lead action level. The department can allow activities in subsection (2)(D) of this rule to extend beyond the sixty (60)-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the department in advance of the sixty (60)-day deadline.

(F) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six (6)-month monitoring period conducted pursuant to 10 CSR 60-15.070. Such a system shall recommence public education in accordance with this rule if it subsequently exceeds the lead action level during any monitoring period.

(G) A community water system may apply to the department, in writing (unless the department has waived the requirement for prior department approval), to use only the text specified in subsection (1)(A) of this rule instead of the text in subsections (1)(A) and (1)(B) of this rule and to perform the tasks listed in subsections (2)(D) and (2)(E) of this rule instead of the tasks in subsections (2)(B) and (2)(C) of this rule if—

1. The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making

improvements to plumbing or installing point-of-use treatment devices; and

2. The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(H) A community water system serving three thousand three hundred (3,300) or fewer people may limit certain aspects of their public education programs as follows:

1. With respect to the requirements of paragraph (2)(B)6. of this rule, a system serving three thousand three hundred (3,300) or fewer people must implement at least one (1) of the activities listed in that paragraph;

2. With respect to the requirements of paragraph (2)(B)2. of this rule, a system serving three thousand three hundred (3,300) or fewer people may limit the distribution of the public education materials required under that paragraph to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children; and

3. With respect to the requirements of paragraph (2)(B)5. of this rule, the department may waive this requirement for systems serving three thousand three hundred (3,300) or fewer people as long as the system distributes notices to every household served by the system.

(3) Supplemental Monitoring and Notification of Results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with 10 CSR 60-15.070 shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(4) Notification of Results.

(A) Reporting Requirement. All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of 10 CSR 60-15.070 to the persons served by the water system at the specific sampling site from which the sample was taken (for example, the occupants of the residence where the tap was tested).

(B) Timing of Notification. A water system must provide the consumer notice as soon as practical, but no later than thirty (30) days after the system learns of the tap monitoring results.

(C) Content. The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, steps consumers can take to reduce exposure to lead in drinking water, and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two (2) terms from 10 CSR 60-2.015(2).

(D) Delivery. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the department. For example, upon approval by the department, a non-transient non-community water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

AUTHORITY: section 640.100, RSMo Supp. 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Rescinded and readopted: Filed Oct. 17, 2011.

PUBLIC COST: This proposed rule is anticipated to cost publicly-owned community and non-transient non-community water systems approximately forty-seven thousand nine hundred eighty-nine dollars (\$47,989) in annual costs for the duration of the rule.

PRIVATE COST: This proposed rule is anticipated to cost two hundred fifty-six (256) privately-owned community and non-transient non-community water systems approximately thirty-nine thousand

one hundred twenty-four dollars (\$39,124) in annual costs for the duration of the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the **Missouri Register** page number and explain why you agree or disagree with the proposed change.*

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 10 - Department of Natural Resources**
Division Title: 60 - Safe Drinking Water Commission
Chapter Title: 15 - Lead and Copper

Rule Number and Name:	10 CSR 60-15.060 Public Education Requirements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
All publicly-owned community and nontransient noncommunity water systems that must comply with the Lead and Copper Rule	\$47,989 annually for the duration of the rule

III. WORKSHEET

1. 314 publicly owned systems x 8 hours x \$16 = \$40,192.00
2. 314 publicly owned systems x 10 samples x \$0.44 = \$1,382.60
3. 314 publicly owned systems x 1 hour x \$20.43 = \$6,415.02
4. \$40,192 + \$1,382 + \$6,415 = \$47,988.62

IV. ASSUMPTIONS

1. Every water system must send notification by mail or direct delivery with the sample results and information about lead to each customer where lead and copper samples were taken. According to the 2011 Census of Missouri Public Water Systems there are 1470 community systems and 241 nontransient noncommunity systems. The vast majority of Missouri water systems are on three year reduced monitoring schedules. Therefore, annually approximately 570 systems will be performing lead and copper sampling and providing notice to the customers and 314 of those are publicly owned.
2. MDNR assumes that the new notification requirement will take an average of 8 hours per system at \$16 per hour to pull the information together and fill out the certification and notification forms provided by MDNR.
3. MDNR assumes the only other cost is mailing and the average number of lead and copper samples per system is \$10.
4. Fifty five percent of the community and nontransient noncommunity systems in Missouri are publicly owned.
5. MDNR staff time to analyze the lead and copper data and prepare mailings to the water systems containing the certification form, a customer notification and the sample results averages about one hour per system. The hourly salary for a Research Analyst II is \$20.43.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 10 - Department of Natural Resources**
Division Title: 60 - Safe Drinking Water Commission
Chapter Title: 15 - Lead and Copper

Rule Number and Name	10 CSR 60-15.060 Public Education Requirements
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 proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
256	Privately-owned community and nontransient noncommunity water systems that must comply with the Lead and Copper Rule	\$39,124 in annual costs for the duration of the rule

III. WORKSHEET

1. 256 privately owned systems x 8 hours x \$16 = \$32,768.00
2. 256 privately owned systems x 10 samples x \$0.44 = \$1,126.40
3. 256 privately owned systems x 1 hour x \$20.43 = \$5,230.08
4. \$32,768.00 + \$1,126.40 + \$5,230.08 = \$39,124.48

