

2. *Submit*] shall submit an annual report to the department containing information recorded under subparagraph [(4)(F)1.](4)(A)2.Q. of this rule no later than sixty (60) days following the year in which data were collected. Subsequent reports shall be sent no later than twelve (12) calendar months following the previous report (once the unit is subject to permitting requirements under Title V of the Clean Air Act, the owner or operator must submit these reports semiannually). The report shall be signed by the facilities manager.

(5) Test Methods. Test methods can be found in subparagraphs (3)(E)2.A. through [(3)(E)2.K.](L. of this rule.

AUTHORITY: section 643.050, RSMo [Supp. 1999] 2000. Original rule filed Dec. 1, 1998, effective July 30, 1999. Amended: Filed Oct. 13, 2000, effective July 30, 2001. Amended: Filed Nov. 26, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., February 3, 2011. The public hearing will be held at the Doubletree Hotel and Conference Center, Ballrooms C, D, and E, 16625 Swingley Ridge Road, Chesterfield, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., February 10, 2011. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 23—Division of Geology and Land Survey Chapter 4—Monitoring Well Construction Code

PROPOSED AMENDMENT

10 CSR 23-4.010 Definitions. The division is deleting sections (6) and (9), adding sections (1), (2), (3), (5), (6), (7), (9), (11), and (16), and amending and renumbering the remaining sections.

PURPOSE: This amendment more clearly defines words used in Chapter 4 concerning monitoring wells; otherwise, the definitions contained in 10 CSR 23-1.010 apply.

(1) Concrete means a slurry mixture with a ratio of ninety-four pounds (94 lbs.) of cement, equal volumes of dry sand and gravel, and five to six (5–6) gallons of water from a known safe and uncontaminated source. The ratio of sand and gravel to cement may not exceed three parts to one (3:1).

(2) Cone penetrometer means a device used to gather information about soil conditions and/or groundwater. The device penetrates the ground surface by direct-push as a general method of installation.

(3) Direct-push well means a monitoring well that is ten feet (10') or greater in depth that is installed by pushing or hammering drive rods as opposed to drilling or augering. Direct-push wells tend to be smaller in diameter than their conventionally drilled counterparts leading to differences in annular space, casing, and

sealing dimensions. Various screening or data collection devices, such as a cone penetrometer or lysimeter, may be used in a direct-push well.

[(1)](4) Extraction well [mean any] is a monitoring well [more than] that is ten feet (10') or greater in depth utilized in the remediation of a site. These include, but are not limited to, the following: wells serving pump and treat systems, including multi-well systems, wells to capture a contaminant plume or alter the direction or magnitude of groundwater movement, [leachate recovery wells that are not a part of the original landfill construction] and other associated wells. Passive and active methane wells that terminate within landfill[s] trash are exempted from these rules[,] but are regulated [under the Solid Waste Law.] by the Missouri Solid Waste Management Program. Passive and active methane and leachate extraction wells that are located outside of trash or extend through trash into the underlying bedrock formations are regulated under these rules.

(5) Gas-migration well is a monitoring well that is ten feet (10') or greater in depth and designed for the detection and analysis of a gas or vapor that is migrating away from a contaminant source, including but not limited to soil vapor probes, soil vapor implants, and landfill gas-monitoring wells.

(6) An injection well is a monitoring well that is ten feet (10') or greater in depth into which fluid or other media is injected, in pump and treat systems, to clean, treat, or prevent contamination of groundwater. All other types of injection wells are defined by the Environmental Protection Agency (EPA); these wells may be regulated by other department programs or state agencies.

(7) Lysimeter is a device used to measure the percolation of water through soils and/or to determine what soluble constituents are removed in the drainage.

[(2)](8) Monitoring well means a well that is ten feet (10') or greater in depth which is constructed during characterization and/or remediation of a site impacted by one (1) or more contaminant to obtain site-specific water quality, contaminant movement, or geologic or hydrologic data [from proposed or existing waste disposal, waste processing, waste storage, hazardous materials release or other sites which may impact groundwater quality. This includes extraction wells used in the remediation of the site, piezometers for the collection of geologic and hydrologic data, observation wells and field screening technologies such as soil gas monitoring or push-in well screen temporary wells greater than ten feet (10') in depth but excludes constructed in the tank pit used as a part of an underground storage tank leak detection system and piezometers used to monitor the geotechnical performance of dams Monitoring wells less than ten feet (10') in depth are exempt from reporting rules but must be plugged (see 10 CSR 23-4.080(5)).]. This includes but is not limited to:

- (A) Extraction wells;
- (B) Injection wells;
- (C) Soil borings;
- (D) Direct-push wells;
- (E) Piezometers;
- (F) Observation wells;
- (G) Gas-migration wells; and
- (H) Subsurface penetrations associated with field screening devices such as cone penetrometers and lysimeters.

