

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

by statute[, except for cases under section 621.040, RSMo. For cases under section 621.040, RSMo regulations are located at 4 CSR 265-2.010, 4 CSR 265-2.020, 4 CSR 265-2.030, 4 CSR 265-2.040, and 4 CSR 265-2.050]. For cases under section 621.040, RSMo, specific statutory provisions may apply in place of these regulations. This chapter does not apply to cases not assigned to the Administrative Hearing Commission by statute, including cases in which the Administrative Hearing Commission acts as a hearing officer for another agency by inter-agency agreement.

AUTHORITY: sections 536.073.3 and 622.027, RSMo 2000 and 226.008.4, RSMo Supp. 2002 and 621.198, RSMo Supp. 2001. Original rule filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Emergency amendment filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Amended: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 10-2.022 Provisional License to Practice. The board is proposing to amend sections (1), (2) and (3) and add new sections (4) and (5).

PURPOSE: This amendment sets forth requirements for substantial equivalency and provisional licensure for certified public accountants from other states who want to practice public accounting in Missouri but are not relocating to this state.

- (1) The board shall issue a provisional license to an applicant:
 - (A) Whose principal place of business is not in this state, and:
 - 1. Who has a valid **and unrestricted** license to practice public *[accountancy]* **accounting** from any state whose licensing requirements are determined by the board to be substantially equivalent to the Missouri Accountancy Act; or
 - 2. Who has a valid **and unrestricted** license to practice public *[accountancy]* **accounting** from any state and whose individual qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331, RSMo; *[and]* or
 - 3. Who has a valid **and unrestricted** license, and has practiced as a licensed certified public accountant in any state for a minimum of four (4) years within the ten (10) years immediately proceeding the application, provided that the applicant has a

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION Division 15—Administrative Hearing Commission Chapter 3—Procedure For All Contested Cases Under Statutory Jurisdiction/, *Except Cases Under Section 621.040, RSMo*

PROPOSED AMENDMENT

1 CSR 15-3.200 Subject Matter. The commission is amending the chapter title and provisions of this rule.

PURPOSE: The Administrative Hearing Commission is amending this regulation so that this chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

This chapter 1 CSR 15-3 contains all procedural regulations for all contested cases assigned to the Administrative Hearing Commission

minimum of a bachelor's degree from an accredited college or university and has passed the uniform certified public accountant examination; and

(2) [The provisional license shall be effective for twelve (12) months from the date of issuance.] For any applicant who meets the requirements in section (1), the board shall charge a fee for each provisional license obtained; however, the board may waive this fee for all applicants from a state that does not require a similar fee for Missouri licensees practicing therein through substantial equivalency.

(3) [To provide reviews, compilations and attest services, the provisional licensee must do so through a firm registered in this state.] The provisional license shall be effective for twelve (12) months from the date of issuance.

(4) To provide compilations, reviews and attest services, the holder of a provisional license must do so through a firm registered in this state.

(5) The holder of a provisional license shall be subject to the provisions of section 326.310, RSMo.

AUTHORITY: sections 326.256.1(9) and 326.283.1(1), RSMo Supp. [2001] 2002. Emergency rule filed Nov. 15, 2001, effective Nov. 25, 2001, expired May 23, 2002. Original rule filed Nov. 15, 2001, effective June 30, 2002. Amended: Filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 2—Licensing of Physicians and Surgeons

PROPOSED AMENDMENT

4 CSR 150-2.150 Minimum Requirements for Reinstatement of Licensure. The board proposes to amend subsection (1)(A).

PURPOSE: This amendment corrects the typographical error in the category of hours of the continuing medical education requirement.

(1) The board may require each applicant seeking to restore to good standing a license, certificate or permit issued under Chapter 334, RSMo, which has been revoked, suspended or inactive for any reason for more than two (2) years, to present with his/her application evidence to establish the following:

(A) Satisfactorily completing twenty-five (25) hours of continuing medical education courses, either American Medical Association Category *II* 1 or American Osteopathic Association Category *I* or *IA* 1A or 2A, for each year during which the license, certificate or permit was revoked, suspended or inactive; and

AUTHORITY: sections 334.100.5I, RSMo Supp. 1990] and 334.125, RSMo [1986] 2000. Original rule filed Jan. 19, 1988, effective April 15, 1988. Amended: Filed Dec. 23, 1988, effective May 1, 1989. Amended: Filed Jan. 3, 1991, effective June 10, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 6, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 3—Licensing of Physical Therapists and Physical Therapist Assistants

PROPOSED AMENDMENT

4 CSR 150-3.200 Definitions. The board is proposing to add subsections (1)(F) and (1)(G).

PURPOSE: The amendment adds definitions for the terms "chronic illness" and "recurring self-limited injury".

(1) For the purpose of this chapter, the following definitions shall apply:

(D) Licensee—means any person licensed by the board to practice as a physical therapist and/or physical therapist assistant in the state of Missouri; *and*

(E) One continuing education unit (CEU)—is equivalent to ten (10) clock hours of approved continuing education (i.e. ten (10) clock hours = 1.0 CEU, one (1) clock hour = 0.1 CEU).; ;

(F) Chronic illness—chronic illness shall be defined as the diagnosis of a disease process, illness, or disability with a specified set of signs and symptoms, and the continuation or progression of continued signs and symptoms consistent with the original diagnosis for greater than six (6) months; and

(G) Recurring self-limiting injury—a recurring self-limiting injury shall be defined as an injury that occurs multiple times, with a repeat of signs and symptoms for the initially diagnosed injury, and does not precipitate additional injury or illness.

AUTHORITY: sections 334.125 and 334.507, RSMo [Supp. 1998] 2000. Original rule filed May 14, 1999, effective Dec. 30, 1999. Amended: Filed Nov. 6, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, Attn: Tina Steinman, Executive

Director, 3605 Missouri Boulevard, PO Box 4, Jefferson City, MO 65102, by facsimile at (573) 751-3166 or by e-mail at healarts@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.030 Educational and Licensing Requirements. The board is proposing to delete subsection (6)(K).

PURPOSE: The purpose of this amendment is to delete language which was not changed in a previous rule amendment and which now is in direct conflict with recent changes to (6)(I).

(6) Licensure Transfer.

(I) No application for licensure transfer will remain valid if the applicant fails to complete the transfer process as outlined in this rule within six (6) months of receipt of the application by the board. Any failure by the applicant to complete the licensure transfer process will result in a forfeiture of all fees paid to the board.

[(K) Any application which is on file at the Missouri Board of Pharmacy on June 1, 1990, and which has been on file for one (1) year or longer, as defined in subsection (6)(I) of this rule, shall be considered void and will not be processed. All fees related to any application considered void by this section shall be forfeited by the applicant.]

AUTHORITY: sections 338.020, 338.035, 338.040, 338.070, 338.140 and 338.280, RSMo 2000 and 338.030, RSMo Supp. 2001. This version of rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.190 Patient Counseling. The board is proposing to amend section (2).

PURPOSE: The purpose of this amendment is to further clarify pharmacist responsibilities regarding Drug Utilization Review (DUR) provisions.

(2) Pharmacies shall maintain appropriate patient information to facilitate counseling. This may include, but shall not be limited to, the patient's name, address, telephone number, age, gender, clinical information, disease states, allergies and a listing of other drugs prescribed. A pharmacist shall review the patient record and each prescription drug order presented for dispensing for purposes of promoting therapeutic appropriateness. The pharmacist shall take appropriate steps to avoid or resolve therapeutic problems identified, which shall, if necessary, include consultation with the patient or practitioner.

AUTHORITY: sections 338.010.1, [and] 338.015.2, [RSMo Supp. 1990.] 338.140, [RSMo Supp. 1989] and 338.280, RSMo [1986] 2000. Original rule filed May 1, 1992, effective Feb. 26, 1993. Amended: Filed March 4, 1993, effective Oct. 10, 1993. Amended: Filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 220-2.700 Pharmacy Technician Registration. The board proposes to amend section (5).

PURPOSE: The purpose of this proposed amendment is to further clarify restrictions and conditions which may be imposed by the board on an individual technician registration.

(5) Any person whose name appears on the disqualification list may be employed as a pharmacy technician subject to any restrictions or conditions ordered by the board. As an alternative to barring an individual from employment in a pharmacy, the board may consider restricted forms of employment or employment under special conditions for any person who has applied for or holds a registration as a pharmacy technician. **Any registered technician subject to restrictions or conditions who violates any portion thereof may be further restricted in employment or have additional conditions placed on their registration. The board may also implement full disqualification on a registrant who has violated any restrictions or conditions.**

AUTHORITY: sections 338.013 and 338.140, RSMo [Supp. 1997] 2000. Original rule filed Aug. 21, 1998, effective Feb. 28, 1999. Amended: Filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 232—Missouri State Committee of Interpreters
Chapter 3—Ethical Rules of Conduct**

PROPOSED AMENDMENT

4 CSR 232-3.010 General Principles. The board is proposing to add a new section (3) and renumber the remaining sections accordingly.

PURPOSE: This rule is being amended to be consistent with the Missouri Commission for the Deaf's rule, 4 CSR 100-200.170.

(3) An interpreter shall not interpret in a setting beyond his or her certification level, as provided for in 5 CSR 100-200.170.

[[3]] **(4)** For the purpose of these rules, a consumer shall be defined as any person, persons, or entity receiving interpreting services.

[[4]] **(5)** An interpreter shall not accept or continue an assignment if the interpreter does not possess the ability, education, training, experience, and qualifications as defined in section 209.285(3), RSMo.

[[5]] **(6)** An interpreter shall convey the content and affect of the source message transmitted, in a culturally and linguistically accurate manner, using the language or communication system most readily understood by the consumer.

(A) For the purpose of these rules, message shall mean the auditory or visual information that is to be interpreted into another language or communication system.

[[6]] **(7)** An interpreter shall not extend or lengthen an assignment for the sole purpose of financial gain.

[[7]] **(8)** An interpreter shall not misrepresent her/his licensure, ability, education, training, educational credentials, or certification as defined in section 209.285(3), RSMo.

[[8]] **(9)** The interpreter shall not interject personal opinion during an assignment or on matters pertaining to the assignment.

[[9]] **(10)** The interpreter shall safeguard any information obtained relating to an assignment. If an interpreting assignment is an event open to the public, the interpreter may disclose information regarding the location of the assignment and general nature of the event.

[[10]] **(11)** When an assignment is not an event open to the public, an interpreter shall not disclose information relating to the assignment to include location, nature of the assignment, or individuals present during the assignment without the written consent of the consumer.

(A) For the purpose of this rule, an interpreter may disclose the general location of an assignment for the purpose of contacting the interpreter, in the event of an emergency. However, the interpreter shall remain responsible for any unauthorized disclosure of information relating to an interpreting assignment.

(B) An interpreter may reveal such information as reasonably necessary to establish a claim or defense in a legal proceeding.

[[11]] **(12)** The interpreter shall not accept or continue an assignment when the objectivity or competency of the interpreter is or can rea-

sonably be expected to be impaired because of an emotional, mental, psychological, or substance abuse disorder.

[[12]] **(13)** The interpreter shall not accept or continue an assignment if the interpreter's inability to remain neutral affects the interpretation.

[[13]] **(14)** The interpreter shall not accept or continue an interpreting assignment when the objectivity or competency of the interpreter is impaired because of the interpreter's familial, sexual, and/or emotional relationship with the consumer or consumer's family.

[[14]] **(15)** If the interpreter discovers a need to withdraw from an assignment, the interpreter shall advise the consumer.

[[15]] **(16)** An interpreter shall not delegate an assignment to a person who is not qualified or does not possess the appropriate certification, as defined in section 209.285(3), RSMo, for the service to be provided.

[[16]] **(17)** An interpreter shall not engage in an exploitive relationship with a consumer. For the purposes of these ethical rules of conduct, an exploitive relationship is any relationship between the interpreter and consumer that may take advantage of, or cause harm to, the consumer.

[[17]] **(18)** An interpreter shall maintain an appearance that does not interfere with the message as defined in 4 CSR 232-3.010[[4]]**(5)** (A).

[[18]] **(19)** Within the limits of the law, and after receiving written consumer consent, an interpreter shall respond to all requests for information and correspondence from the committee.

[[19]] **(20)** An interpreter shall not practice interpreting as defined in section 209.285(3), RSMo upon the lapse, expiration, suspension, or revocation of a certification.

AUTHORITY: sections 209.328.1, RSMo 2000 and 209.334, RSMo Supp. 2002. Original rule filed Feb. 18, 1999, effective July 30, 1999. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 6, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Committee of Interpreters, Pamela Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102, by facsimile to (573) 526-3489, or by e-mail at interp@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.070 Complaints. There was statutory provision for complaints to be made to the division. This rule established the procedures for filing the complaints.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.080 Pleadings. This rule prescribed the content and procedure for filing pleadings.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded Filed Nov. 26, 2002.