IV. ASSUMPTIONS

1. Every water system must send notification by mail or direct delivery with the sample results and information about lead to each customer where lead and copper samples were taken. According to the 2011 Census of Missouri Public Water Systems there are 1,470 community systems and 241 nontransient noncommunity systems. The vast majority of Missouri water systems are on three year reduced monitoring schedules. Therefore, annually approximately 570 systems will be performing lead and copper sampling and providing notice to the customers and 256 of those are privately owned.
2. MDNR assumes that the new notification requirement will take an average of 8 hours per system at \$16 per hour to pull the information together and fill out the certification and notification forms provided by MDNR.
3. MDNR assumes the only other cost is mailing and the average number of lead and copper samples per system is \$10.
4. Forty-five percent of the community and nontransient noncommunity systems in Missouri are privately owned.
5. MDNR staff time to analyze the lead and copper data and prepare mailings to the water systems containing the certification form, a customer notification and the sample results averages about one hour per system. The hourly salary for a Research Analyst II is \$20.43.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper

PROPOSED AMENDMENT

10 CSR 60-15.070 Monitoring Requirements for Lead and Copper in Tap Water. The commission is amending subsection (2)(E), section (3), subsection (4)(D), and subsection (7)(D).

PURPOSE: This amendment adopts changes to monitoring requirements required by the federal Lead and Copper Rule Short-Term Revisions.

(2) Sample Collection Methods.

(E) A non-transient non-community water system, or a community water system that meets the criteria of 10 CSR 60-15.060(2)(E), that does not have enough taps that can supply first-draw samples as defined in 10 CSR 60-2.015 may, with department approval, apply substitute non-first-draw samples. Such systems shall collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites.

(3) Number of Samples. Water systems shall collect at least one (1) sample during each monitoring period specified in subsection (4)(D) of this rule from the number of sites listed in the second column ("Standard Monitoring") of Table 1. A system conducting reduced monitoring under subsection (4)(D) of this rule shall collect at least one (1) sample from the number of sites specified in the third column ("Reduced Monitoring") of Table 1 during each monitoring period specified in subsection (4)(D) of this rule. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. **A public water system that has fewer than five (5) drinking water taps that can be used for human consumption meeting the sample site criteria of section (1) of this rule to reach the required number of sample sites listed in section (3) of this rule must collect at least one (1) sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the department may allow these public water systems to collect a number of samples less than the number of sites specified in section (3) of this rule, provided that one-hundred percent (100%) of all taps that can be used for human consumption are sampled. The department must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the department.** The department may specify sampling locations when a system is conducting reduced monitoring.

(4) Timing of Monitoring.

(D) Reduced Monitoring.

1. A small- or medium-size water system that meets the lead and copper action levels during each of two (2) consecutive six (6)-month monitoring periods may reduce the number of samples in accordance with section (3) of this rule and reduce the frequency of sampling to once per year. **A small- or medium-size water system collecting fewer than five (5) samples, as specified in section (3) of this rule, that meets the lead and copper action levels during each of two (2) consecutive six (6)-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one (1) sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six (6)-month monitoring period.**

2. Any water system that **meets the lead action level and** maintains the range of values for the water quality control parameters

reflecting optimal corrosion control treatment specified under 10 CSR 60-15.030(7) during each of two (2) consecutive six (6)-month monitoring periods may **reduce the frequency of monitoring to once per year and** reduce the number of lead and copper samples in accordance with section (3) of this rule **if it receives written approval from the department. This sampling shall begin during the calendar year immediately following the end of the second consecutive six (6)-month monitoring period.** The department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with 10 CSR 60-7.020(1) and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring **pursuant to this section.** The department shall review and, where appropriate, revise its determination when the system submits new monitoring or treatment data or when other data relevant to the number and frequency of tap sampling becomes available.

3. A small- or medium-size water system that meets the lead and copper action levels during three (3) consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three (3) years. Any water system that **meets the lead action level and** maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(6) during three (3) consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three (3) years if it receives written approval from the department. **Samples collected once every three (3) years shall be collected no later than every third calendar year.** The department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with 10 CSR 60-7.020 and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three (3) years. The department shall review and, where appropriate, revise its determination when the system submits new monitoring or treatment data or when other data relevant to the number and frequency of tap sampling becomes available.

4. A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in section (1) of this rule. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August, or September unless the department has approved a different sampling period.

A. The department, at its discretion, may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four (4) consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a non-transient non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the department shall designate a period that represents a time of normal operation for the system. **This sampling shall begin during the period approved or designated by the department in the calendar year immediately following the end of the second consecutive six (6)-month monitoring period for systems initiating annual monitoring and during the three (3)-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.**

B. Systems monitoring annually, that have been collecting samples during the months of June through September and that receive department approval to alter their sample collection period, must collect their next round of samples during a time period that ends no later than twenty-one (21) months after the previous round of sampling. Systems monitoring triennially, that have been collecting samples during the months of June through September and receive department approval to alter the sampling collection period,

must collect their next round of samples during a time period that ends no later than forty-five (45) months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially, as required by this section. Small systems with waivers, granted pursuant to section (6) of this rule, that have been collecting samples during the months of June through September and receive department approval to alter their sample collection period must collect their next round of samples before the end of the nine (9)-year period.