(9) Nested well is a cluster of two (2) or more single riser limited interval monitoring wells installed at different depths in a single borehole with a grout seal separating each screened interval.

[(3)](10) Nominal diameter means the term used to describe the standard sizes for casing. Depending on the wall thickness, the inside diameter of the casing may be less than or greater than the number indicated. For example, two-inch (2") nominal Schedule 40 polyvinyl chloride (PVC) casing has a standard outside diameter of 2.375 inches, and an inside diameter of 2.067 inches; two-inch (2") nominal Schedule 80 PVC casing has the same outside diameter, but has an inside diameter of only 1.939 inches.

(11) Observation well means any monitoring well, in which the screen intersects a water table, for the specific purpose of determining either the elevation of the water table or the physical, chemical, biological, or radiological properties of groundwater. Observation wells constructed in the tank pit used as a part of an underground storage tank leak detection system are excluded from the requirements of this rule.

[(4)](12) Open-hole completion means a monitoring well cased through all overburden material and upper water producing zones, completed in bedrock, with no well screen or filter pack.

[(5)](13) Piezometer means a [groundwater monitoring well, screened or opened to a saturated interval, installed for the specific purpose of determining either the elevation of the potentiometric surface or the physical, chemical, biological or radiological properties, or both, of groundwater at some point within the saturated zone] monitoring well that is ten feet (10') or greater in depth and used to measure the pressure of a fluid or the degree of compressibility of a substance when subjected to pressure or used to collect water samples for laboratory analysis. It is most commonly a small diameter well used to measure the hydraulic head of groundwater in subsurface water bearing zones. Piezometers used to monitor the geotechnical performance of dams are excluded from the requirements of this rule.

[(6) Potentiometric surface or piezometric surface means an imaginary surface representing the total head of groundwater and is the level to which water will rise in a well.]

[(7)](14) [Protective c]Casing means [the casing set] an industry-standard-sized pipe for the purpose of sealing off a specific zone of geology or contaminants, from a point below the frost line and extends at least one and one-half feet (1 1/2') above the finished grade. The bottom of the casing must be at least three feet (3') below ground surface. [This casing is set to protect the monitoring well from damage.] This is not to be used as a surface completion.

[(8)](15) Riser pipe means the [casing] pipe extending from the well screen [to or above the ground level] into the surface completion.

[(9) Water table observation well means any monitoring well, in which the screen or open borehole intersects a water table, which is installed for the specific purpose of determining either the elevation of the water table or the physical, chemical, biological or radiological properties, or both, of groundwater at the water table.]

(16) Shallow monitoring means obtaining groundwater samples from a monitoring well within five feet (5') of ground surface.

[(10)](17) Temporary [monitoring] well means a monitoring well [or hole] used for field screening purposes [such as soil gas monitoring, push-in typeholes auger holes, etc. that are greater than ten feet (10') in depth and are plugged within thirty (30) days of completion. These wells may or may not have temporary pipes installed for various purposes] that is ten feet

(10') or greater in depth and is plugged within thirty (30) days of completion.

[(11) Concrete means a slurry mixture with a ratio of ninety-four pounds (94 lbs.) of cement, equal volumes of dry sand and gravel and five to six (5–6) gallons of water from a known safe and uncontaminated source. The ratio of sand and gravel to cement may not exceed three parts to one (3:1).]

AUTHORITY: sections 256.603, 256.606, and 256.626, RSMo [(1994)] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 23—Division of Geology and Land Survey Chapter 4—Monitoring Well Construction Code

PROPOSED AMENDMENT

10 CSR 23-4.020 Certification and Registration for Monitoring Wells. The division is amending sections (1) and (2), deleting section (3), adding section (4), and renumbering the remaining section.

PURPOSE: This amendment clarifies the certification and registration process.