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

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City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.085 Dismissal of Cases. This rule expressed the division's policy on the dismissal of formal cases filed with the division.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Original rule filed Nov. 4, 1992, effective July 8, 1993. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1995. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

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**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.090 Discovery and Prehearings. This rule prescribed the procedures for formal discovery and for prehearing conferences.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed May 17, 1989, effective Sept. 11, 1989. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1995. Amended: Filed Aug. 3, 1995, effective Feb. 26, 1996. Emergency rescission

filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 265-2.100 Subpoenas and Formal Investigations. The division could issue subpoenas for the production of witnesses and records and could conduct investigations into alleged unlawful activity within its jurisdiction. This rule prescribed the procedure for requesting and issuing subpoenas and for initiating and concluding formal investigations by the division.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed Nov. 4, 1992, effective July 8, 1993. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1994. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

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Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 265-2.110 Hearings. The division was charged with the responsibility of prescribing the rules governing all hearings before it. This rule prescribed the setting and notices of hearings, interventions and conduct of hearings.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 265-2.115 Continuances. This rule set forth the procedures and time periods for obtaining continuances.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Emergency rescission filed Oct. 3, 1986, effective Oct. 23, 1986, expired Dec. 11, 1986. Original rule filed July 31, 1986, effective Oct. 27, 1986. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.116 Interventions. This rule set forth the procedures and time periods for interventions.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Emergency rescission filed Oct. 3, 1986, effective Oct. 27, 1986, expired Dec. 11, 1986. Original rule filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.120 Evidence. This rule prescribed the rules of evidence in any hearing before the administrative law judge.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 265-2.130 Briefs and Oral Argument. This rule set forth the rights of and procedures for filing briefs and presenting oral arguments in any hearing before the division.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Emergency amendment filed Aug. 16, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition

to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 265-2.140 Decisions of the Division. This rule prescribed the method of issuing a decision of the division and the effective date of that decision.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency amendment filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency amendment filed Aug. 16, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 265-2.150 Rehearings. This rule prescribed the procedure for requesting a rehearing on a decision by the division and the disposition of that request.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 4—Standards of Conduct

PROPOSED RESCISSION

4 CSR 265-4.010 Gratuities and Private Employment. The division was obligated to promote the public interest and maintain public confidence in its integrity and impartiality. This rule prescribed measures to prohibit practices that possessed a potential of wrongdoing.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 265—Division of Motor Carrier and Railroad Safety
Chapter 4—Standards of Conduct

PROPOSED RESCISSION

4 CSR 265-4.020 Conduct During Proceedings. The division had to insure that there was no question as to its impartiality in reaching a decision on the whole record developed during open hearings. This rule prohibited activities which would have tended to exercise influence on the division and which were not part of the record.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Rescinded: Filed Nov. 26, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on February 3, 2003, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2003.

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

PROPOSED AMENDMENT

10 CSR 10-6.100 Alternate Emission Limits. The commission proposes to amend section (1), add new section (2), add and amend new section (3) that includes original sections (2) through (10), add new sections (4) and (5). If the commission adopts this rule action, it will be the department's intention not to submit this rule action to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan because individual alternate emission limits will be required by this rulemaking to have federal approval. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

PURPOSE: This amendment adds language that alternate emission limits approved by the director will not be considered federally enforceable until approved by the U.S. Environmental Protection Agency (EPA). The evidence supporting the need for this proposed

rulemaking, per section 536.016, RSMo, is a letter from the EPA dated September 2, 1998 requesting this rule revision.

(1) [General Provisions] Applicability.

(A) This rule applies to installations that emit volatile organic compounds (VOC) in the ozone nonattainment areas of the state.

(B) The owner or operator of an *[installation]* installation may propose alternate ways of meeting VOC emission limits required in 10 CSR 10-2[-] through 10 CSR 10-5. Proposals may treat several source operations within one (1) or more installations as being placed under a hypothetical dome with one (1) emission point. Emission levels within the dome may be increased and decreased so long as the total emissions from the hypothetical emission point do not increase and other requirements of this rule are met. If an installation is controlling VOC emissions from a source operation for other reasons than to contribute to attainment of the ozone standard, for example, to prevent a nuisance or odor violation, it cannot increase those emissions through application of this rule.

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

(3) General Provisions.

[(2)] (A) Application and Permit Procedures.

[(A)] 1. Proposals for alternate emission limits shall be submitted on Alternate Emission Limits Permit application forms provided by the director.

[(B)] 2. An installation owner or operator must obtain an Alternate Emission Limits Permit in accordance with this rule before alternate emission limits may become effective. The permit will contain all conditions necessary to assure that the involved source operations will operate in accordance with the alternate emission limits.

[(3)] (B) Existing Compliance Schedules.

[(A)] 1. Submission of an Alternate Emission Limits Permit application will not affect any existing obligation of an installation to comply with applicable state or local laws, rules and orders unless the director issues an order specifically extending a state compliance schedule.

[(B)] 2. No alternate emission limits will be established for an installation which is presently subject to federal enforcement action unless the administrator approves the alternate emission limits and the schedule for meeting it.

[(4)] (C) Computing Alternate Emission Limits. The total emission level that will be used to evaluate the effect of proposed decreases or increases of emissions at installations desiring alternate emission limits will be the sum of the lower emission level for each involved source operation calculated from the following:

[(A)] 1. The actual production and emission information for the source operation reported by the installation which was used in the base year emission inventory to project attainment of the ozone standard in the state implementation plan; *1980 has been used as the base year in the St. Louis nonattainment area; 1977 has been used in the Kansas City area.* If the source operation was not included in the base year inventory actual production and emission information will be used; or

[(B)] 2. The allowable emission rate for each source operation involved in an application. The owners of source operations for which emission limits have not been established, but which emit either forty (40) tons per year or one hundred kilograms per day (100 kg/day) of VOCs must agree to emission levels approved by the director to serve as the source operations' allowable emissions for the purpose of this analysis. The agreed-upon emission level will represent eighty-five percent (85%) control unless the applicant demonstrates that level of control to be beyond the effectiveness of reasonably available control technology (RACT).

[(5)] (D) Criteria for Approval.

[(A)] 1. An Alternate Emission Limits Permit application must demonstrate that the proposed control will not cause total emissions from the source operations to exceed the level of emissions determined in *[section (4)]subsection (3)(C)*.

[(B)] 2. Applicants desiring to make use of emission reductions occurring at another installation must demonstrate that the emissions have occurred or will occur prior to the commencement of the alternate emission limit; and that the owner or operator of the installation from which emission reductions are obtained has entered a legally binding and enforceable agreement approved by the director or changed the installation's permit conditions to limit emissions of VOCs at the specified source operations to the levels and rates identified in the application.

[(C)] 3. No alternate emission limit may be approved which allows a new or modified source operation to exceed New Source Performance Standards (NSPS) in 10 CSR 10-6.070 or 40 CFR part 60 or the requirement for lowest achievable emission rate (LAER) in 10 CSR 10-6.060(4)(A)2.

[(D)] 4. No alternate emission limit may be approved which allows emissions of a hazardous pollutant from any source operation to exceed National Emission Standards for Hazardous Air Pollutants (NESHAPS) in 10 CSR 10-6.080 or 40 CFR part 61 or which allows emissions of a hazardous pollutant to increase for which a standard has not yet been promulgated.

[(E)] 5. An application proposing an emission decrease from process curtailments or source operation shutdowns will not be approved if the proposed decrease will be negated by countervailing emission increases occurring at other installations in the same area in response to the applicant's process curtailment or shutdown.

[(F)] 6. An application proposing to use emission reductions from the shutdown of an installation will not be approved. These reductions are available only to the owner of the shutdown installation for replacement purposes or to new or modified installations in the area as growth margin.

[(G)] 7. An application proposing to make use of emission reductions which occurred prior to applying for an alternate emission limit permit is subject to the following time constraints:

[1.] A. No application may be approved involving emission reductions which occurred prior to January 1, 1980 in the St. Louis metropolitan area or January 1, 1977 in the Kansas City metropolitan area unless the emission reductions were accounted for in the respective base year inventory as banked emission reduction credits;

[2.] B. For emission reductions which occurred between January 1, 1980 in St. Louis or January 1, 1977 in Kansas City and December 11, 1982, applications must be submitted within nine (9) months (September 11, 1983) after December 11, 1982 unless credit for the emission reductions is banked in accordance with 10 CSR 10-6.060(8)(D); and

[3.] C. For emission reductions which occur after the effective date (December 11, 1982), applications must be submitted within one (1) year of the emission decrease unless credit for the emission reductions is banked in accordance with 10 CSR 10-6.060(8)(D).

[(H)] 8. No application may be approved which proposes to use emission reductions which previously have been used to offset emission increases as described in 10 CSR 10-6.060(8)(C) or to net against emission increases as discussed in the definitions of major modification and net emission increase in 10 CSR 10-6.020. Emission reductions used to create an alternate emission limit are likewise for the duration of the alternate emission limit not eligible to be banked, used for offset purposes or used to net against emission increases.

[(I)] 9. An application must include an expeditious schedule of implementation that adheres as closely as possible to any compliance dates the source operation would otherwise be subject to.

[(J)] 10. An application will be approved only if it is determined that the alternate emission limit will not interfere with attain-

ment and maintenance of the ambient air quality standard or create any public nuisance.

11. All alternate emission limits that are approved by the director will not be considered federally enforceable (and will not shield a source from the federal obligation to comply with the underlying emission limits) by the United States Environmental Protection Agency (EPA) until submitted to the EPA and approved by the EPA.

[(6)] (E) Quantification of Emission Reductions.

[(A)] 1. In cases where the director determines that the emission reduction estimates made by the applicant are uncertain, the director may calculate alternative emission limitations based on other estimates.

[(B)] 2. If necessary to quantify emission reductions to be used in an alternate emission limit, the director may require source tests, continuous monitors or any other acceptable means of measurement before and after reductions occur.

[(C)] 3. To quantify emission reductions which have already occurred, the director will rely on the installation's emissions reported in the base year inventory used to project attainment of the ozone standard in the State Implementation Plan and the emission inventory taken the twelve (12) months following the reduction or if credits for the emission reductions were banked in accordance with 10 CSR 10-6.060(8)(D), the director will rely on the documentation provided at the time the credits were banked.

[(7)] (F) Permanence of Emission Reductions. It shall be a violation of this rule for any person to operate an installation from which emission reductions were obtained so as to emit volatile organic compounds at levels greater than those identified in the agreement or permit conditions referred to in *[subsection (5)(B)] paragraph (3)(D)2*.

[(8)] (G) New Control Requirements. If a new and more restrictive emission limitation applicable to any source operation included in an Alternate Emission Limits Permit is promulgated for the purpose of attaining and maintaining the ozone standard, the owner or operator of the installation who applied for the permit shall submit a new Alternate Emission Limits Permit application demonstrating that reductions in total emissions equal to or greater than the reduction required by the new emission limitations will occur on or before the final compliance date of the new rule. It will be a violation of this rule if the owner of an affected installation does not achieve the necessary reductions.

[(9)] (H) Public Participation.

[(A)] 1. After making a preliminary determination to approve an application, the director will cause a notice to be published in a newspaper of general circulation within the county in which the alternate emission units are proposed. The public notice shall describe the nature of the application including, with reasonable specificity, the following: name, address, phone number and representative of the agency issuing the public notice; name and address of the applicant; and the alternate emission limits. The public notice also shall include the director's preliminary determination to approve or approve with conditions. The notice shall state that any interested person may submit relevant information, materials and views to the director, in writing, for thirty (30) days after the date of publication of the notice. The notice shall further state that a copy of materials submitted by the applicant and used in making the preliminary determination, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination are available for public inspection at the Department of Natural Resources' regional office in the region in which the alternate emission limit would become effective, as well as at the Jefferson City central office of the air pollution control program;

[(B)] 2. No later than the date public notice is published, the director shall make available to the public, until the end of the public comment period, at the regional office in the region in which the proposed emission limit would become effective as well as the air

pollution control program office in Jefferson City, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination;

[(C)] 3. Within ten (10) days of a preliminary determination, the director shall send a copy of the public notice to the applicant and to officials and agencies having cognizance over the location where the alternate emission limit would occur as follows: local air pollution control agencies, the chief executives of the city and county where the alternate emission limit would become effective, any comprehensive regional land use planning agency and any state air program director whose lands may be affected by emissions from the installation;

[(D)] 4. The director shall consider all written comments submitted within the time specified in the public notice in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The director shall consider the applicant's response in making a final decision. The director shall make all comments available for public inspection in the same locations where the director made available information at the time of public notice relating to the proposed emission limit. Further, the director shall prepare a written response to all comments and make it available at the locations referred to previously; and

[(E)] 5. The director shall make a final determination whether the alternate emission limit application should be approved, approved with conditions or denied pursuant to this rule and notify the applicant in writing of the final determination and make notification available for public inspection at the same locations where the director made available information pertaining to the preliminary determination.