5. *[A small- or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with subsection (4)(C) of this rule and collect the number of samples specified for standard monitoring under section (3) of this rule. This system also shall conduct water quality parameter monitoring in accordance with 10 CSR 60-15.080(3) or (4) (as appropriate) during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in section (3) of this rule after it has completed two (2) subsequent consecutive six (6)-month rounds of monitoring that meet the criteria of paragraph (4)(D)1. of this rule and/or may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (4)(D)3. or (4)(D)5. of this rule.]* Any water system that demonstrates for two (2) consecutive six (6)-month monitoring periods that the tap water lead level computed under 10 CSR 60-15.010(3)(C) is less than or equal to 0.005 mg/L and the tap water copper level computed under 10 CSR 60-15.010(3)(C) is less than or equal to 0.65 mg/L may reduce the number of samples in accordance with section (3) of this rule and reduce the frequency of sampling to once every three (3) calendar years.

6. *[Any water system that demonstrates for two (2) consecutive six (6)-month monitoring periods that the tap water lead level computed under 10 CSR 60-15.010(3)(C) is less than or equal to 0.005 mg/l and the tap water copper level computed under 10 CSR 60-15.010(3)(C) is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with section (3) of this rule and reduce the frequency of sampling to once every three (3) calendar years.]* A small- or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with subsection (4)(C) of this rule and collect the number of samples specified for standard monitoring under section (3) of this rule. Such a system shall also conduct water quality parameter monitoring in accordance with 10 CSR 60-15.080(2), (3), or (4) (as appropriate) during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in section (3) of this rule after it has completed two (2) subsequent consecutive six (6)-month rounds of monitoring that meet the criteria of paragraph (4)(D)1. of this rule and/or may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (4)(D)2. or (4)(D)5. of this rule.

A. Any water system subject to the reduced monitoring frequency that fails to meet the lead action level during any four (4)-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the department under 10 CSR 60-15.080(6) for more than nine (9) days in any six (6)-month period specified in 10 CSR 60-15.080(4) shall conduct tap water sampling for lead and copper at the frequency specified in subsection (4)(C) of this rule, collect the number of samples specified for standard monitoring under section (3) of this rule, and

resume reduced monitoring for water quality parameters within the distribution system in accordance with 10 CSR 60-15.080(4). This standard tap water sampling shall begin no later than the six (6)-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

(I) The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in section (3) of this rule after it has completed two (2) subsequent six (6)-month rounds of monitoring that meet the criteria of paragraph (4)(D)2. of this rule and the system has received written approval from the department that it is appropriate to resume reduced monitoring on an annual frequency. This sampling shall begin during the calendar year immediately following the end of the second consecutive six (6)-month monitoring period;

(II) The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (4)(D)3. or (4)(D)5. of this rule and the system has received written approval from the department that it is appropriate to resume triennial monitoring; and

(III) The system may reduce the number of water quality parameter tap water samples required in accordance with 10 CSR 60-15.080(5)(A) and the frequency with which it collects such samples in accordance with 10 CSR 60-15.080(5)(B). Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates, in accordance with the requirements of 10 CSR 60-15.080(5)(B), that it has requalified for triennial monitoring.

7. Any water system subject to the reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the department under 10 CSR 60-15.030(6) for more than nine (9) days in any six (6)-month period specified in 10 CSR 60-15.080(4) shall conduct tap water sampling for lead and copper at the frequency specified in subsection (4)(C) of this rule, collect the number of samples specified for standard monitoring under section (3) of this rule, and *[shall]* resume monitoring for water quality parameters within the distribution system in accordance with 10 CSR 60-15.030(4). Any water system subject to a reduced monitoring frequency under subsection (4)(D) of this rule shall notify the department in writing in accordance with 10 CSR 60-7.020(3)(C) of any upcoming long-term change in treatment or addition of a new source as described in that rule. The department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

A. The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in section (3) of this rule after it has completed two (2) subsequent six (6)-month rounds of monitoring that meet the criteria of paragraph (4)(D)2. of this rule and the system has received written approval from the department that it is appropriate to resume reduced monitoring on an annual frequency;

B. The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (4)(D)3. or (4)(D)5. of this rule and the system has received written approval from the department that it is appropriate to resume triennial monitoring; and

C. The system may reduce the number of water quality parameter tap water samples required in accordance with 10 CSR 60-15.080(5)(A) and the frequency with which it collects such samples

in accordance with 10 CSR 60-15.080(5)(B). Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates, in accordance with the requirements of 10 CSR 60-15.080(5)(B)2., that it has requalified for triennial monitoring.

8. Any water system subject to a reduced monitoring frequency under subsection (4)(D) of this rule that either adds a new source of water or changes any water treatment shall inform the department in writing in accordance with 10 CSR 60-7.020(1)(C). The department may require the system to resume sampling in accordance with subsection (4)(C) of this rule and collect the number of samples specified for standard monitoring in Table 1 of section (3) of this rule or take other appropriate steps such as increased water quality parameter monitoring or reevaluation of its corrosion control treatment given the potentially different water quality considerations.