(1) A certification report form, supplied by the division, shall be used to report new monitoring well construction, **except that no certification report form is required for a temporary well.** The certification report form shall be completed and submitted to the division by the permittee within sixty (60) days after the completion of any well. The certification report form shall be accompanied by the certification fee (see 10 CSR 23-2 for applicable fees). [The permittee shall furnish the well owner one (1) copy, the division one (1) copy and retain one (1) copy in the permittee's files.] **The certification report form shall contain all required information specified thereon.**

(2) The certification process involves the review of the certification report form to be sure that the well meets **[all] minimum** construction requirements [necessary for the specific area where the well has been drilled]. Upon successful completion of review of the certification report form, a certification number will be assigned **by the division** and sent to the well owner. The issuance of the certification number indicates that the well has met the minimum standards set out in these rules. [The minimum construction standards were written to protect Missouri's groundwater and to

help ensure that construction of the wells does not constitute a threat to this resource.]

[(3) The registration process involves the documentation of certain types of activities according to the requirements and reported on forms supplied by the division.]

*[(4)](3) A registration report form, supplied by the division, shall be used to report the plugging of a **monitoring well[s and] or the major repair/s and], or alteration/s made to] of a monitoring well/s] and must be submitted to the division by the permittee within sixty (60) days after completion of such operations. The registration report form shall be accompanied by the registration fee. Temporary monitoring wells are required to be plugged within thirty (30) days after initial completion. [Only a registration report form is required to document plugging of temporary monitoring wells. The registration report form shall be accompanied by the registration fee. The permittee shall furnish the well owner one (1) copy, the division one (1) copy and retain one (1) copy in the permittee's files.] When temporary wells are installed, usually multiple wells per monitoring site are used. All temporary wells per monitoring site may be reported on one (1) registration report form if the wells are plugged the same way. Only one (1) registration fee is required per site. The submittal of this type of registration report form and fee is required within one hundred eighty (180) days of completion of the plugging of temporary wells. The registration report form shall contain all required information specified thereon.***

(4) Certification and registration report forms shall include the geographic location of the well. The geographic location shall have a format in degrees, minutes, and seconds for latitude and longitude relative to the North American Datum 1983 (NAD1983) geodetic datum. Location accuracy shall be at least one (1) place after the second's decimal point; i.e., this format: latitude 38° 59' 59.9"N, longitude 94° 01' 01.0"W.

AUTHORITY: sections 256.606, 256.614, and 256.626, RSMo [(1994)] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 4—Monitoring Well Construction Code**

PROPOSED AMENDMENT

10 CSR 23-4.030 Location of Wells. The division is deleting subsection (1)(A), renumbering subsection (1)(B), and renumbering and

amending the remaining subsections.

PURPOSE: This amendment revises the criteria for the locations where monitoring wells should be placed.

(1) A monitoring well shall be—

[(A) Located so that the well and its surrounding area can be kept in a sanitary condition and provide ready access for maintenance and repairs;]

[(B)](A) Located, if possible, so proper drainage in the vicinity of the well shall be provided to prevent the accumulation and pooling of surface water within ten feet (10') of the well;

[(C)](B) If at all possible, located in areas that do not flood; and [. If no reasonable alternative site exists, special construction criteria will be determined on a case-by-case basis by the division; and

(D) Located where possible farther than fifteen feet (15') from a cavity used for underground utility lines or an overhead electric distribution line or not twenty-five feet (25') from an electric transmission line which is in excess of fifty (50) kilovolt (kV), except for the underground electrical service line in the vicinity of an existing well or known proposed well. If it is necessary to locate wells under electric lines safety precautions should be taken. In]

(C) When located in areas of traffic, [the wellhead] an above-ground surface completion must either be protected by [pylons] protective posts to prevent damage[,] or completed as a surface flush mount as described in 10 CSR 23-4.060[(12)](B)](10)(B).

AUTHORITY: sections 256.606 and 256.626, RSMo [(Cum. Supp. 1991)] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 4—Monitoring Well Construction Code**

PROPOSED RESCISSION

10 CSR 23-4.040 Drilling Methods for Monitoring Wells. This rule ensured the method of drilling utilized allowed a representative sample to be taken of the zone to be monitored and ensured the appropriate zone was being monitored.

PURPOSE: This rule is being rescinded as the rule was written solely for educational purposes and is therefore not enforceable by law.