[(10)] (I) Fee Schedule.

[(A)] 1. Filing Fee. Each application will be accompanied by a one hundred dollar (\$100) filing fee.

[(B)] 2. Permit Fee. One hundred ten dollars (\$110) per source operation due prior to the publication of public notice.

(4) Reporting and Record Keeping. (Not applicable)

(5) Test Methods. (Not applicable)

AUTHORITY: section 643.050, RSMo [Supp. 1992] 2000. Original rule filed June 14, 1982, effective Dec. 11, 1982. Amended: Filed Nov. 14, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., February 4, 2003. The public hearing will be held at the Department of Natural Resources, Bennett Spring/Roaring River Room, 1738 E. Elm Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., February 11, 2003. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.010 Commission Administration of the SALT Program and Apportionment of SALT Funds. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes commission guidelines for the administration of the program and the allocation of funds available for the Missouri State Soil and Water Conservation SALT Program. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) General Availability of Special Area Land Treatment (SALT) Funds. State SALT funds shall be available to districts, which have received commission approval for a specific watershed project, and have agreed to locally administer the program, and have executed a Memorandum of Understanding (MOU) with the commission setting forth the terms of such assistance. SALT funds approved by the commission shall be available to the administering district to budget for management and incentives as set forth in sections (2), (3) and (4).

(2) SALT management funds shall be available to the administering district to budget expenses to administer SALT projects, which include personnel, field equipment, information/education, office/technical, administrative and demonstrations.

(3) SALT incentive funds shall be available only to those landowners of land located in the SALT project area, or the operator of such land located in the SALT project area. To be eligible a landowner or operator must have a conservation plan as approved by the district.

(4) Apportionment of SALT Funds. SALT funds shall be allocated each fiscal year based on the funds budgeted by the administering district for that given year. Total funds budgeted for management and incentives over the life of the project, shall not exceed the total funds approved for that project by the commission.

(A) Funding Limitations. Funds allocated to a SALT project but not spent or not obligated at the end of the project life shall be returned to the commission.

(B) Release of Funds for Reapportionment. A district may, at any time, provide notice to the commission that it has not spent or obligated all funds made available under section (4), and that it does not expect to do so by the end of the project life, and that it releases any portion of such funds for reapportionment by the commission.

(C) Termination of the Memorandum of Understanding. In the event that the Memorandum of Understanding required by section (1) is terminated by any district or by the commission, the district shall release all funds unspent and unobligated as of the effective date of such termination and shall further release, as they become available, obligated funds for which no claims for payment is made in a timely manner.

(D) Use of Released Funds. Funds released by the districts in accordance with subsections (4)(A), (4)(B) and (4)(C), shall be returned to the SALT program to be reallocated by the commission to other SALT projects or reserved by the commission for special allotment under subsection (4)(E).

(E) Special Allotment. The commission may allocate SALT funds for the purpose of cost-sharing or incentives on special watershed projects, which the commission considers necessary and of high priority for water quality problems resulting from production agricul-

ture. These funds thus allocated from the general SALT fund shall be allocated by the commission for the use on certain critical-needs projects. The special critical-needs projects shall be planned and designed by the commission incorporating the cooperative assistance of the local district(s) involved and with the technical assistance available to such district(s).

(5) The commission shall review the progress made on individual SALT Projects and may establish a management strategy with districts where project goals are not being met. Where possible, the commission shall assist districts whose project goals are not being met. In the event the district is not able to reach the project goals established, the district will be given the option to cancel their SALT project, to reevaluate the project goals, or other action agreed to by the commission. The commission reserves the right to terminate the SALT project providing the progress of the improvement or protection in water quality does not justify the funding allotted to the project.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.020 Application and Eligibility for SALT Cost-Share Funds. The evidence supporting the need for this proposed rule-making, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes criteria and methods of application for landowners desiring funds from the Missouri Soil and Water Conservation SALT Program. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Establishing Special Area Land Treatment (SALT) Cost-Share Practice Eligibility. The commission shall establish a list of eligible practices for which SALT cost-share funds should be utilized and shall affirm or modify the list as it considers appropriate to address agricultural nonpoint source pollution. The participating districts shall develop a list of preferred practices from the commission eligibility list upon which they will base their considerations for SALT cost-sharing. Landowners shall be eligible for SALT cost-share funds only for the types of practices designated as eligible for these purposes by the Soil and Water Districts Commission and by the participating districts. No eligible practices are available to treat flood-scouring problems or specifically flood control problems.

(2) Application for Assistance. To be eligible for assistance from the SALT Cost-Share Program, a landowner must make application on forms provided by the commission and available at district offices. The district's board will act upon only those applications for SALT cost-sharing from landowners who have a conservation plan as approved by the district, except as provided in section (5), and for eligible practices on which construction or implementation has not yet begun. The district board of supervisors may approve SALT cost-share applications at the date of the conservation plan approval or at the approval date of the SALT project, whichever is later. However, governmental agencies, political subdivisions and public institutions are excluded from participation in the SALT Cost-Share Program. As a further stipulation for receiving SALT cost-sharing assistance, the land upon which the practice is to be implemented or constructed must improve, maintain, or protect water quality due to Agricultural nonpoint source pollution concerns.

(3) Funding Determination and Limits. It shall be the responsibility and duty of the board of supervisors to determine the actual dollar amount of SALT cost-sharing on individual applications. State SALT cost-share rates shall not exceed the limits established in 10 CSR 70-8.040(1). In the event that the landowner wishes to construct or implement practices over and above the size or scope determined by a qualified technician to be minimum and necessary for water quality benefits, the board shall provide SALT cost-share assistance on only that part of the practice necessary to improve, protect or maintain water quality.

(4) Compliance with Applicable Law. In the installation of any eligible practices, the landowner shall be solely responsible for assuring compliance with any applicable federal, state or local laws, ordinances and regulations. The landowner also is solely responsible for obtaining all permits, licenses or other instruments of permission required before the installation of the proposed practice.

(5) Group Projects. Landowners may cooperate with other landowners in the event that the most appropriate solution to the needs addressed in the conservation plan requires eligible practices to be located on or across property lines of different landowners. In these cases, an agreement between or among cooperating landowners must be prepared by or on behalf of the group stipulating and providing for, but not limited to, the divisions of unshared costs, maintenance, and easements as necessary to accomplish the installation, operation and maintenance of the practice and the sharing of rights and benefits over and above the public benefits which might accrue from the installation of the practice. This agreement and a group conservation plan shall be submitted to the district(s) within which the land included in the plan lies. Upon approval of the group conservation plan by the district, the individual landowners are eligible to apply for SALT cost-sharing assistance under this rule. The group conservation plan may serve in lieu of the individual landowner conservation plan as stipulated in section (2). All other requirements for application and SALT cost-sharing assistance remain in effect.

(6) Termination Date. All applications shall specify a termination date, which shall be set no later than June 30 of the fiscal year following the fiscal year in which the application is approved, with the provision that no termination date shall be set later than the last day of the project life. Claims for payment received by the district board from the landowner, after the termination date shall not be honored unless the board approves an amendment for an extension. Amendments for extensions can be authorized for an adequate period of time determined by the board to be reasonable and fair to the landowner. An amendment for an extension must be approved prior to the termination date of the original application and only when the implementation or construction has begun on the practice.

(7) SALT Application Amendments. A copy of any amendment will be furnished to each party receiving a copy of the original application and the board shall approve each amendment before it shall become effective. An amendment to a SALT cost-share application shall not be appropriate in the event that the construction or implementation of a practice has begun, except as provided in subsections (7)(A), (C), (D), and (F). An amendment to an application for SALT cost-sharing assistance shall be appropriate for any of the following reasons:

(A) To increase the quantities of eligible components needed on the practice;

(B) To comply with an amended conservation plan;

(C) To extend the termination date indicated on the original application consistent with section (6);

(D) To cancel the application or agreement by mutual consent;

(E) To increase the obligation to the landowner for the proposed practice; or

(F) To reflect the added costs to the landowner when physical conditions at the practice site which require design changes are encountered.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.030 Design, Layout and Construction of SALT Proposed Practices; Operation and Maintenance. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule specifies technical aspects and certification, establishes responsibility of operation and maintenance and provides a method of modifying projects and practices. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Technical Specifications. Technical specifications for agricultural nonpoint source pollution practices shall be developed by the appropriate state or federal agency and be included in the project watershed plans approved by the commission. Specifications for practices set forth in the Natural Resource Conservation Service (NRCS), Field Office Technical Guide (FOTG) is to be used as the basis for determining need and practicability of the proposed practice, for preparing plans and specifications, for designing and laying out the practices and for certifying the proper installation of the practices.

Specifications for additional water quality practices not set forth in the NRCS Field Office Technical Guide and modifications to those included in the FOTG may be considered and authorized by the commission at the request of the district. Special Area Land Treatment (SALT) Practice description and specification information will be on file in the district office.

(2) Inspections and Certifications. A responsible technician shall inspect the work in progress to determine that specifications are met. Following the installations, it will be the responsibility of the technician to certify to the district that the practice was or was not properly installed. If the district does not receive a technician's certification that the practice was properly installed, it shall not approve any claim to the commission for payment regarding the practice. In the event that any technician responsible for complying with any portion of the rule is different from the technician who originally certified the feasibility of the practices in the original conservation plan, and if the technician is other than an individual employed for those proposed by the district or the NRCS, the qualifications of this technician shall be established to the satisfaction of the board before proceeding any further with the processing of any claim for payment.

(3) Operation and Maintenance by Landowner. Except as provided in section (4), the landowner shall be responsible for the operation and maintenance of all practices constructed with assistance from the SALT Cost-Share Program and the landowner will be expected to maintain the same in good operating condition to assure their continued effectiveness for the purpose(s) for which they were installed through the specified life of the practice.

(4) Operation and Maintenance by the District. If, within the specified life span of the practice, the district determines that landowner operation and maintenance responsibilities would constitute an undue burden upon the landowner, the district may assume responsibility for all or a part of the operation and maintenance and, prior to and as a condition for approval of a claim for payment for SALT cost-share funds, as a condition of the SALT cost-share assistance agreement under section (5), shall require the landowner to provide the district with the necessary easement or other land rights necessary to perform the operation or maintenance.

(5) SALT Cost-Share Assistance Agreement. As a condition for receiving any cost-share funds for eligible practices, the landowner, before submission of a claim for reimbursement, shall enter into an agreement of maintenance on forms supplied by the commission. The provisions of the agreement shall state: "if the practice is removed, altered or modified so as to lessen its effectiveness, without prior approval of the district, for a period of ten (10) years or the expected life span of the practice, whichever is the lesser, after the date of receiving payment, the landowner or his/her heirs, assignees or other transferees, shall refund to the SALT Cost-Share Program the prorated amount of the state cost-share payment previously received for the practice or portion of the practice which has been removed, altered or modified; and that if the district assumes maintenance responsibilities, right of access will be granted by the landowner." A copy of the agreement shall be recorded by the district board in the county where the land upon which the practices are constructed is located if the commission concurs with a board's determination that there is a need for recording.

(6) Request for Removal, Alteration, and Modification of Practices. A landowner may request the district's approval of the removal, alteration or modification of the practice at any time during the ten (10) year or expected life span, whichever is lesser, following payment of SALT cost-share assistance. In determining whether to approve or disapprove the action, the district shall consider:

(A) The value of the practice in reducing agricultural nonpoint source water quality impairments;

(B) The extent to which the practice hinders the highest and best use of the land upon which the practice is located;

(C) Whether alternative water quality measures or best management practices have been or are to be constructed or implemented; and

(D) The time remaining in the designed life of the practice.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.040 SALT Cost-Share Rates and Reimbursement Procedures. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes SALT cost-share rates and reimbursement procedures. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Special Area Land Treatment (SALT) Cost-Share Rates. SALT cost-share rates shall not exceed seventy-five percent (75%) of the actual approved costs of eligible practices or the incentive rates established by the commission for certain management practices which have proven to be effective to address agricultural non-point source pollution.

(2) SALT Funding Limit. Landowners may obtain other sources of funding from federal, state, and/or private organizations in conjunction with receiving SALT cost-share in excess of the amount authorized by section (1). At no time shall the combination of SALT cost-share and funding from other sources exceed one hundred percent (100%) of the actual cost to the landowner.