(7) Monitoring Waivers for Small Systems. Any small system that meets the criteria of this section may apply to the department to reduce the frequency of monitoring for lead and copper under this section to once every nine (9) years (that is, a "full waiver") if it meets all of the materials criteria specified in subsection (7)(A) of this rule and all of the monitoring criteria specified in subsection (7)(B) of this rule. Any small system that meets the criteria in subsections (7)(A) and (B) of this rule only for lead, or only for copper, may apply to the department for a waiver to reduce the frequency of tap water monitoring to once every nine (9) years for that contaminant only (that is, a "partial waiver").

(D) Monitoring Frequency for Systems with Waivers.

1. A system with a full waiver must conduct tap water monitoring for lead and copper in accordance with paragraph (4)(D)4. of this rule at the reduced number of sampling sites identified in Table 1 of section (3) of this rule at least once every nine (9) years and provide the materials certification specified in subsection (7)(A) of this rule for both lead and copper to the department along with the monitoring results. **Samples collected every nine (9) years shall be collected no later than every ninth calendar year.**

2. A system with a partial waiver must conduct tap water monitoring for the waived contaminant in accordance with paragraph (4)(D)4. of this rule at the reduced number of sampling sites specified in Table 1 of section (3) of this rule at least once every nine (9) years and provide the materials certification specified in subsection (7)(A) of this rule pertaining to the waived contaminant along with the monitoring results. Such a system also must continue to monitor for the non-waived contaminant in accordance with requirements of subsections (4)(A) through (4)(D) of this rule, as appropriate.

3. If a system with a full or partial waiver adds a new source of water or changes any water treatment, the system must notify the department in writing in accordance with 10 CSR 60-7.020(1)(C). **Any water system with a full or partial waiver shall notify the department in writing in accordance with 10 CSR 60-7.020(1)(C) of any upcoming long-term change in treatment or addition of a new source, as described in that rule. The department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system.** The department may require the system to add or modify waiver conditions (e.g., require recertification that the system is free of lead-containing and/or copper-containing materials, require additional round(s) of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

4. If a system with a full or partial waiver becomes aware that it is no longer free of lead-containing or copper-containing materials (for example, as a result of new construction or repairs), the system shall notify the department in writing no later than sixty (60) days after becoming aware of such a change.

AUTHORITY: section 640.100, RSMo [2000] Supp. 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper**

PROPOSED AMENDMENT

10 CSR 60-15.080 Monitoring Requirements for Water Quality Parameters. The commission is amending section (4) and subsection (5)(B).

PURPOSE: This amendment modifies procedures and requirements for monitoring drinking water to determine how corrosive the water is to the distribution system. These changes are required by the federal Lead and Copper Rule Short-Term Revisions.

(4) Monitoring After Department Specifies Water Quality Parameter Values [F]for Optimal Corrosion Control. After the department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under 10 CSR 60-15.030(7), all large (serving more than fifty thousand (>50,000) persons) systems shall measure the applicable water quality parameters in accordance with section (3) of this rule and determine compliance with the requirements of 10 CSR 60-15.030(8) every six (6) months with the first six (6)-month period to begin on [the date] either **January 1 or July 1, whichever comes first, after the department specifies the optimal values under 10 CSR 60-15.030(7).** Any small- (serving less than three thousand three hundred (<3,300) persons) or medium-size (serving three thousand three hundred one to fifty thousand (3,301–50,000) persons) system shall conduct such monitoring during each six (6)-month period specified in 10 CSR 60-15.070(4)(C) in which the system exceeds the lead or copper action level. For any such small- and medium-size system that is subject to a reduced monitoring frequency pursuant to 10 CSR 60-15.070(4)(D) at the time of the action level exceedance, the [end] start of the applicable six (6)-month period under this section shall coincide with the [end] start of the applicable monitoring period under 10 CSR 60-15.070(4)(D). Compliance with department-designated optimal water quality parameter values shall be determined as specified under 10 CSR 60-15.030(8).

(5) Reduced Monitoring.

(B) Any water system that maintains the range of values for the

water quality parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(6) during three (3) consecutive years of annual monitoring under this subsection may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in subsection (5)(A) of this rule from every six (6) months to annually [to every three (3) years]. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six (6)-month monitoring occurs. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(6) during three (3) consecutive years of annual monitoring under this rule may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in section (6) of this rule from annually to every three (3) years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs. A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in subsection (5)(A) of this rule to every three (3) years if it demonstrates during two (2) consecutive monitoring periods that its tap water lead level at the ninetieth percentile is less than or equal to the PQL for lead specified in 10 CSR 60-5.010(5)(H), that its tap water copper level at the ninetieth percentile is less than or equal to 0.65 mg/llL for copper, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 10 CSR 60-15.030(7). **Monitoring conducted every three (3) years shall be done no later than every third calendar year.**

AUTHORITY: section 640.100, RSMo [2000] Supp. 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Feb. 1, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—[Public Drinking Water Program]
Safe Drinking Water Commission
Chapter 15—Lead and Copper**

PROPOSED AMENDMENT

10 CSR 60-15.090 Monitoring Requirements for Lead and Copper in Source Water. The commission is amending section (2) and subsections (4)(A), (5)(A), and (5)(B).