AUTHORITY: sections 256.606 and 256.626, RSMo Supp. 1991. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Rescinded: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 4—Monitoring Well Construction Code**

PROPOSED AMENDMENT

10 CSR 23-4.050 General Protection of Groundwater Quality and Resources. The division is amending sections (1), (2), and (3).

PURPOSE: This amendment revises the rule preventing the use of monitoring wells for any purpose other than the purpose for which they were designed and allowing certain modifications to the application of these rules.

(1) Monitoring wells shall not be converted to any other type of well unless approved in advance by the [department] division.

(2) When strict application of these rules presents practical difficulties or unusual hardships, the division, [in a specific instance] on a case-by-case basis, may modify the application of these rules consistent with the general purpose and intent of these rules and the law. The division may then impose certain conditions as are necessary, in the opinion of the division, to protect the groundwater of the state and health, safety, and general well-being of persons using, or potential users, of the groundwater (see 10 CSR 23-1.040 Modification by the Division for procedures concerning variances).

(3) It is the obligation and responsibility of the monitoring well installation contractor to ensure that the monitoring well is constructed according to these rules and that the annular space, if one exists, is sealed. [This obligation and responsibility with regard to the annular seal ends three (3) years after the date of certification, unless it can be shown that the well seal has been damaged by other persons.] The monitoring well must be properly plugged or repaired when the [well] annular space is no longer sealed or the well is no longer performing its intended function.

AUTHORITY: sections 256.606 and 256.626, RSMo [(1994)] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Nov. 18, 2010.

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

in the aggregate.

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 4—Monitoring Well Construction Code**

PROPOSED AMENDMENT

10 CSR 23-4.060 Construction Standards for Monitoring Wells. The division is deleting sections (2), (3), (5), (6), (13), and (14), adding new sections (2), (3), and (11)–(13), amending sections (1) and (4), and renumbering and amending the remaining sections.

PURPOSE: This amendment revises the minimum standards for a properly-constructed monitoring well.

(1) Riser Pipe and [Casing] Screen Material.

(A) Chemical Compatibility. [Special consideration must be given to the selection of riser pipe or casing materials for monitoring wells installed in environments that are chemically reactive. The] **If used in a monitoring well, the riser pipe [or casing] and screen material** selected must resist chemical corrosion for the life of the proposed monitoring program. [Chemical interaction between riser pipe or casing materials and pollutants, contaminants, groundwater, filter pack material and geologic materials could bias groundwater quality determinations.] Well construction material [must be selected that does not affect these determinations] **must not alter the results of any groundwater analysis.**

(B) Types of Riser Pipe and [Casing] Screen Materials. The types of riser pipe and [casing] screen materials are divided into four (4) categories—

1. Thermoplastic materials, including polyvinyl chloride (PVC) and acrylonitrilebutadiene-styrene (ABS);

2. Metallic materials, including carbon steel, low-carbon steel, galvanized steel, and stainless steel (304 and 316);

3. Fluoropolymer materials, including polytetrafluoroethylene (PTFE), tetrafluoroethylene (TFE), fluorinated ethylene propylene (FEP), perfluoroalkoxy (PFA), [and] polyvinylidene fluoride (PVDF), and **polamides (such as Nylon)**; and

4. Other types of riser pipe and [casing] screen may be used if approval is obtained in advance from the division.

5. Industry standard mesh material or pre-manufactured slotted screen is the only approved material for screening; hand-cut solid wall pipe is not allowed.

(C) All thermoplastic and fluoropolymer riser pipe [and casings] must meet the requirements set out in 10 CSR 23-3.070(1)(D). [This subsection sets standards for well casing markings.] Thermoplastic and fluoropolymer riser pipe [or casing] used in monitoring well construction must meet the following minimum standards:

1. [The nominal diameter of the riser pipe or casing must not be less than two inches (2"), except that piezometers and field screening temporary wells may have smaller diameter casings.] **The minimum nominal diameter for riser pipe**

and screen installed in monitoring wells is two inches (2") except that direct push wells may have riser pipe and screen with a minimum nominal diameter of three-quarters of an inch (3/4"). Monitoring wells [utilizing two-inch (2") riser pipe] that are greater than one hundred feet (100') in depth must use Schedule 80 pipe[.];

2. The wall thickness of the riser pipe or [casing] screen must not be less than the Schedule 40 for the nominal size riser pipe or [casing] screen selected, except for gas migration wells utilizing a soil gas implant and tubing[. Thicker walls are recommended in deeper wells or in presence of unstable materials. Wall thickness is also measured in standard dimension ratio (SDR) for thermoplastic riser pipe and casing];

3. Thermoplastic riser pipe and [casing] screen must be joined by a mechanical type joint. The joint must be watertight. If O-rings or fluoropolymer tape is used, they must be of inert materials which will not adversely affect the function of the monitoring well; and

4. Riser pipe and [casing] screen must be new and free from contaminants that would affect the quality of the groundwater or would adversely affect the monitoring.