(3) SALT Eligible Costs. Eligible costs will be determined by the district and shall include all necessary and reasonable costs incurred by the landowner in installing or applying an approved practice. The costs include machine hire or the costs of the use of his/her own equipment, needed materials delivered to and used at the site and labor required to construct the practice.

(4) Documenting SALT Costs. All authorized items or costs for which the landowner desires SALT cost-sharing assistance shall be supported by receipts of payments from the vendor(s). Receipts of payments from the vendor(s) shall show the name of the vendor(s), the materials, labor or equipment used on the practice, the compo-

nent(s) cost, the total amount paid for the component(s), the date payment was received and the vendor's verification of payment received. Should receipts include components which were not needed on the approved practice, the claim shall be adjusted to reflect the actual cost of minimum and necessary components. Costs for labor, materials or equipment incurred by the landowner or by the current farm operator when no vendor receipts for payment are obtainable must be listed on a certification worksheet showing the component(s) cost, amount or number of each component and the total amount for which payment is claimed.

(5) SALT Claim for Payment. After the practice has been completed and certified by the responsible technician, the landowner shall complete a claim for payment on forms provided by the commission and available at the location where the application form was obtained. A copy of the certification worksheet of costs incurred by the landowner or the current farm operator and the vendor(s) receipts, both required by section (4), shall be attached to the claim for payment before submission to the district. The landowner at the same time shall complete and sign the agreement form required by 10 CSR 70-8.030(5), a copy of which shall be submitted to the district for processing along with the claim for payment.

AUTHORITY: sections 278.070(4), 278.110.8 RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.050 District Administration of the SALT Cost-Share Program. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes guidelines for the administration of the SALT Cost-Share Program by the participating districts. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Special Area Land Treatment (SALT) Application. This rule shall apply only to districts which have entered into a Memorandum of Understanding with the commission agreeing to assist the commission in the administration of the SALT Cost-Share Program and to applicants having active conservation plans as required by 10 CSR 70-8.010(3) as approved by the district and to eligible practices covered by the conservation plan.

(2) Board Action on SALT Applications. The board of supervisors shall review the SALT cost-share assistance application and any amendments and shall approve or disapprove each application or amendment. The action shall be recorded in the official minutes of the district meeting and the landowners shall be notified of the action within ten (10) days. The board at this time also shall determine the amount of funding under 10 CSR 70-8.020(3). Special circumstances may arise where board approval for SALT cost-share assistance is needed before the next monthly board meeting. In those cases, the board shall establish specific criteria by which any board member may approve that action. All those approvals shall be reviewed at the next board meeting and be recorded in the official minutes of the district meeting. Applications for SALT cost-share assistance may be approved by the board only when there is sufficient commission approved budgeted funds to provide the estimated SALT cost-share based upon the actual cost information available to the district. The board shall not approve any application for cost-share assistance on which the construction or implementation of projects or practices has begun.

(3) Record Keeping. The district shall maintain a record of funds obligated as applications for SALT cost-share assistance are approved based upon estimated costs. A SALT cost-share ledger will be kept current showing the balance of unobligated funds and other information as the commission determines is necessary to provide for proper documentation of all expenditures from the SALT Cost-Share Program.

(4) District Review of SALT Claim for Payment. Upon completion of an approved practice, the district shall review the claim for payment prepared by the landowner in accordance with 10 CSR 70-8.040(4) and (5) and, if it finds that the practice was installed properly, that all other conditions have been satisfied and that the claim has been completed properly and is accompanied by all required supporting documentation, shall approve the claim for payment. If the district determines that the claim is prepared improperly, or that other deficiencies exist, it shall so notify the landowner and shall provide the landowner with a reasonable opportunity to correct the deficiencies and to resubmit the claim for payment.

(5) District Assistance to Landowner. The district shall provide assistance as it considers appropriate to the landowner in the completion of necessary forms and any other SALT Cost-Share Program matters.

(6) Filing System. To provide for efficient processing of requests for cost-sharing assistance and for maintenance of necessary documentation of matters relating to the administration of the SALT Cost-Share Program, the district shall develop and maintain with the assistance of the commission, a filing system which includes copies of all forms completed by the landowner and all other information considered relevant to the construction of the eligible practices and to the cost-sharing assistance provided. The files shall be available for inspection by the personnel of the commission and by representatives of the state auditor's office during normal business hours of the district.

(7) Delegation of Responsibilities by the Board. The commission shall be notified in writing of any delegation of responsibilities. The board of supervisors may delegate any of the authorities and responsibilities assigned to it by these rules to a member or subcommittee of the board, except:

(A) Establishing SALT Cost-Share Practice Eligibility, 10 CSR 70-8.020(1);

(B) Funding Determination and Limits, 10 CSR 70-8.020(3);

(C) Request for Removal, Alteration and Modification of Practice, 10 CSR 70-8.030(6).

(8) Regardless of the source of funding, each district board of supervisors is authorized to deny any application for participation in the SALT program generally available through the district, which is administered by the State Soil and Water Districts Commission. The district board of supervisors shall notify the applicant of the denial by certified mail, return receipt requested. The applicant may request the Soil and Water Districts Commission to conduct a review of his/her application. The request must be in writing and be directed to the Soil and Water Districts Commission, PO Box 176, Jefferson City, MO 65102-0176. The request must be received by the commission no later than thirty (30) days from the date the applicant received the denial letter from the district board. The applicant, upon request, may appear before the commission in person, by a representative or in writing. The commission shall schedule the review of the application at a regularly scheduled meeting of the commission within one hundred twenty (120) days of the district board's denial. The commission shall give the applicant at least twenty (20) days' notice by letter of the regularly scheduled meeting when the commission will review the application.

AUTHORITY: sections 278.070(4) and 278.110.8 RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.060 Commission Administration of the SALT Cost-Share Program. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes guidelines for the administration of the SALT Cost Share Program by the commission. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Forms. The commission shall prepare and make available to participating districts, all forms necessary for district administration and shall further prepare and keep updated a handbook for district use in assisting in the administration of the Special Area Land Treatment (SALT) Cost-Share Program.

(2) Commission Review of SALT Claims for Payment. Upon receipt of a district-approved claim for payment, a commission representative shall review the claim and the supporting documentation, which is attached. If the claim is determined to be complete and properly documented, the commission shall prepare a voucher for transmittal

to the Office of Administration for preparation of a warrant payable to the landowner.

(3) Payment to Landowner and Recording Agreement. Upon receipt of the warrant from the Office of Administration, the commission shall transmit the same by mail to the landowner. The district shall be notified monthly of any transmission at which time the commission shall complete all necessary portions of the SALT cost-sharing assistance agreement prepared by the landowner at the time the claim for payment was prepared. Costs incurred in the recording and indexing of the agreements shall be paid by the commission.

(4) Incomplete or Inaccurate SALT Claims for Payments. If, in reviewing the claim for payment, the commission or its agent determines that the information contained in the claim is incomplete or inaccurate, that an error exists in the final computations or that proper documentation has not been supplied, it shall notify the district of the deficiency. The district then shall request the landowner to complete a claim for payment and if necessary a new cost-sharing assistance agreement required by 10 CSR 70-8.030(5). No payment will be authorized until the commission has determined that the claim for payment and necessary supporting documentation is complete and accurate in all respects. SALT cost-sharing assistance agreements shall not be recorded until the payment in fact has been authorized by the commission and received by the landowner.

(5) Violations of SALT Cost-Sharing Assistance Agreement. In the event the commission is notified of an alleged violation of the SALT cost-sharing assistance agreement, a representative of the commission, or a representative of the district, or both, shall investigate the alleged violation and report the results of the investigation to the commission. If, following the investigation, it appears as though a violation has occurred, the district board of supervisors shall notify the landowner by certified mail, return receipt requested and shall make demand for repayment of the appropriate amount to the state SALT Cost-Share Program within thirty (30) days after receipt of the demand for repayment. Within the thirty (30)-day period, the landowner may request the commission review the demand for repayment. The request for a review must be in writing. The review shall be conducted at a regularly scheduled commission meeting, allowing adequate opportunity for the landowner to present arguments in support of the claim. The landowner's arguments may be presented by the landowner, by a representative or in writing. If, following the review, the commission determines that no violation has occurred or that extenuating circumstances justify the landowner's position, the demand for repayment shall be withdrawn and the commission shall so notify the landowner of its decision. If, however, following the review, the commission determines the violation did occur, it shall so notify the landowner by certified mail, return receipt requested, and shall renew the demand for repayment. If the repayment is not received within thirty (30) days of receipt of the commission's request for repayment or if all deficiencies are not corrected at the landowner's expense within the time specified, by the commission, the commission may refer the matter to the Office of the Attorney General for recovery of the state SALT cost-share funds.

(6) Report to Districts. The commission shall prepare on a monthly basis a report to each participating district indicating the payments which have been made from the SALT Cost-Share Program during the preceding month and any other information determined by the commission to be of value to the districts regarding the administration of the program.

(7) New Practices. The commission shall have authority to conduct a pilot project for the purpose of testing development and implementation of new SALT cost-share practices appropriate for future water quality resource needs. A pilot project will be conducted for a specific period of time in a limited area determined by the commission.

(8) Commission Limits on Demonstration Practices. The commission shall have the authority to establish limits for incentive payments for practices that demonstrate an environmental benefit as well as an increase in production to the landowner. These limits may provide a limit on the financial incentive and specified period of time, and on a limited number of acres.

(9) Commission Limits on Loss of Production Practices Benefiting Water Quality. The commission shall have the authority to establish limits for straight incentive payments for loss of production practices that benefit water quality. These limits may provide a limit on the financial incentive and number of acres, and for a specified time period.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.070 Availability and Apportionment of SALT Loan Interest-Share Funds. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes commission guidelines for use and allocation of funds available to the Missouri Soil and Water Conservation SALT Loan Interest-Share Program. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) General Availability of Program. The Special Area Land Treatment (SALT) loan interest-share program shall be available to landowners, land representatives, and tenants of land located within SALT watersheds, within Missouri soil and water conservation districts.

(2) District Use of Funds. The soil and water conservation districts shall budget funds to be used in SALT projects for loan interest-share. Soil and water conservation districts shall allocate funds by approving applications for loan interest-share. These allocated funds shall be deducted from the total funds approved for the project by the commission. Payment shall be made directly to the applicant, and no actual transfer of funds will be made to the district.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.080 Application and Eligibility for SALT Loan Interest-Share Funds. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes criteria and methods of application for persons desiring assistance through the Loan Interest-Share Program. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Establishing Project Eligibility. The commission shall establish a list of eligible projects and practices for which Special Area Land Treatment (SALT) loan interest-share assistance may be available, and shall review and affirm or amend such list as necessary. Program participants shall be eligible for assistance only for the type of practices and projects so designated as eligible, providing that the projects and practices for which assistance is required are contained within the relevant conservation plan.

(2) Application for Assistance. To be eligible for assistance under the loan interest-share program, program participants must make application on forms provided by the commission. Such forms will be available at the soil and water district office. The district board of supervisors will only recommend to the commission applications which meet the following criteria. The program participants must:

(A) Be a landowner, land representative, or tenant of land located within SALT watersheds;

(B) Be a district cooperator;

(C) Have an active conservation plan as approved by the district; and

(D) Be able to secure through a licensed lending institution a loan for at least the amount of program assistance requested.

(3) Funding Determination and Limits. Loan interest-share assistance shall only be considered on a minimum participation amount of twenty-five hundred dollars (\$2,500) up to a maximum twenty-five thousand dollars (\$25,000) per participant per year. The minimum participation amount is lowered to one thousand dollars (\$1,000) when used with cost-share. Assistance shall not be available for the portion of a practice receiving assistance or reimbursement from any governmental or private program. The maximum length for any loan interest-share assistance shall be ten (10) years, or less, as stated within individual practice and project specifications.

(4) Compliance with Applicable Law. In the installation or construction of any eligible practice or project the participant shall be solely responsible for assuring compliance with any applicable federal, state, or local laws, ordinances and rules and regulations. The participant is also responsible for obtaining all permits, license or other instruments of permission required prior to the installation or construction of the proposed projects and practices.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.090 Design, Layout and Construction of Proposed Water Quality Practices and Projects; Operation and Maintenance for SALT Loan Interest-Share. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule specifies technical aspects and certification, and establishes responsibility for operation and maintenance. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Technical Specifications. Specifications for soil and water conservation practices and projects set forth in the USDA—Natural Resource Conservation Service (NRCS) Field Office Technical Guide are to be used for determining need and practicability of proposed practices, for preparing plans and specifications, for designing and laying out practices and for certifying the proper installation of such practices. Specifications for additional projects and practices not contained within the Field Office Technical Guide and modifications to those so included may be considered and authorized by the commission.