PURPOSE: This amendment adopts changes to monitoring requirements required by the federal Lead and Copper Rule Short-Term Revisions.

(2) Monitoring Frequency After System Exceeds Tap Water Action Level. Any system which exceeds the lead or copper action level at the tap shall collect one (1) source water sample from each entry point to the distribution system [within] no later than six (6) months after the [exceedence] end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the department has established an alternate monitoring period, the last day of that period.

(4) Monitoring Frequency [a]After the Department Specifies Maximum Permissible Source Water Levels or Determines that Source Water Treatment Is Not Needed.

(A) A system shall monitor at the following specified frequency in cases where the department specifies maximum permissible source water levels under 10 CSR 60-15.040(2)(C) or determines that the system is not required to install source water treatment under 10 CSR 60-15.040(2)(A):

1. A water system using only ground water shall collect samples once during the three (3)-year compliance period in effect when the applicable department determination under subsection (4)(A) of this rule is made. Those systems shall collect samples once during each subsequent compliance period. **Triennial samples shall be collected every third calendar year;** and

2. A water system using surface water (or a combination of surface and ground water) shall collect samples once during each calendar year, the first annual monitoring period to begin [on the date on] during the year in which the applicable department determination is made under subsection (4)(A) of this rule.

(5) Reduced Monitoring Frequency.

(A) A water system using only ground water may reduce the monitoring frequency for lead and copper in source water to once during each nine (9)-year compliance cycle (as that term is defined in 10 CSR 60-2.015) provided that the samples are collected no later than every ninth calendar year and if the system meets any one (1) of the following criteria:

1. The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified in 10 CSR 60-15.040(2)(C) during at least three (3) consecutive compliance periods under subsection (4)(A) of this rule; or

2. The department has determined that source water treatment is not needed and the system demonstrates that, during at least three (3) consecutive compliance periods in which sampling was conducted under subsection (4)(A) of this rule, the concentration of lead in source water was less than or equal to 0.005 mg/llL and the concentration of copper in source water was less than or equal to 0.65 mg/llL.

(B) A water system using surface water (or a combination of surface and ground waters) may reduce the monitoring frequency in paragraph (4)(A)2. of this rule to once during each nine (9)-year compliance cycle (as that term is defined in 10 CSR 60-2.015) provided that the samples are collected no later than every ninth calendar year and if the system meets one (1) of the following criteria:

1. The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified in 10 CSR 60-15.040(2)(C) for at least three (3) consecutive years; or

2. The department has determined that source water treatment is not needed and the system demonstrates that, during at least three (3) consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/LLL and the concentration of copper in source water was less than or equal to 0.65 mg/LLL.

AUTHORITY: section 640.100, RSMo [2000] Supp. 2010. Original rule filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed Aug. 14, 2001, effective April 30, 2002. Amended: Filed Oct. 17, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Safe Drinking Water Commission will hold a public hearing on this proposed rulemaking at 9:00 a.m. on Dec. 20, 2011, at the Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri. Anyone may comment in support of or in opposition to the rulemaking. Written comments received by 9:00 a.m., Dec. 20, 2011, will also be considered. Written comments must be mailed, faxed, or emailed to: Ms. Linda McCarty, MDNR Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102-0176. The fax number is (573) 751-3110, and the email address is sdwc@dnr.mo.gov. Please include in your comments the regulatory citation and the Missouri Register page number and explain why you agree or disagree with the proposed change.*

Prior to the public hearing, the Public Drinking Water Branch will hold an informational meeting beginning at 8:30 a.m. at the same location as the hearing for an informal discussion of the rulemaking.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 43—Investment of Nonstate Funds**

PROPOSED AMENDMENT

12 CSR 10-43.030 Collateral Requirements for Nonstate Funds. The director proposes to amend section (1) and paragraph (3)(A)1. and delete subparagraphs (3)(A)1.A. through (3)(A)1.Y.

PURPOSE: This amendment updates the collateral requirements to secure nonstate funds.

(1) Any depository investing nonstate funds as an investment agent of the director of revenue must guarantee there will be no deficiencies in daily transactions, *[n]*or losses in any principal or interest due to the department on investment transactions.