(D) All metallic riser pipe [and casings] must meet the following minimum standards:

1. The nominal diameter of the riser pipe or [casing] screen must not be less than two inches (2"), except that [piezometers and field screening temporary wells may have smaller diameter casings.] gas migration wells utilizing a soil gas implant and tubing may have riser pipe and screen smaller than one inch (1");

2. The wall thickness for carbon, low-carbon, and galvanized steel must not be less than Schedule 40. The wall thickness of stainless 304 and 316 must not be less than Schedule 5. The joint wall thickness must not be less than Schedule 40, with exception for soil gas monitoring wells utilizing a soil gas implant and tubing[. Due to the thin wall of Schedule 5 stainless casing, threads are not machined into the casing itself. A threaded section of Schedule 40 stainless is welded onto the thin walled casing so that watertight connections can be made without losing strength];

3. Metallic riser pipe [or casings] must be joined by a watertight mechanical joint or welded. [Welded joints can produce a stronger joint than mechanical joints but if explosive gases are present, they may be ignited by the welding process.] The well [must] should be checked for the presence of explosive gases before welding begins[. If explosive gases are present, precautions must be taken before construction continues]; and

4. Riser pipe and [casing] screen material must be new and free from contaminants which would affect the quality of the groundwater or would adversely affect the monitoring.

[(2) Monitoring Well Borehole Preparation. Boreholes constructed for the installation of monitoring wells, including piezometers must be clean, free of obstructions, and must be at least four inches (4") in diameter larger than the outside diameter of the riser pipe, screen and/or surface casing that is used. For wells with multiple strings of different sized casings, the annulus between the successive casing sizes must be at least two inches (2"). Field testing methods such as soil gas monitoring and push-in well screen sampling holes are exempt from these borehole standards. When constructing a monitoring well that utilizes hollow-stem augers to bedrock, then rock drilling to total depth, the following exceptions may apply:

(A) When using an industry standard size six and one-quarter-inch (6 1/4") internal diameter auger to drill the unconsolidated material portion of the well, the bedrock portion of the well must be drilled with a bit which creates a hole that is at least six inches (6") in diameter, if the well is constructed using a nominal two-inch (2") diameter riser

pipe. This will leave an annulus of one and five-sixths inches (1 5/6") within the bedrock portion of the well, which is the minimum allowable annulus for this type of monitoring well; and

(B) When using an industry standard size eight and one-quarter-inch (8 1/4") internal diameter auger to drill the unconsolidated material portion of the well, the bedrock portion of the well must be drilled with a bit which creates a hole that is at least eight inches (8") in diameter, if the well is constructed using a nominal four-inch (4") diameter riser pipe. This will leave an annulus of one and three-quarters inch (1 3/4") within the bedrock portion of the well, which is the minimum allowable annulus for this type of monitoring well.

(3) Piezometer Well Construction. A piezometer must be constructed according to this rule.]

(2) Casing Material. If geologic conditions require the installation of casing material, the following requirements must be met:

(A) Chemical Compatibility. The casing and casing joints selected must resist chemical corrosion for the life of the proposed monitoring program. The joining of two (2) dissimilar metals is not allowed;

(B) Types of Casing Materials. The types of casing materials are divided into four (4) categories—

1. Thermoplastic materials, including polyvinyl chloride (PVC) and acrylonitrilebutadiene-styrene (ABS);

2. Fluoropolymer materials, including polytetrafluoroethylene (PTFE), tetrafluoroethylene (TFE), fluorinated ethylene propylene (FEP), perfluoroalkoxy (PFA), and polyvinylidene fluoride (PVDF). All thermoplastic and fluoropolymer casing material must meet the requirements set out in 10 CSR 23-3.070(1)(D);

3. Metallic materials, including carbon steel, low-carbon steel, galvanized steel, and stainless steel (304 and 316). Steel casing material must meet the requirements set out in 10 CSR 23-3.030(1); and