(2) Inspections and Certifications. In the event that any technician responsible for complying with any portion of this rule is different from the technician who originally planned a program participant's conservation plan, and if the technician is other than an individual employed for such purposes by the district or the Natural Resource Conservation Service, the qualifications of this technician shall be established to the satisfaction of the board before proceeding with the program process.

(A) Technical Certification of Proper Installation. A responsible technician shall inspect work in progress to determine that specifications are met. Following such installation or construction, it will be

the responsibility of the technician to certify to the district that each practice or project was or was not properly installed or constructed. If the district does not receive certification of proper installation, it shall not further process the participant's request for program assistance.

(B) Technical Certification of Proper Operation and Maintenance. Annually, a responsible technician shall conduct an inspection of all projects and practices implemented or constructed through program assistance, and shall certify to the district that all maintenance and operation requirements of the technical guide and the conservation guide are being met. If such certification is not forthcoming, the district shall not forward to the commission the program participant's annual claim for reimbursement of interest expenses.

(3) Operation and Maintenance. The program participant shall be responsible for operation and maintenance of all projects and practices installed or constructed with assistance from the loan interest-share program. The participant shall operate and maintain all such practices and projects to assure their continued effectiveness for the purpose for which they were intended for the life of the practice.

(4) SALT Loan Interest-Share Agreement. As a condition of receiving loan interest-share assistance for eligible projects and practices, the program participant shall enter into an agreement of maintenance on forms supplied by the commission. The agreement shall state: If any project or practice implemented, installed or constructed through assistance of the loan interest-share program is removed, altered or modified so as to lessen its effectiveness for the life span of the loan, the participant shall forfeit their right of participation in the program, and any current or future annual interest-share benefits. If the participant has not properly followed his annual management practice set forth in the agreement and the requirements of the resource management plan, the participant shall forfeit their right of participation in the program, for the current annual interest-share benefits.

AUTHORITY: sections 278.070(4), and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to the proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.100 SALT Loan Interest-Share Application; Eligibility of Costs; and Reimbursement Procedures. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes policies and procedures for the operation of the SALT Loan Interest-Share Program. One of the primary goals of the plan includes the expansion of the SALT program

to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Application for Participation. A potential program participant may apply for assistance through the Special Area Land Treatment (SALT) Loan Interest-share Program on forms available in the district office. The application, accompanied by associated cost information, a lender agreement-in-principle of participant eligibility for a loan, and anticipated soil conservation and water quality benefits, shall be forwarded to the commission for consideration.

(2) Eligible Costs. Eligible costs shall be those actually incurred by the program participant in the installation, construction or implementation of requested projects and practices. Estimates of actual costs shall be based upon cost information available to the district in coordination with the participant and their lender.

(3) Reimbursement Procedures. Annually, upon receipt of district and technical certification of proper operation and maintenance of projects and practices, accompanied by lender verification of annual interest payment, the commission shall forward to the participant the appropriate interest-share amount as stipulated in 10 CSR 70-8.120(4).

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.110 District Administration of the SALT Loan Interest-Share Program. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes commission guidelines for district administration and function in the SALT Loan Interest-Share Program. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Application. This rule applies to any Missouri soil and water conservation district wishing to recommend to the commission applications designated as eligible by 10 CSR 70-8.080.

(2) District Action on Applications. The district board of supervisors shall coordinate efforts among the program participant, their lender and the technical assistance available to the district to determine

needs, applicability, costs and private loan eligibility as required by the commission to determine participation in the program.

(3) Annual Maintenance and Operation Review. Annually, prior to interest reimbursement to the program participant, the district shall forward to the commission verification of compliance with the technical operation and maintenance requirement of the assisted projects and practices and requirements of the conservation plan. Also, the lender certification of annual interest payment is required to be forwarded with such maintenance and operation verification. These certifications will be upon forms supplied for these purposes by the commission. Should a participant fail to make an annual interest payment or fail to be in compliance with maintenance and operation requirements of the assisted projects and practices, the district board of supervisors shall so inform the commission.

(4) District Assistance to Program Participants. The district shall provide to the participant such assistance as it considers appropriate in the acquisition and completion of the necessary forms, and other Special Area Land Treatment (SALT) Loan Interest-Share Program matters.

(5) Regardless of the source of funding, each district board of supervisors is authorized to deny any application for participation in any program generally available through the district, which is administered by the State Soil and Water Districts Commission. The district board of supervisors shall notify the applicant of the denial by certified mail, return receipt requested. The applicant may request the Soil and Water Districts Commission to conduct a review of his/her application. The request must be in writing and be directed to the Soil and Water District Commission, PO Box 176, Jefferson City, MO 65102-0176. The request must be received by the commission no later than thirty (30) days from the date the application received the denial letter from the district board. Upon request, the applicant may appear before the commission in person, by a representative or in writing. Within one hundred twenty (120) days of the district board's denial, the commission shall schedule the review of the application at a regularly scheduled meeting of the commission. The commission shall give the applicant at least twenty (20) days' notice by letter of the regularly scheduled meeting when the commission will review the application.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 8—State Funded Special Area Land Treatment
(SALT) Program**

PROPOSED RULE

10 CSR 70-8.120 Process and Commission Administration of the SALT Loan Interest-Share Program. The evidence supporting the

need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the commission's "Plan for the Future."

PURPOSE: This rule establishes guidelines for the administration of the SALT Loan Interest-Share Program; and the process. One of the primary goals of the plan includes the expansion of the SALT program to prevent water pollution caused by soil erosion and chemical runoff from agricultural land.

(1) Forms. The commission shall prepare and make available to all districts sufficient copies of all forms necessary for district administration and shall further prepare and keep updated a handbook for district use in assisting in the administration of the Special Area Land Treatment (SALT) Loan Interest-Share Program.

(2) Approving Application for Participation. Following the districts forwarding the applications to the commission, the commission shall review each application and approve for inclusion in the program those applicants qualifying as eligible according to these rules, commission policy and within the limits of funding availability to the SALT project as stipulated in 10 CSR 70-8.010(1).

(3) Notification of Application Determination. The commission shall notify the districts of their determination for each application made through the district by the applicant. The commission will request from the applicant the verification of the actual loan transaction by the suitable lending institution.

(4) Annual Reimbursement to SALT Program Participants. Annual reimbursement contingent upon annual appropriations shall be for a sum equal to the participant's annual interest payment, or the amount of interest earned by the state on funds equal to the participant's initial loan principal, whichever is the lesser. The commission shall, upon receipt of the annual district verification of compliance with maintenance and operation requirements, accompanied by the lender certification of annual interest payment, prepare a voucher for transmittal to the Office of Administration for preparation of a warrant payable to the program participant.

(A) Initial Year of Participation. Should the commission fail in the first year of participation to receive the district verification of proper implementation, installation or construction of eligible projects and practices and the lender certification of annual interest payment, no such voucher shall be prepared.

(B) Subsequent Years of Participation. Should the commission fail to receive either the annual district verification of proper operation and maintenance of installed projects and practices or the lender certification of annual interest payment, no such voucher shall be prepared.

(5) Program Participant Recourse for Noncompliance. In the event that the participant is determined to be in noncompliance with provisions of the program, they may appeal through the district to the commission for annual interest payment. Such an appeal must be in writing and be submitted to the commission within thirty (30) days following commission notification. The following appeal shall state the participant's position, present argument in support of that position, any extenuating circumstances which they feel might lead to current and proposed efforts to conform to program requirements. The commission, in considering the appeal, may provide the annual interest payment if in the opinion of the commission all deficiencies and violations of program rules are corrected, or progress is being made toward compliance. At the discretion of the commission, any payment to the participant may be retroactive to allow reimbursement of the previous year's interest-share payment, or contingent upon corrections of deficiencies or violations, in which case, the program participant's reimbursement of the previous year's interest-share payment may be forfeited.

(6) Commission Authority on Violation of Rules. The commission has the authority on a case-by-case basis to approve applications that through no fault of the landowner, were not signed or dated at the appropriate time.

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo Supp. 2001. Original rule filed Nov. 13, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 6—National Guard Armory Rentals**

PROPOSED RULE

11 CSR 10-6.010 National Guard Armory Rentals

PURPOSE: This rule gives the guidelines for non-military use of state owned and operated armories and facilities.

(1) Under this section the Adjutant General shall clarify the requirements concerning the use of Missouri National Guard armories and facilities.

(A) Users must agree to comply with all requirements of the rental space contract made with the Office of the Adjutant General.

(B) Use of state owned and operated armories will not be authorized for non-military use during alerts, mobilizations, or inspections. Written agreements covering non-military use shall contain a provision for cancellation upon the occurrence of any of these events; cancellation notification may be with little advance notice.

(C) The Office of the Adjutant General may deny usage based on past experience or events deemed inappropriate for federal/state governmental activities and military programs. The non-military use may be cancelled at any point in time and fees subject to forfeiture if activities of the lessee or his/her guests (invited or uninvited) become disruptive or detrimental to the armory personnel, armory property, the local community, the Missouri National Guard, or the state of Missouri.

(2) All funds received from persons or organizations not connected with the organized militia for rental of armories will be credited to the Adjutant General's Revolving Fund and deposited in the state treasury.

(3) The Adjutant General has discretionary authority to make modifications to armory use as needed for the best interest of the organized militia.

AUTHORITY: sections 41.160 and 41.210, RSMo 2000. Original rule filed Nov. 12, 2002.

PUBLIC COST: This proposed rule is estimated to cost state agencies and political subdivisions an estimated one thousand two hundred fifty (\$1,250) dollars annually for the life of the rule. It is antic-

ipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule is estimated to cost private entities approximately forty-five thousand dollars (\$45,000) annually for the life of the rule. National Guard armories are available for public and private usage when not required for military use. Fees charged vary depending on location, the area of space utilized and the length of time used. Fees established are different for each armory. Fees are based on facility operating expenses and fees charged for similar facilities in the geographic area. Fees are designed to recover for the state, the amount of increased cost experienced by the state from the non-military usage. In this fiscal estimate, actual costs may vary significantly due to the actual number of rental contracts executed. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Adjutant General, NGMO-SX, LTC Dennis Cruis, Deputy Military Executive, 2302 Militia Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

Rule Number and Name:	11 CSR 10-6.010 MONG Armory Rentals
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Gov't Organizations Rentals	
Non-Military Usage @ \$50	\$1,250

III. WORKSHEET

See Table Above

IV. ASSUMPTIONS

- (1) National Guard armories are available for public and private usage when not required for military use. Fee's charged vary depending on location, the area of space utilized and the length of time used.
- (2) Fees established are different for each armory. Fees are based on facility operating expenses and fees charged for similar facilities in the geographic area. Fees are designed to recover for the state, the amount of increased cost experienced by the state from the non-military usage.
- (3) In this fiscal estimate, actual costs may vary significantly due to the actual number of rental contracts executed.

**FISCAL NOTE
 PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	11 CSR 10-6.010 MONG Armory Rentals
Type of Rulemaking:	Proposed Rule

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:
400 (@ \$100 per occurrence)	Private Rentals	\$40,000
200 (@ \$25 per occurrence)	Not for Profit Organization Rentals	\$5,000

II. WORKSHEET

See Table Above

IV. ASSUMPTIONS

(1) National Guard armories are available for public and private usage when not required for military use. Fee's charged vary depending on location, the area of space utilized and the length of time used.

(2) Fees established are different for each armory. Fees are based on facility operating expenses and fees charged for similar facilities in the geographic area. Fees are designed to recover for the state, the amount of increased cost experienced by the state from the non-military usage.

(3) In this fiscal estimate, actual costs may vary significantly due to the actual number of rental contracts executed.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 14—Basic Training Centers

PROPOSED AMENDMENT

11 CSR 75-14.050 Minimum Standards for a Certified Basic Training Course. The department is amending section (6).

PURPOSE: This amendment clarifies the scoring and training requirements for firearms training.

(6) Trainees shall be graded as follows:

(A) A trainee shall be tested for mastery of each subject area in the appropriate mandatory curriculum. A written or practical examination may test more than one (1) subject area simultaneously.

1. Mastery of firearms shall be tested by practical examination and [graded] scored on a numerical scale from zero (0) to one hundred (100). Supplemental written examinations are permitted, but the overall firearms score required for graduation pursuant to [subsection] paragraph (7)(C)4. of this rule shall be based solely upon the practical examinations. **The final grade of the firearms practical examination may, at the discretion of the training center director, be recorded as a pass or fail.**

2. Mastery of defensive tactics, physical fitness, and driver training shall be tested by practical examination and may be graded on a numerical scale from zero (0) to one hundred (100) or on a pass/fail basis. Supplemental written examinations are permitted.