(3) Any depository investing nonstate funds as an investment agent of the director of revenue must adhere to the following rules governing collateral:

(A) Before the investment agent places deposits with depository institutions, the investment agent must require that the institutions pledge collateral security. The following general procedures will be used:

1. Only securities *[listed as follows]* that are issued or guaranteed by the United States government or its agencies or are at least A rated from one of the Nationally Recognized Statistical Ratings Organizations and are accepted as collateral by the Treasurer of the State of Missouri are acceptable to secure nonstate funds*[:];*

[A. Marketable Treasury securities of the United States;

B. General obligation debt securities issued by Missouri with at least an A rating from one of the Nationally Recognized Statistical Ratings organizations (NRSROs) or are secured by a federal agency guarantee (directly or through guaranteed loans);

C. General obligation bonds of any city in this state having a population of not less than two thousand (\$2,000) with at least an A rating from one of the NRSROs;

D. General obligation bonds of any county in this state with at least an A rating from one of the NRSROs;

E. General obligation bonds issued by any school district situated in this state with at least an A rating from one of the NRSROs;

F. General obligation bonds issued by any special road district situated in this state with at least an A rating from one of the NRSROs;

G. General obligation state bonds of any of the fifty (50) states with at least an A rating from one of the NRSROs;

H. Debt securities of the Federal Farm Credit System;

I. Debt securities of the Federal Home Loan Banks (FHLBs), excluding zero coupon bonds (ZEROS);

J. Debt securities of the Federal National Mortgage Association (FNMA), including mortgage-backed securities, but excluding real estate mortgage investment conduits (REMICs) and other mortgage derivatives, separate trading of registered interest and principal securities (STRIPS), Z bonds and ZEROS (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. Collateralized Mortgage Obligations (CMOs) shall be Planned Amortization Class (PAC) CMOs, valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years, and pass the Federal Financial Institutions Examination Council (FFIEC) High Risk Test);

K. Debt securities of the Student Loan Marketing Association (SLMA), excluding STRIPS and ZEROS;

L. Debt securities of the Government National Mortgage Association (GNMA), including mortgage-backed securities, but excluding REMICs, and other mortgage derivatives, STRIPS, Z bonds, and ZEROS. Nonbook-entry registered securities must be in nominee name (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. CMOs shall be PAC CMOs valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years, and pass the FFIEC High Risk Test);

M. Federal home Administration insured notes (CBOs);

N. Bonds of any political subdivision established under the provisions of Section 30, Article VI of the Constitution of Missouri with at least an A rating from one of the NRSROs (City and County of St. Louis);

O. Tax anticipation notes issued by any county of class one in Missouri with at least an A rating from one of the NRSROs;

P. Public housing notes and bonds (projects notes and bonds) issued by public housing agencies, guaranteed as to the payment of principal and interest by the government of the United States or any agency or instrumentality of the United States;

Q. Revenue bonds issued by the Missouri Board of Public Buildings or Department of Natural Resources with at least an A rating from one of the NRSROs or are secured by a federal agency guarantee (directly or through guaranteed loans);

R. Revenue bonds of the Missouri Housing Development Commission, Missouri Health and Education Facilities Authority, Missouri Higher Educational Loan

Authority, Missouri Environmental Improvement and Energy Resource Authorities, Missouri Agricultural and Small Business Development Authority, Missouri Industrial Development Board, or state-owned education institutions so long as any of the mentioned are rated A or better by a NRSRO or are secured by a federal agency guarantee (directly or through guaranteed loans);

S. Debt securities of the Federal Home Loan Mortgage Corporation (FHLMC), including mortgage-backed securities, but excluding mortgage cash flow obligations, REMICs, and other mortgage derivations, STRIPS, Z bonds, and ZEROS (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. CMOs shall be PAC CMOs valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years, and pass the FFIEC High Risk Test);

T. Guaranteed loan pool certificates of the Small Business Administration (SBA). Nonbook-entry registered securities must be in nominee's name (SBA pool certificates shall be valued at seventy-five percent (75%) of market value);

U. Debt securities of the Resolution Funding Corporation (REFCORP), excluding STRIPS and ZEROS;

V. Revenue bonds are accepted only under items listed in subparagraphs (3)(A)1.B., Q., and R.;

W. Debt securities of the Federal Agriculture Mortgage Corporation (FAMC), including mortgage-backed securities, but excluding mortgage cash flow obligations, REMICs, and other mortgage derivatives, STRIPS, Z bonds, and ZEROS (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. CMOs shall be PAC CMOs valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years, and pass the FFIEC High Risk Test);

X. A surety bond issued by an insurance company licensed pursuant to the laws of the state of Missouri whose claims-paying ability is rated in the highest category by at least one (1) Nationally Recognized Statistical Rating Organization. The face amount of such surety bond shall be at least equal to the portion of the deposit to be secured by the surety bond; and

Y. An irrevocable standby letter of credit issued by a Federal Home Loan Bank possessing the highest rating issued by at least one (1) Nationally Recognized Statistical Rating Organization.]

2. The entire value of the nonstate funds on deposit with the depository, including accrued interest, must be covered by the market value of securities pledged less applicable FDIC or other like insurance;

3. The investment agent may not disburse funds for investment until it is assured that adequate and proper collateral has been pledged. Telephone confirmation of securities pledged from a third-party custodian is acceptable pending receipt of the actual safekeeping document;

4. Securities may not be released until deposits, including accrued interest, are received from the depository institution;

5. The investment agent may allow substitution of acceptable collateral securities with equal or greater market value if the substitution occurs on a simultaneous basis. That is, the new collateral must be received before or at the same time the old collateral is released;

6. Excess collateral may be released if it is reasonable as determined by the investment agent. The investment agent will determine the market value of all collateral every two (2) weeks and compare that to the amount of deposits at each deposit institution. When the value of collateral falls below the amount of deposits, the investment agent must immediately demand additional collateral. If the depository institution fails to post the additional collateral within two (2)

days of the day requested, the investment agent will request withdrawal of all deposits at that institution; and

7. The director of revenue, upon the recommendation of the Department of Revenue Investment Group, may require an institution pledging collateral to use a different third-party custodian which will be acceptable to the director;

AUTHORITY: section 136.120, RSMo 2000. Original rule filed May 2, 1986, effective Aug. 11, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 17, 2011.