4. Other types of casing may be used if approval is obtained in advance from the division;

(C) Casing Diameter. The inside diameter of the casing must be a minimum of four inches (4") larger than the nominal outside diameter of the riser pipe being installed;

(D) Casing Borehole Diameter. When installing casing, the borehole for casing must be a minimum of four inches (4") larger in diameter than the nominal outside diameter of the casing being used; and

(E) Casing Grouting Requirements. If casing is required to be installed for a monitoring well completion, the casing must be grouted full length utilizing high solids bentonite slurry or cement slurry as approved under 10 CSR 23-4.060(9). The casing must be grouted full length utilizing the tremie method or one (1) of the pressure grouting methods set out in 10 CSR 23-3.030(3). If the casing cannot be sealed to prevent surface contamination from entering the well, the annular seal for the riser must extend from a point at least two feet (2') below the base of the casing up to the base of the surface completion.

(3) Monitoring Well Borehole Preparation.

(A) All boreholes constructed in the installation of monitoring wells must be clean and free of obstructions.

(B) Boreholes constructed for the installation of gas migration type wells utilizing soil vapor implants must be a minimum of one inch (1") in diameter.

(C) Boreholes constructed for direct push wells must be a minimum of three and one-quarter inches (3.25") in diameter.

(D) The diameter of a borehole constructed for the installation of other types of monitoring wells must be at least four inches

(4") larger than the outside diameter of the riser pipe and screen. Field testing methods such as gas migration monitoring and direct-push wells are exempt from these borehole standards if properly plugged within thirty (30) days of completion. When constructing a monitoring well that utilizes hollow-stem augers to bedrock, then rock drilling to total depth, the following exceptions apply:

1. When using an industry-standard-size six and one-quarter-inch (6 1/4") internal diameter hollow stem auger to drill the unconsolidated material portion of the well, the bedrock portion of the well must be drilled with a bit which creates a hole that is at least six inches (6") in diameter for a well constructed using a nominal two-inch (2") diameter riser pipe; and

2. When using an industry standard size eight and one-quarter-inch (8 1/4") internal diameter hollow stem auger to drill the unconsolidated material portion of the well, the bedrock portion of the well must be drilled with a bit which creates a hole that is at least eight inches (8") in diameter for a well constructed using a nominal four-inch (4") diameter riser pipe.

(4) Open-Hole Completions. Open-hole completed monitoring wells are allowed only upon written approval in advance from the division. In all cases, the open-hole portion of the well must be in competent, consolidated bedrock, and the casing must extend from the surface to *[at least five feet (5') into bedrock]* the minimum total depth and minimum depth into bedrock required, under 10 CSR 23-3.090 or 10 CSR 23-3.100 for a domestic well at that location. The casing must be grouted full-length using methods and materials as required under 10 CSR 23-4.060(2)(E).

[(5) The joining of two (2) dissimilar metals is not permitted due to the potential for galvanic corrosion.]

[(6) Decontamination of Well Construction Materials and Equipment.

(A) Hazardous Waste Sites. All materials used in the construction of the monitoring well must be decontaminated on-site by use of steam, high pressure water or be certified by the manufacturer as clean and be wrapped to ensure cleanliness. This includes, but is not limited to, the drilling rig, drilling equipment, drilling fluids, grouting equipment, well screen, riser pipe, filter pack material and other materials that come in contact with the monitoring well environment which could possibly cause contamination. After the well construction material has been cleaned, it must not come in contact with the ground or any other source of contamination. Well construction personnel must take precautions to ensure grease, oil or other contaminants do not come in contact with the well screen and the riser pipe during construction. Personnel must wear appropriate apparel while constructing the well to protect them from contamination and from contaminating the monitoring well. A protective ground covering or other devices should be placed at the wellhead during construction activities to protect all materials from potential ground surface contamination.

(B) Nonhazardous Waste Sites. Precautions must be taken to ensure that monitoring well construction operations are carried out in such a way as not to harm the environment or adversely influence the operation of the monitoring well.]