3. Mastery of all other subject areas shall be tested by written or practical examination and shall be graded on a numerical scale from zero (0) to one hundred (100). Pass/fail grading is not permitted.

(D) A trainee who achieves less than seventy percent (70%) on the firearms practical examination may, at the discretion of the training center director, retake the practical examination one (1) time. The highest score that may be awarded on a retake examination is seventy percent (70%).

[(D)] (E) The weighing of each exam in calculating a trainee's overall score shall be determined by the training center policy before the start of the training course.

[(E)] (F) The determination to grade an objective pass/fail shall be made before the start of the training course.

AUTHORITY: sections 590.030.1 and 590.040.1, RSMo Supp. 2001. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Doug Shoemaker, POST Program, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.010 Fireworks and Other Seasonal Businesses. This rule interpreted the sales tax law as it applied to the sellers of fireworks and others engaged in seasonal businesses and interpreted and applied section 144.010, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 94 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.038 Promotional Gifts and Premiums. This rule interpreted the sales tax law as it applied to promotional gifts and premiums, and interpreted and applied sections 144.010, 144.020 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 010-15 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.048 Clubs and Other Organizations Operating Places of Amusement. This rule interpreted the sales tax law as it applied to clubs and other organizations operating places of amusement and clarified the circumstances under which fees and charges paid to clubs are subject to sales tax.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously published as rule no. 46 in Rules and Regulations relating to the Missouri Sales Tax Act, 1949. Republished as rule no. 44 in the Missouri Sales Tax Act and Compensating Use Tax Law with Rules and Regulations, 1963. S.T. regulation 010-20 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.088 Photographers, Photofinishers and Photoengravers. This rule interpreted the sales tax law as it applied to photographers, photofinishers, photoengravers and services performed by artists, and interpreted and applied sections 144.010 and 144.030, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 70 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-37B was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.148 When a Sale Consummates. This rule was a guideline for determining when a sale consummates.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 13 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-67 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.150 Guidelines on When Title Passes. This rule was a guideline for determining when title passed.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 13 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-68 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.222 Transportation Fares. This rule interpreted the sales tax law as it applied to transportation fares and interpreted and applied sections 144.010 and 144.030, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 58 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 020-7 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Dec. 30, 1983, effective April 12, 1984. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.226 Lease or Rental. This rule interpreted the sales tax law as it applied to lease or rental receipts and interpreted and applied sections 144.020 and 144.070, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 020-9 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Sept. 14, 1976, effective Dec. 11, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.230 Repair Parts for Leased or Rented Equipment. This rule interpreted the sales tax law as it applied to parts used in the repair of leased or rented equipment and interpreted and applied sections 144.010 and 144.020, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 020-II was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.232 Maintenance Charges for Leased or Rented Equipment. This rule interpreted the sales tax law as it applied to maintenance charges for leased or rented equipment and interpreted and applied sections 144.010 and 144.020, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 020-12 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
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PROPOSED RESCISSION

12 CSR 10-3.270 Carbon Dioxide Gas. This rule interpreted the sales tax law as it applied to sellers of carbon dioxide gas and interpreted and applied sections 144.010 and 144.030.2(2), RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 030-11 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.304 Common Carrier Exemption Certificates. This rule provided guidelines as to the use of common carrier exemption certificates and interpreted and applied sections 144.030.2(3) and 144.080, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 030-28 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
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PROPOSED RESCISSION

12 CSR 10-3.348 Printers. This rule interpreted the sales tax law as it applied to printers and interpreted and applied sections 144.010, 144.020 and 144.030, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 71 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 030-49 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.356 Railroad Rolling Stock. This rule interpreted the sales tax law as it applied to railroad rolling stock.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 030-54 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
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PROPOSED RESCISSION

12 CSR 10-3.358 Electrical Energy. This rule interpreted the sales tax law as it applied to taxable sales of electrical energy.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 85 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 030-55 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed March 11, 1983, effective July 11, 1983. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.372 Water or Air Pollution Installation Contractor. This rule interpreted the sales tax law as it applied to water or air pollution installation contractors.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 030-62 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.422 Canteens and Gift Shops. This rule interpreted the sales tax law as it applied to canteens and gift shops.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 4 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 040-23 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
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PROPOSED RESCISSION

12 CSR 10-3.500 Successor Liability. This rule interpreted the sales tax law as it applied to a person purchasing a business.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 150-1 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.514 Exemption Certificate. This rule interpreted the sales tax law as it applied to the acceptance of exemption certificates during and after an audit.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 190-1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.532 Resale Exemption Certificates. This rule interpreted the sales tax law as it applied to utilization of exemption certificates and sets forth the requirement that exemption certificates be updated every five (5) years.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 210-1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed July 20, 1987, effective Oct. 25, 1987. Amended: Filed Aug. 2, 1988, effective Jan. 13, 1989. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.538 Possession and Delivery of Exemption Certificates. This rule interpreted the sales tax law as it applied to possession and delivery of exemption certificates.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 210-4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.860 Marketing Organizations Soliciting Sales Through Exempt Entity Fund-Raising Activities. This rule interpreted the sales tax applicable to marketing organizations soliciting sales through exempt entity fund-raising activities.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Feb. 23, 1989, effective Aug. 11, 1989. Rescinded: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED AMENDMENT

12 CSR 10-24.120 Assumed or Common Use Name. The director proposes to amend sections (1) and (2) and remove the form that follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment removes the form following this rule in the *Code of State Regulations*, as the verification sheet is generated from the over-the-counter system. It also tightens security and lessens fraud by restricting documents acceptable for assumed or common use name.

(1) When a person applies for a Missouri driver/s] license or non-driver license in a name other than what is indicated on personal documents accepted by the department for identification, the department shall issue a driver/s] license or nondriver license in the assumed or common use name provided the applicant completes an affidavit of name change on a form prescribed by the department to be maintained as a permanent record. **The required affidavit shall be a sworn statement incorporated in the license application document.** That affidavit *[shall]* statement may advise the applicant of penalties of Missouri law for making a false statement.

(2) In order to provide proof of use of the assumed or common use name, the person shall provide one (1) document to the director which contains the name to be used. This document shall be required in addition to the affidavit described in section (1) of this rule. Documents acceptable to the director *[may]* include, *but may not be limited to*:

- [(E)]* Medical record(s);
- [(F)]* School record(s);
- [(G)]* Bank record(s);
- [(H)]* (E) Marriage license;
- [(I)]* (F) Divorce decree; or
- [(J)]* (G) Court order.

AUTHORITY: section 302.171, RSMo *[Supp. 1995]* 2000. Original rule filed Jan. 29, 1987, effective May 11, 1987. Amended: Filed Feb. 28, 1992, effective Aug. 6, 1992. Amended: Filed Sept. 11, 1992, effective April 8, 1993. Amended: Filed Jan. 23, 1996, effective July 30, 1996. Amended: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED AMENDMENT

12 CSR 10-24.190 Driver/s] License Retesting Requirements After a License, School Bus Permit or Temporary Instruction

Permit Expires/Examination Results to be Invalid After One (1) Year. The director proposes to amend the title, and sections (2), (3) and (4).

PURPOSE: This amendment establishes the retesting requirements after a person does not renew a driver license, issued by this state or any other state, school bus permit or temporary instruction permit or when examination results have been completed more than one (1) year prior to the date of application for a driver license, school bus permit, or temporary instruction permit.

(2) If a person does not renew *[the]* a driver/s] license, issued by **this state or any other state**, school bus permit or temporary instruction permit, *[on or before the date of expiration, the person is allowed a grace period of six (6) months (one hundred eighty-four (184) days) to renew the license, school bus permit, or temporary instruction permit without being required to take the written and/or skills examinations as described in 12 CSR 10-24.060 or 12 CSR 10-24.400. However, the grace period for retesting does not allow the person to continue driving on the expired license, school bus permit, or temporary instruction permit] within one hundred eighty-four (184) days from the expiration date of the license or permit, the holder of such license or permit shall be required to complete all written and skills tests required to qualify for such license or permit as required pursuant to Chapter 302, RSMo. No license or permit is valid for operation of a motor vehicle beyond the date of expiration of the license or permit.*

[(3)] *If a person is surrendering a license from another state, such person shall be allowed to surrender the license and obtain a Missouri license without being required to take the written and/or skills examinations as described in 12 CSR 10-24.060 provided the surrendered license has not been expired for more than six (6) months (one hundred eighty-four (184) days). This does not entitle the driver to continue to operate a motor vehicle while driving on an expired license.]*

[(4)] (3) If the end of the one hundred eighty-four (184)-day period falls on a legal holiday, Saturday or Sunday, the one hundred eighty-fourth day shall be deemed to fall on the next working day.

(4) Examinations for a driver license, school bus permit or temporary instruction permit shall remain valid unless retesting is required by Missouri law or for a period of one (1) year from the date the examination completion form was completed by the Missouri State Highway Patrol or a certified Commercial Driver License Third Party Tester, whichever occurs first. An applicant shall be re-examined prior to issuance of a driver license or instruction permit if the examinations have been completed more than one (1) year prior to the date of application for a driver license, school bus permit or temporary instruction permit.

AUTHORITY: sections 302.173 RSMo *Supp. 2001*, and 302.720, RSMo *Supp. 2002*. Original rule filed Oct. 30, 1989, effective Feb. 25, 1990. Amended: Filed July 15, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 21, 1991, effective April 9, 1992. Amended: Filed June 29, 2000, effective Dec. 30, 2000. Amended: Filed Sept. 27, 2001, effective March 30, 2002. Emergency amendment filed April 4, 2002, effective April 14, 2002, expired Oct. 10, 2002. Amended: Filed April 4, 2002, effective Sept. 30, 2002. Amended: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED AMENDMENT

12 CSR 10-24.305 Commercial Driver/s/ License Requirements/Exemptions. The director proposes to amend the title and subsection (1)(D).

PURPOSE: This amendment clarifies the exemptions for obtaining a Class A, Class B or Class C license.

(1) In order to obtain a commercial driver/s/ license, an applicant must take and successfully pass written and driving tests for the operation of a commercial motor vehicle. The only drivers operating a commercial motor vehicle as defined in section 302.700, RSMo, who are not required to possess a Class A, Class B or Class C license are:

(D) Any person in the employ of a federal, state or local government forest service, police department, rescue and emergency squads or departments of safety who drive emergency or firefighting equipment which shall include, but not be limited to, riot buses or volunteers who perform wilderness search and rescue functions and disaster relief activities in government-owned vehicles **only when such vehicles are used in the execution of emergency governmental functions performed under emergency conditions;**

AUTHORITY: sections 302.765 and 302.775, RSMo [1994] 2000. Original rule filed March 5, 1990, effective June 11, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED AMENDMENT

12 CSR 10-24.395 Delegation of Authority to the Missouri State Highway Patrol to Conduct Skills Testing of Applicants for Commercial Driver/s/ Licenses. The director proposes to amend the title

and sections (2)–(5) and deletes the form that follows this rule in the Code of State Regulations.

PURPOSE: This amendment removes the form following this rule and establishes the validity of test scores.

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

(2) Any person requiring a commercial driver/s/ license who must successfully complete the skills tests shall pass a pretrip inspection, off-road basic controls test and on-road driving test.

(3) The person shall complete three (3) skills tests, unless otherwise specified here, for a Class A, Class B or Class C commercial driver/s/ license.

(4) Successful completion of the tests indicated previously requires a score as shown on the Commercial Driver/s/ License (CDL) Performance Test Passing Scores form [published with this rule], **incorporated by reference**, and disallows dangerous actions and traffic violations during the off-road basic controls, on-road driving tests, or both.

(5) The test scores remain valid unless retesting is required by Missouri law **or one (1) year from the date indicated on the examination results, whichever occurs first.** Each person shall be responsible for maintaining a copy of the test results. If test results cannot be provided by the driver at the time of application for a Missouri commercial driver/s/ license, the applicant shall be required to retake any test(s) necessary to receive the class of license requested.

AUTHORITY: section 302.720, RSMo [1994] Supp. 2002. Emergency rule filed June 7, 1991, effective June 17, 1991, expired Oct. 4, 1991. Emergency rule filed Sept. 24, 1991, effective Oct. 4, 1991, expired Jan. 31, 1992. Original rule filed June 7, 1991, effective Oct. 31, 1991. Amended: Filed May 15, 1995, effective Nov. 30, 1995. Amended: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules**

PROPOSED RULE

12 CSR 10-24.472 “Permit Driver” Sign

PURPOSE: This rule establishes the design and size requirements for a "Permit Driver" sign issued pursuant to section 302.130, RSMo.