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 Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. 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.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 7—Drug and Alcohol Testing Program
Contractual Requirement**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under section 161.371, RSMo Supp. 2010, the commissioner adopts a rule as follows:

1 CSR 30-7.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2011 (36 MoReg 1604-1608). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner received one (1) letter of comment on the proposed rule.

COMMENT #1: Jack Atterberry on behalf of the Associated General Contractors of Missouri (AGC) commented on eight (8) separate provisions in the proposed rule—

1. AGC suggests that the scope of the rule set forth in sections (1) and (2) could be misconstrued. AGC suggests adding clarifying language to sections (1) and (2) of the rule noting that it applies only to construction projects under contract to the state of Missouri or such projects as administered directly by an agency of the state of Missouri;

2. AGC suggests that the phrase “workers, new hires, and replacements” be replaced with “employees” and that the phrase “prospective employee” be removed from the description of those who must be subject to the drug testing requirement in section (2) of the rule;

3. AGC suggests that the requirement in subsection (2)(E) of the rule that subcontractors provide copies of their drug testing policies to the prime contractor goes beyond the statutory requirement and should be replaced with a requirement that subcontractors need only furnish their policy to that party with whom the subcontractor has a contract;

4. AGC suggests that the phrase “prospective employee” be removed from the description of those who must be subject to the drug testing requirement in subsection (3)(A) of the rule (similar to suggested change number 2. above);

5. AGC observes that an exception is granted in subsection (3)(A) of the rule where an employee has been tested under a random testing program within the preceding two (2) years. No change is suggested;

6. AGC suggests that references to “pre-engagement testing” and “periodic testing” in subsection (3)(C) are beyond the statutory requirement. AGC suggests adding language to section (3) of the rule referencing federal regulations relating to random testing requirements and confidentiality requirements;

7. AGC notes that federal law prohibits disclosure of individual test results or medical information to third parties without the individual’s consent. AGC suggests adding language to subsection (4)(C) of the rule clarifying that reports to the Division of Facilities Management should not identify those who test positive by name; and

8. AGC suggests adding language to section (7) of the rule noting that the reinstatement requirements in the rule are not to supersede or conflict with requirements contained in a contractor policy on file with the Division of Facilities Management, Design and Construction.

RESPONSE AND EXPLANATION OF CHANGE:

1. The text of the proposed rule says it applies to “any public and charter elementary and secondary education construction project subject to the control of the state of Missouri.” The Office of Administration (OA) believes that the suggested change is unnecessary, but, in the interest of clarity, the proposed rule will be changed as suggested.

2. OA does not seek to require drug and alcohol testing of individuals not under the control of the contractor or subcontractor. The proposed rule will be changed as suggested.

3. The state of Missouri has no privity of contract with subcontractors on a school construction project, and as a result the prime contractor is the party in the best position to acquire copies of policies. AGC is, however, correct that the statute requires that a drug and alcohol testing program is to be a contractual condition for all contractors and subcontractors on a covered project. The proposed rule will be changed to reflect that in each tier of contracting, a compliant drug policy is to be a condition in the contract and all subcontracts for a covered project.

4. OA does not seek to require drug and alcohol testing of individuals not under the control of the contractor or subcontractor. The proposed rule will be changed as suggested.

5. No change is suggested; the proposed rule will not be changed in response to this comment.

6. AGC and OA agree that the statute covers more than “random testing,” and that to eliminate “for cause” testing would yield an ineffective drug and alcohol testing program. Furthermore, the statute addresses both “testing” and “screening” and requires more than a random testing program. Therefore, no changes will be made to eliminate either “pre-engagement” or “periodic” testing.

7. The proposed rule does not require the disclosure of any employee’s name in connection with a positive test result; however,

the Office of Administration agrees that clarification of this point would be appropriate. The proposed rule will be changed as suggested.

8. The statute imposes certain requirements on contractors and subcontractors performing work on elementary and secondary school construction projects controlled by the state of Missouri. OA will be required to determine whether each affected contractor or subcontractor is in compliance with the requirements of statute, and therefore must determine whether all provisions of the contractor's or subcontractor's program complies with the statutory requirements. Therefore, no changes are made in the rule.

1 CSR 30-7.010 Drug and Alcohol Testing Program Requirements

(2) Contractual Requirements.

(A) Each contract entered into for the performance of work on any public and charter elementary and secondary education construction project subject to the control of the state of Missouri shall require that each contractor or subcontractor have in place a drug and alcohol testing program consistent with this rule. These contractual requirements shall apply to contractor and subcontractor employees on public and charter elementary and secondary education construction projects that are subject to the control of the state of Missouri. The contractor and all subcontractors shall comply with this contractual requirement. The state of Missouri shall determine, in its sole discretion, when this contractual requirement shall be applicable; and in such instances, any bid submitted in response to a request for proposal shall comply with this contractual requirement.