[(7)](5) Installation of Well Screen and Riser Assembly. The well screen and riser assembly must be centered in the borehole before the installation of the filter pack, unless a prepack filter is used. The riser pipe must extend [at least one foot (1') above the finished grade in nonflood potential areas and] from the well screen into the surface completion. In a flood prone area, the riser pipe must be at least two feet (2') above the finished surface grade [in flood prone areas] and be equipped with a watertight cap. Wells installed in traffic ways may be flush mounted (subsection

[(12)](11)(B)). [The use of centralizers on the riser assembly is required and must be placed just above the well screen and as needed up the hole to maintain the riser assembly in the center of the borehole. The type of centralizer used must not prevent emplacement of filter pack materials or annular seals.] Unless they are direct-push wells, monitoring wells in excess of fifty feet (50') in depth must have centralizers to ensure the well string is properly plumbed. A centralizer must be placed at the base of the well screen and on the riser at the top of the filter pack. The specific placement intervals for additional centralizers on the riser should be based on site-specific conditions and ensure the placement of the filter pack, bentonite seal, and annular seal will not be hindered. The use of centralizers in wells constructed through hollow stem augers [or wells less than fifty feet (50') in depth] is not required.

[(8)](6) Installation of Primary Filter Pack. After the well screen and riser assembly are installed in the well, the filter pack materials [can] must be emplaced. [Proper design of monitoring wells drilled in unconsolidated to poorly consolidated geologic material must include an appropriately sized well screen and filter pack. It is recommended that screen slot size and filter pack size be determined by sieve analysis of formation material to be monitored. The grain size and gradation of the filter pack are selected to stabilize the hydrologic unit adjacent to the screen and permit only the finest soil grains to enter the screen during development. The purpose of the filter pack is to prevent or minimize the entrance of fine material into the well and provide a representative water sample from the monitoring horizon. Sediment-free water reduces the potential for interference in sample analyses and is evidence that proper development of the well has occurred. The use of a fine screen and appropriately sized filter pack is permitted without sieve analysis.]

(A) Artificially Constructed Filter Pack Placement. The filter pack material must be placed evenly around the well screen via a tremie pipe. The tremie pipe must be placed near the bottom of the well screen and the filter pack material poured into the tremie pipe while the pipe is slowly removed. A weighted measuring device must be used to ensure that the filter pack is properly installed to the desired depth. All volumes of filter pack material anticipated for construction must be calculated prior to placement. The filter pack material must fill from the bottom of the borehole to within [two feet to five feet (2'-5')] one to five feet (1'-5') above the well screen. If [the borehole is not stable and] the well is drilled utilizing the hollow stem auger method, the filter pack material may be poured through the hollow stem auger as it is removed from the borehole. [This is allowed only in the unsaturated zone.] If the screen is set more than twenty-five feet (25') into the saturated zone or placed into drilling fluid other than clean water or air, the filter pack placement must be via tremie, unless hollow stem augers are used. Prepacked filter pack assemblies and prepack seals which are hydrated may be used.

(B) Naturally Developed Filter Pack Placement. Allowing the existing geologic material to collapse around the well screen is an acceptable method of filter pack emplacement in only a few geologic conditions. Naturally developed filter packs are only allowable when they can be developed properly. [The higher permeability envelope of material is developed in place by the removal of the fine-grained material during proper well development process.]

(C) [In very] When installing a monitoring well for shallow monitoring [wells], the [amount of filter pack material that extends above the well screen may need to be limited to ensure an adequate length of annular seal.] primary filter pack must extend a minimum of six inches (6") above the top of the well screen. Soil vapor implants are required to have a minimum primary filter pack of six inches (6") above and below each implant.

[(9)](7) The installation of a secondary filter pack is required unless non-slurry bentonite is used as a bentonite seal or annular seal. The purpose of a secondary filter pack, which is placed directly on top of the primary filter pack, is to ensure that annular seal slurry grouts do not infiltrate into the primary filter pack. The secondary filter pack must extend from one foot to two feet (1'-2') above the primary filter pack and shall consist of one foot to two feet (1'-2') of clean fine sand. A secondary filter pack is not required if the bentonite seal or annular seal is composed of non-slurry bentonite.