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

(1) Upon successful application for an instruction permit issued pursuant to subsection 1 of section 302.130, RSMo, the director shall issue a sign bearing the words "Permit Driver", form DOR-5007, which is incorporated by reference.

(2) Such sign shall measure eleven inches wide by four and one-fourth inches high (11" × 4 1/4").

(3) Such sign shall be printed with black ink on goldenrod stock paper.

AUTHORITY: section 302.130, RSMo Supp. 2002. Original rule filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

PROPOSED AMENDMENT

12 CSR 10-110.900 Farm Machinery and Equipment Exemptions. The director proposes to amend sections (1) through (4).

PURPOSE: This amendment provides for more consistent applications of department policies.

(1) In general, the purchase of farm machinery[,/] and equipment, repair parts and [supplies] lubricants used exclusively and directly for producing crops, raising and feeding livestock, fish or poultry or producing milk for ultimate sale at retail is exempt from tax.

(2) Definition of Terms.

(A) **Equipment—Devices that have a degree of permanence to the business, contribute to multiple processing cycles over time and generally constitute fixed assets, other than land and buildings, that are capitalized and depreciated for purposes of business and accounting practices.**

[(A)] (B) Farm machinery—Machinery and equipment used directly and exclusively in the agricultural production process.

(C) **Machinery—Combinations of parts that work together as a functioning unit, even if they are subordinate elements of more complex machinery. Machinery may be simple or complex, but does not include the replacement of an individual part, even if that part becomes an element of a functioning machine.**

[(B)] (D) Repair and replacement parts—[Items] Articles of tangible personal property that are components of [exempt farm] machinery and equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Included in the repair and replacement part category are batteries, tires, fan belts, mufflers, spark plugs, oil filters, plow points, standard type motors and cutting parts. Substances such as fuels and coolants that are added to machinery and equipment for operation are not parts. Substances such as paint and adhesives that adhere to the surface of machinery and equipment but are not distinct articles of tangible personal property are not parts; these items would be considered as materials and supplies within the meaning of the exemptions.

(3) Basic Application of Exemption.

(A) To qualify for exemption pursuant to section 144.030.2(22), RSMo, items purchased must be—

1. Used exclusively for agricultural purposes;

2. Used on land owned or leased for the purpose of producing farm products; and

3. Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail. The term "used directly" encompasses items that are used in some manner prior to the actual commencement of production, during production, or in some manner after the production has terminated. In determining whether items are used directly, consideration must be given to the following factors:

A. Where the items in question are used;

B. When the items in question are used; and

C. How the items in question are used to produce a farm product.[: and]

[4. Farm machinery or equipment that meet these requirements are exempt from tax, as are]

(B) [r/Repair or replacement parts [thereon] and lubricants used exclusively for [such] farm machinery or equipment and one-half (1/2) of any diesel fuel used in such machinery or equipment are exempt.

[(B)] (C) Pursuant to section 144.045.1, RSMo, farm machinery or equipment that would otherwise qualify as exempt farm machinery and equipment will not lose its exempt status merely because the machinery or equipment is attached to a vehicle or real property. Such equipment includes, but is not limited to, a grinder mixer mounted on a vehicle or special livestock flooring. When exempt farm machinery or equipment attached to a motor vehicle is sold with the motor vehicle, the part of the total sales price attributable to the farm machinery or equipment is exempt from tax if the farm machinery or equipment is separately invoiced.

[(C)] (D) Pursuant to section 144.047, RSMo, farm machinery includes aircraft used solely for aerial application of agricultural chemicals.

[(D)] (E) Pursuant to section 144.030.2(34), RSMo, all sales of grain bins for storage of grain for resale are exempt; [however] pursuant to this section, parts purchased separately for these bins are not exempt. However, [G]grain bins, [and] including all parts [purchased] that are used in production of a farm product and qualify as farm machinery and equipment are exempt pursuant to section 144.030.2(22).

[(E)] (F) The fact that particular items may be considered to be essential or necessary will not automatically entitle them to exemption. The following categories of items are excluded from the meaning of the term farm machinery and farm equipment and are subject to tax:

1. Under no circumstances can a motor vehicle or trailer ever be treated as tax exempt farm machinery. The terms motor vehicle and trailer are defined by the titling and licensing laws of Missouri (Chapter 301);

2. Containers and storage devices such as oil and gas storage tanks, pails, buckets and cans;

3. Hand tools and hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks, shovels, brooms, wrenches, pliers and grease guns;

4. Consumable items such as antifreeze, freon, ether, and starter fluid;

5. Attachments and accessories not essential to the operation of the machinery itself (except when sold as part of the assembled unit) such as cigarette lighters, radios, canopies, air-conditioning units, cabs, deluxe seats, tool or utility boxes and lubricators;

6. Equipment used in farm management such as communications and office equipment, repair, service, security or fire protection equipment;

7. Drainage tile, fencing material, building materials, general heating, lighting and ventilation equipment *[for nonproduction areas]*; and

8. Machinery and equipment used for a dual purpose, one purpose being agricultural and the other being nonagricultural *[are not exempt]*.

[(F)] (G) Schedule A is a list of items of farm machinery and equipment which will usually be exempt if used exclusively for agricultural purposes on land owned or leased for the purpose of producing farm products and used directly in producing farm products or livestock to be sold ultimately at retail.

**Schedule A
Usually Exempt Items**

Artificial insemination equipment
Augers
Bale loader
Bale transportation equipment
Baler twine
Baler wire
Balers
Batteries for farm machinery and equipment
Bedding used in production of livestock or poultry for food or fiber
Binder twine
Binders
Brooders
Bulk feed storage tanks
Bulk milk coolers
Bulk milk tanks
Bulldozers used exclusively in agricultural production
Calcium for tires
Calf weaners and feeders
Cattle currying and oiling machine
Cattle feeder, portable
Chain saws for commercial use in harvesting timber, lumber and in orchard pruning
Chicken pluckers
Choppers
Combines
Conveyors, portable
Corn pickers
Crawlers, tractor
Crushers
Cultpackers
Cultivators

Curtains and curtain controls for livestock and poultry confinement areas
Debeakers for productive animals
Dehorning for productive animals
Discs
Drags
Dryers
Dusters
Egg handling equipment
Ensilage cutters
Fans, livestock and poultry
Farm tractors
Farm wagons
Farrowing houses, portable
Farrowing crates
Feed carts
Feed grinders/mixers
Feed storage bins
Feeders
Fertilizer distributors
Flooring slats
Foggers
Forage boxes
Forage harvester
Fruit graters
Fruit harvesters
Generators
Gestation crates
Grain augers
Grain bins for storage of grain for resale (but not separately billed parts or add-ons to these grain bins)
Grain binders
Grain conveyors
Grain drills
Grain elevators, portable
Grain handling equipment
Grain planters
Greases and oils
Harrow (including spring-tooth harrow)
Hay loaders
Head gates
Heaters, livestock and poultry
Hog feeders, portable
Hoists, farm
Husking machines
Hydraulic fluid
Hydro-coolers
Incubators
Irrigation equipment
Livestock feeding, watering and handling equipment
Lubricating oils and grease
Manure handling equipment (including front and rear-end loaders and blades)
Manure spreaders
Milk cans
Milk coolers
Milk strainers
Milking equipment (including bulk milk refrigerators, coolers and tanks)
Milking machine
Mowers, hay and rotary blade used exclusively for agricultural purposes
Off-road utility vehicles, other than all-terrain vehicles (provided the off-road utility vehicle qualifies as farm machinery or equipment)
Panels, livestock
Pickers
Planters

Plows
 Poultry feeder, portable
 Pruning and picking equipment
 Repair and replacement parts for exempt machinery
 Rollers
 Root vegetable harvesters
 Rotary hoes
 Scales (not truck scales)
 Seed cleaners
 Seed planters
 Seeders
 Shellers
 Silo unloaders
 Sorters
 Sowers
 Sprayers
 Spreaders
 Sprinkler systems, livestock and poultry
 Squeeze chutes
 Subsoiler
 Threshing machines
 Tillers
 Tires for exempt machinery
 Tractors, farm
 Vacuum coolers
 Vegetable graders
 Vegetable washers
 Vegetable waxers
 Wagons, farm
 Washers, fruit, vegetable and egg
 Waxers
 Weeders

[(G)] (H) Schedule B is a list of items, which are usually taxable.

Schedule B
Usually Taxable Items

Acetylene torches
 Air compressors
 Air tanks
 All-terrain vehicles *[(3-, 4- and 6-wheel)]* **(unlike an off-road utility vehicle, an all-terrain vehicle has a seat that is straddled and handlebars for steering)**
 Antifreeze
 Automobiles
 Axes
 Barn ventilators
 Brooms
 Brushes
 Building materials and supplies
 Bulldozers
 Cement
 Chain saws
 Cleansing agents and materials
 Construction tools
 Ear tags
 Electrical wiring
 Equipment and supplies for home or personal use
 Ether
 Fence building tools
 Fence posts
 Field toilets
 Fire prevention equipment
 Freon
 Fuel additives
 Garden hose
 Garden rakes and hoes
 Gasoline tanks and pumps

Golf carts
 Hammers
 Hand tools
 Hog ringers
 Hog rings
 Lamps
 Lanterns
 Lawnmowers
 Light bulbs
 Marking chalk
 Nails
 Office supplies and equipment
 Packing room supplies
 Paint and decals
 Personal property installed in or used in housing for farm workers *[(Posthole diggers (except commercial use in tree farms))]*
 Pumps for household or lawn use
 Pumps, gasoline
 Refrigerators for home use
 Repair tools
 Road maintenance equipment
 Road scrapers
 Roofing
 Sanders
 Shovels
 Silos
 Small tools
 Snow fence
 Snowplows and snow equipment
 Staples
 Starting fluids
 Supplies for home or personal use
 Tanks, air
 Tanks, gasoline
 Tools for repair construction
 Tractors, garden
 Truck beds
 Water hose
 Welding equipment
 Wire, fencing
 Wrenches

(4) Examples.

(C) A farmer purchases a lawnmower. The farmer uses the lawnmower to mow around grain bins, as well as mow his lawn. The purchase of the lawnmower is subject to tax, *[(since) because]* the lawnmower is not used exclusively and directly for agricultural production.

(D) A farmer purchases a water chiller for use to control the climate inside the hatchers and setters. The water chiller is also used to cool the administrative areas in the hatchery. The purchase of the water chiller is subject to tax, *[(since) because]* it is not used exclusively for agricultural production.

AUTHORITY: sections 144.270 and 144.705, RSMo, [1994] 2000. Original rule filed Nov. 18, 1999, effective June 30, 2000. Amended: Filed Nov. 15, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO

Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice on the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED AMENDMENT

13 CSR 40-30.020 Attorney Fees [and Guardian Ad Litem Fees] in Termination of Parental Rights Cases. The division is amending the title and sections (1) and (2) and deleting section (3).

PURPOSE: The purpose of this amendment is to increase and clarify the established fees for attorneys who provide services in termination of parental rights cases and to eliminate the fee structure for guardian ad litem.

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

(2) **After the filing of a termination of parental rights petition pursuant to Chapter 211, RSMo, or if a combined termination of parental rights and transfer of custody and/or adoption petition was filed, as permitted by Chapter 453, RSMo, then after the initiation of the termination of parental rights phase of that case [P]payment for attorney representation shall be made as provided below:**

(A) Hourly Rate. Any attorney shall, at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal), be compensated at a rate not exceeding *[seventy-five dollars (\$75) per hour for time expended in court and fifty dollars (\$50)] one hundred dollars (\$100)* per hour *[for time reasonably expended out of court]*. Attorneys may be reimbursed, **at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion**

of trial and at the conclusion of appeal), for expenses reasonably incurred, including the costs of transcripts authorized by the court **except that if a termination of parental rights petition was filed in a separate proceeding and a duplicative termination of parental rights petition or the transfer of custody and/or adoption petition or the combined termination of parental rights and transfer of custody and/or adoption petition was filed prior to the court's ordering of termination of parental rights in that separate proceeding, reimbursement for attorneys fees and/or expenses will not be reimbursed if those fees and/or expenses are duplicative of fees and/or expenses reimbursed in the separate termination of parental rights proceeding;**

(B) Maximum Amounts. The compensation to be paid for representation at trial shall not exceed *[seven hundred fifty dollars (\$750)] one thousand dollars (\$1,000)* for uncontested matters and *[two thousand five hundred dollars (\$2,500)] seven thousand dollars (\$7,000)* for contested matters. For representation in an appellate court, the compensation shall not exceed *[two thousand five hundred dollars (\$2,500)] three thousand five hundred dollars (\$3,500)* at *[fifty dollars (\$50)] one hundred dollars (\$100)* per hour;

(C) Cost of Extraordinary Expenses. The cost of extraordinary expenses must be approved in advance by the court **but shall be reimbursed at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal)**. Such extraordinary expenses include:

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

(D) Waiving Maximum Amounts. Payment in excess of any maximum amount provided in subsection (2)(B) may be made for extended or complex representation whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the court. **At any time an attorney believes that the cost of representation will surpass the limits provided for in subsection (2)(B), they must provide notice to the Division of Family Services, that they may exceed the current maximum fee;**

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

AUTHORITY: section 207.020, RSMo 2000. Emergency rule Feb. 14, 2002, effective Feb. 24, 2002, expired Aug. 22, 2002. Original rule filed Feb. 14, 2002, effective effective July 30, 2002. Emergency amendment filed Dec. 4, 2002, effective Dec. 14, 2002, expires June 11, 2003. Amended: Filed Dec. 4, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Family Services, Denise Cross, Director, PO Box 88, Jefferson City, MO 65102. To be considered comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE
Division 100—Division of Consumer Affairs
Chapter 1—Improper or Unfair Claims Settlement
Practices

PROPOSED RULE

20 CSR 100-1.060 Standards for Prompt, Fair and Equitable Settlements under Health Benefit Plans

PURPOSE: This rule effectuates or aids in the interpretation of sections 376.383 and 376.384, RSMo.