(B) In order to be eligible to perform work on public and charter elementary and secondary education construction projects that are subject to the control by the state of Missouri, a contractor must have and enforce a written drug and alcohol testing program incorporating the following testing requirements and terms and conditions applicable to all its employees and subcontractors. No employee or prospective employee of a contractor or subcontractor shall be permitted to work on public and charter elementary and secondary education construction projects that are subject to this rule unless such employee submits to testing as required by the contractual requirement required by this rule.

(E) The contractor shall furnish a copy of its drug and alcohol testing program and certify that it and its subcontractors are in compliance with the provisions of this rule to the state of Missouri at the time it submits a bid for any contract with the state of Missouri for work on public and charter elementary and secondary education construction projects that are subject to the control of the state of Missouri. Each contract of the prime contractor with a subcontractor and each contract of a subcontractor of any tier with another subcontractor shall include as a condition of subcontracting a requirement that the subcontractor has an established drug and alcohol testing program as provided by this rule and that the subcontractor shall include the same contract condition in any subcontract it may enter with another subcontractor. Additionally, each subcontractor, and each subcontractor of any tier with another subcontractor, shall furnish a copy of its drug and alcohol testing program to the prime contractor prior to commencement of work on public and charter elementary and secondary education construction projects that are subject to this contractual requirement. The awarding contractor or the Division of Facilities Management, Design and Construction may reject a subcontractor's program as noncompliant with the contractual requirement required by this rule.

(F) For purposes of this rule, performance of work on any public and charter elementary and secondary education construction project subject to the control of the state of Missouri shall mean construction projects contracted by the Division of Facilities Management, Design and Construction, or construction projects administered by the Division of Facilities Management, Design and Construction.

(3) Testing Requirements.

(A) Pre-Engagement Testing. Testing for all substances other than alcohol as described in this rule shall be conducted by each contractor and subcontractor for its employees within one hundred twenty (120) days prior to any employee's appearance on a public and charter elementary and secondary education construction project that is subject to this contractual requirement. Contractors' or subcontractors' employees that can provide certification of a previous drug test occurring within one hundred twenty (120) days or employees that have been subject during the preceding consecutive two (2) years to a random and periodic selection program that meets the standards as set forth in this rule and, if the employee actually has been tested, that indicates a negative result for each of the substances listed herein, may be exempted from pre-engagement testing provided by this rule. If the employee was not employed by the contractor or subcontractor that is his or her current employer at the time of the previous test, the employee may be exempted from pre-engagement testing only upon certification of the non-negative test directly from the administrator of the testing program that conducted the previous test.

(C) Periodic Testing. All employees working on public and charter elementary and secondary education construction projects that are subject to this rule shall be subject to periodic and random testing for all substances other than alcohol on at least a biannual basis. Contractors' or subcontractors' employees that have been subjected to pre-engagement testing or randomly tested during the preceding consecutive two (2) years as provided by this rule and such testing indicates a negative result for each of the substances listed herein may be exempted from periodic testing provided by this rule. Employees subject to periodic testing shall report in a timely manner as directed to the drug and alcohol testing laboratory or collection site for drug testing.

(4) Substance Abuse Testing Protocols.

(C) The program shall require notification to the employer and employee of the results of any non-negative drug and alcohol test, and the Division of Facilities Management, Design and Construction shall be notified of the action taken to protect the safety of students as a result of such positive test, provided that no requirement of individual confidentiality of test results provided by federal law or regulation or state statute shall be violated in providing such notifications. The provisions of this rule shall not be construed to require the contractor or subcontractor or person conducting a drug or alcohol test to inform the Division of Facilities Management, Design and Construction of the name of an employee receiving a non-negative drug or alcohol test result.

Title 2—DEPARTMENT OF AGRICULTURE Division 80—State Milk Board Chapter 2—Grade A Pasteurized Milk Regulations

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board adopts a rule as follows:

2 CSR 80-2.190 State Milk Board Grade A Milk Policies is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2011 (36 MoReg 1809-1811). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.201, RSMo Supp. 2010, the division adopts a rule as follows:

13 CSR 70-3.210 Electronic Retention of Records **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2011 (36 MoReg 1828-1829). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.201, RSMo Supp. 2010, the division adopts a rule as follows:

13 CSR 70-3.220 Electronic Health Record Incentive Program **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2011 (36 MoReg 1829-1831). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. 2010, the division amends a rule as follows:

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2011 (36 MoReg 1832-1834). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, and 208.159, RSMo 2000, and sections 198.439, 208.153, and 208.201, RSMo Supp. 2010, the division amends a rule as follows:

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2011 (36 MoReg 1835-1839). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 26—Federally-Qualified Health Center Services**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under sections 208.153 and 208.201, RSMo Supp. 2010, the division amends a rule as follows:

13 CSR 70-26.010 MO HealthNet Program Benefits for Federally-Qualified Health Center Services **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2011 (36 MoReg 1846-1851). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.