(1) Definitions. As used in prompt payment laws at sections 376.383 and 376.384, RSMo, and in the regulations promulgated pursuant thereto—

(A) Agent means any individual, corporation, association, partnership, intermediary, third-party contractor or other legal entity authorized to represent a health carrier with respect to a claim or authorized to request payment from a health carrier for the benefit of the claimant;

(B) Capitation means a method of payment whereby a health care provider receives a payment based on the number of plan members, and for a specified period of time, regardless of whether or not any such plan members actually receive services from the provider during the specified time period;

(C) Capitation period means the specified period of time for which the health care provider renders services. All fees owed to a provider during a given capitation period will be considered one (1) claim;

(D) Claim means a request or demand for payment of health care services provided or of fees owed to a provider as the result of a capitation agreement;

(E) Claimant means any individual, corporation, association, partnership or other legal entity asserting a right to payment arising out of a contract or a contingency or loss covered under a health benefit plan;

(F) Deny or denial means the health carrier or its agent mails a written or sends an electronic written notice to the claimant refusing to reimburse all or part of the claim;

(G) Date of denial means the date when the health carrier or its agent mails or electronically sends a denial;

(H) Date of payment means the date the carrier or health carrier mails or sends the payment;

(I) Health carrier means health carrier as defined in section 376.1350, RSMo, except that health carrier shall not include a workers' compensation carrier providing benefits to an employee pursuant to Chapter 287, RSMo;

(J) Health benefit plan means health benefit plan as defined in section 376.1350, RSMo;

(K) Health care provider means health care provider as defined in section 376.1350, RSMo;

(L) Health care services means health care services as defined in section 376.1350, RSMo;

(M) Notification of claim means any notification to a carrier or its agent, by a claimant, which reasonably apprises the carrier of the facts pertinent to a claim;

(N) Pay or payment means the carrier or health carrier mails or sends electronic written notice including remuneration to the claimant that reimburses all or part of the claim;

(O) Processing days means the number of days the health carrier or its agents has the claim in its possession. Processing days shall not include days in which the health carrier is waiting for a response to a reasonable request for additional necessary information;

(P) Request for additional information means when the health carrier or its agent requests, in writing, additional necessary information from the claimant to determine if all or part of the claim will be reimbursed;

(Q) Suspends the claim means when a health carrier mails or electronically sends a written notice to the claimant specifying the reason the claim is not yet paid or denied, including but not limited to grounds as listed in the contract between the claimant and the health carrier;

(R) Suspension date means the date the health carrier mails or sends electronic written notice that the claim is suspended;

(S) Third-party contractor means an entity or person directly or indirectly contracts with the health carrier to receive or process claims for reimbursement of health care services; and

(T) Working days mean the number of consecutive days not counting weekends or federal holidays.

(2) Standards for Prompt, Fair and Equitable Settlements under Health Benefit Plans.

(A) Every health carrier, upon receiving notification of a claim from claimant, within ten (10) working days shall do one (1) or more of the following:

1. Send written acknowledgement of the date of receipt;
2. Send written notice of status of the claim with request for specific additional pertinent claim information;
3. Pay the claim; or
4. Deny the claim.

(B) If notice of the claim was received as an electronically filed claim, the health carrier shall issue confirmation of the claim within one (1) working day. A health carrier shall be deemed to have notification of a claim for services rendered under capitation agreement on the date due pursuant to the capitation agreement.

(C) If additional information is requested, an appropriate reply shall be made within fifteen (15) processing days of receiving any additional claim information from claimant. An appropriate reply shall mean payment of all or the undisputed portion of claim, denial of the claim, suspension of the claim or final request for additional pertinent and relevant information.

(D) All denials, suspensions or requests for additional information shall be communicated in writing to the claimant and shall include specific reasons why the action was taken or why the information is needed.

(3) Health carriers must conduct a reasonable investigation before denying or suspending a claim in whole or in part. Health carriers shall not deny claims for the lack of information that could be gathered in requests for additional information. Health carriers shall not suspend claims for the lack of information until it they have requested the pertinent additional information on at least two (2) separate occasions.

(A) 1. If a claim or portion of a claim remains unpaid after forty-five (45) processing days after notification of the claim, interest shall accrue after the forty-fifth processing day at a rate equal to one percent (1%) per month of the unpaid balance of the claim. The interest shall be payable by the health carrier to the health care provider, individual insured or other entity submitting the claim. If the health carrier denies or suspends a claim that is subsequently determined to be the liability of the health carrier, the health carrier will be responsible for the interest after the forty-fifth processing day of the original date of notification of the claim until the claim is actually paid.

2. The health carrier may wait until the aggregate interest payments reach five dollars (\$5) before making interest payment to the claimant.

3. All health carriers shall comply with paragraphs (A)1. and 2. of this section unless the health carrier has formally requested and received a waiver of the requirements from the director. Such request shall be made in writing to the director and should state the basis for the request. The request shall only be granted when the director determines that an act of God or other good cause was the basis for the request.

4. Effective January 1, 2003, paragraph (A)1. and (A)2. of this section shall not apply to any claim submitted by a health care

provider or its agents for health care services not submitted in an electronic format. All claims submitted by insureds or subscribers are subject to the interest provisions of paragraphs (A)1. and (A)2. Note: This paragraph states a date that is not consistent with section 376.384, RSMo, but corrects the date that electronic submission requirements should be implemented to be consistent with federal requirements.

5. For claims involving coordination of benefits, secondary carriers cannot have proper proof of loss without payment information from the primary carrier. Thus a secondary carrier will not be considered to have notification of claim until it receives the primary carrier's Explanation of Benefits. A health carrier shall conduct a reasonable investigation before it asserts that it is a secondary carrier.

(B) Duties of the Health Carrier.

1. The health carrier shall allow nonparticipating health care providers to file claims for reimbursement for a health care service for up to one (1) year from the date of service. Participating health care providers shall be permitted to file a claim for reimbursement for a period up to six (6) months from date of service, unless the contract between the health carrier and health care provider specifies a different standard.

2. The health carrier shall not request a refund or offset against a claim more than twelve (12) months after a health carrier has paid a claim except in cases of adjudicated fraud or misrepresentation by the health care provider.

3. Health carriers shall provide adequate disclosure to health care providers that distinguish between individuals insured under a health benefit plan and individuals insured under a self-funded Employee Retirement Income Security Act (ERISA) plan for which the health carrier is administering benefits. Health carriers shall include this disclosure on insurance cards, claim reimbursements, interest payments and penalty payments.

4. When a health carrier pays or denies a claim, it shall explain in sufficient detail how each item or service was reimbursed. Specifically, if the health carrier has a contract rate with the health care provider, the health carrier shall indicate which items or services are included in the reimbursement and which items are not included in the reimbursement.

5. Pursuant to the requirements of 20 CSR 300-2.100, health carriers shall maintain and legibly date stamp all documentary material related to the pertinent events of a claim. Pertinent events shall include but not be limited to, the date of the notification of claim, date of payment, date of denial, date of suspension, reason for denial or suspension, amount paid, amount denied, amount suspended, date additional information is requested, what specific additional information was requested and the date additional information is received. In addition, health carriers shall maintain a log of all claims received under health benefit plans in which the claim in its entirety was not paid or denied within ten (10) working days of the original notification of claim. This log shall enable the company to reconstruct the pertinent events of the claim in chronological order. The health carrier's log shall contain the specific action taken for each item or service included in the claim.

6. After notification of claim, if any information on the claim is changed or omitted in the processing of the claim, the health carrier or its agent shall notify the claimant of the modification in writing with specificity. This includes any electronic edits.

(C) Health Carrier Prompt Pay Compliance.

1. The director of the Department of Insurance shall monitor health carrier compliance with the provisions of sections 376.383 and 376.384, RSMo.

2. Examinations, which may be based upon statistical samplings, to determine compliance may be conducted by the department or the director may contract with a qualified private entity. Compliance shall be defined as properly processing and paying ninety-five percent (95%) of all claims received in a given calendar year in accordance with the provisions of sections 376.383 and 376.384, RSMo.

3. The director may assess an administrative penalty in addition to the penalties outlined in section 376.383, RSMo, of up to twenty-five dollars (\$25) per claim for the percentage of claims found to be in noncompliance, but not to exceed an annual aggregate penalty of two hundred fifty thousand dollars (\$250,000) for any health carrier deemed not to be in compliance with sections 376.383 and 376.384, RSMo. Any penalty assessed pursuant to this subsection shall be assessed in addition to penalties provided for pursuant to sections 375.942 or 375.1012, RSMo.

4. The director may order a health carrier to remit interest payments if it is found that the health carrier is failing to make the interest payments authorized by section 376.383, RSMo. Additionally, the director is authorized to assess a monetary penalty, payable to the state of Missouri, in a sum not to exceed twenty-five percent (25%) of the unpaid interest payment against health carriers.

(D) Complaints Against Health Carrier.

1. The director will consider complaints from health care providers when determining whether to examine a health carrier's compliance with sections 376.383 and 376.384, RSMo.

2. Every complaint made to the director shall include: the health care provider's name, address, and daytime phone number; the health carrier's name; the date of service and date the claim was filed with the health carrier; all relevant correspondence between the health care provider and the health carrier, including requests from the health carrier for additional information; a copy of the confirmation of receipt of the claim from the health carrier or its third-party contractor; and additional information which the health care provider believes would be of assistance in the department's review. The health care provider shall not make complaints against health carriers administering claims under a self-funded ERISA plan.

3. Complaints to the director regarding the health carrier's failure to comply with sections 376.383 and 376.384, RSMo may be submitted to the director by the health care provider after the health care provider has first contacted the health carrier to determine the status of the claim to ensure that sufficient documentation supporting the claim has been provided and to determine whether the claim is considered to be complete.

4. The director may accumulate and analyze complaint records or track complaints to determine whether to order an examination of the health carrier's compliance.

AUTHORITY: sections 375.045, RSMo 2000 and 376.383 and 376.384, RSMo Supp. 2001. Original rule filed Nov. 15, 2002.

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

PRIVATE COST: This proposed rule will cost private entities more than five hundred dollars (\$500) in the aggregate. See attached fiscal note.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on January 21, 2003. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on January 21, 2003. Written statements shall be sent to Carolyn H. Kerr, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	20 CSR 100-1.060 Standards for Prompt, Fair and Equitable Settlements under Health Benefit Plans.
Type of Rulemaking:	Proposed Rule

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:
363	Licensed group health insurance companies	\$726,000.00

III. WORKSHEET

\$2,000 per company

* 363 companies

\$726,000 in the aggregate.

IV. ASSUMPTIONS

The cost to private entities of complying with this regulation is difficult to determine. The cost to those entities will vary according to the business practice, volume of business and methods of compliance by each licensee. The cost of compliance includes printing the pre-existing forms with the added information required by the Proposed Rule.

Although the information required to be provided by health carriers pursuant to paragraph (3)(B)3. of the Proposed Rule is an on-going requirement, the cost to make the change in the documentation to indicate under what type of plan the individual is insured is a one-time cost. Once the change has been made in the health carriers' systems to make such a disclosure in the documentation, there will no longer be an added cost, in that health carriers already send out insurance cards, claim reimbursements, interest payments and penalty payments.

Because there is no specific information concerning the cost of implementing the Proposed Rule, it is estimated that the cost will be \$2,000 per insurer. This expense includes compliance with all provisions of the Proposed Rule.