[(10)](8) The installation of a bentonite seal is required if the annular seal is composed of slurry grout material and a secondary filter pack is not used. *[The bentonite seal is emplaced directly over the secondary filter pack or primary filter pack if a secondary filter is not necessary and must be from three feet to five feet (3'-5') thick.]* The purpose of the bentonite seal is to keep the slurry grout which is emplaced above from mixing with the primary and secondary filter pack materials. **If required, the bentonite seal must be a minimum of two feet (2') thick.**

(A) Placement of the Bentonite Seal in the Saturated Zone. When the bentonite seal is to be emplaced in the saturated zone, only chipped or pelletized bentonite that is designed to fall through standing water before it hydrates may be used. To avoid flash swelling and bridging, the fine bentonite material, which may develop during transport, must not be introduced into the well bore. *[One way to accomplish this is to pour bentonite over a screen so that the fine bentonite material which may develop on transport of the product, is filtered out of the bentonite.]* A weighted measuring device must be utilized to ensure the bentonite chips are evenly placed around the riser pipe. *[All volumes of bentonite must be calculated prior to construction.]*

(B) Placement of the Bentonite Seal in the Unsaturated Zone. When the top of the secondary filter pack is in the unsaturated zone, the use of chipped, pelletized, or granular bentonite is permitted only if the bentonite is *[emplaced in one foot (1') layers that are] hydrated in place with potable water [before the succeeding layers are emplaced].* Bentonite slurry may be used and must fill the annular space from the top of the secondary filter pack to the surface seal. The bentonite slurry must be emplaced through a tremie pipe. **If the total depth of the slurry being placed exceeds five feet (5'), [with] a side discharge is required** so as to limit disruption of the filter packs.

(C) Nested well construction will be considered on a case-by-case basis. Pre-approval, by the division, is required, via the variance process, before construction begins. However, nested soil vapor implants are required to have a minimum bentonite seal of one foot (1') between each primary filter pack and a minimum of one and one-half feet (1.5') of bentonite seal from the uppermost primary filter pack and the surface completion.

[(11)](9) Installation of the Annular Seal. The monitoring well environment may contain many chemicals or organic compounds that could affect the sealing capabilities of various kinds of grout. The type of grout used must be able to function to one hundred percent (100%) of its designed sealing capabilities until the well is properly plugged. The type of grout used must not influence, contaminate, or hinder the use of the monitoring well for its designed purpose. The annular seal must extend from the secondary filter pack or bentonite seal to the base of the protective casing. **The combined annular seal and bentonite seal (if a bentonite seal is utilized) must be at least two feet (2') thick unless monitoring for shallow contaminants. Monitoring wells constructed for shallow monitoring, as defined in 10 CSR 23-4.010, must have a minimum combined annular seal and bentonite seal (if a bentonite seal is utilized) of at least one foot (1').** The following four (4) grout types are permitted in monitoring wells:

(A) Bentonite Slurry-Grout. High solids sodium bentonite slurry, at least twenty to thirty percent (20%-30%) by weight solids, must be tremie grouted from the bottom to the top of the annular space in one (1) continual operation. *This grout is recommended for use in most monitoring well situations. Additives may be used to increase or decrease set times for the slurry, with prior approval from the division. Polymer additives may not be used in construction of monitoring wells when investigation may involve hazardous constituents;*

(B) Nonslurry Bentonite. Sodium bentonite comes in many shapes and sizes. Nonslurry bentonite includes chips, pellets, granules, and powdered varieties. Chipped or pelletized varieties that are designed to fall through standing water may be used when sealing the annulus of a well that is below the saturated zone. Granulated and powdered bentonite must never be poured through standing water because they will flash swell and bridge off before it gets to the bottom of the annular space. Bentonite[,] chips or pellets may be used to seal portions of the annular space that are in the unsaturated zone. Granulated and powdered varieties are not permitted to be used in the unsaturated zone unless they are used to create a slurry, due to their flash swelling properties which would prevent hydration of the complete column of bentonite. *[The effective use of bentonite chips or pellets as a sealing agent depends on the efficient hydration of the bentonite following emplacement. Therefore, w/When using bentonite chips or pellets in the unsaturated zone, it must be hydrated after each three feet (3') interval has been emplaced. To properly hydrate the bentonite, a minimum of three (3) times as much water as bentonite must be used. [Quality of water is very important in the hydration process. Bentonite chips or pellets may not adequately hydrate if any of the following chemical parameters exist in the water used for hydration: 1) greater than five hundred (500) parts per million (ppm) total dissolved solids (TDS), 2) high chlorides, 3) large quantities of organic solvents or acids, and 4) separate-phase petroleum hydrocarbons] Water used must be of potable quality;*

(C) Cement Slurry. Neat cement slurry is a mixture of one (1) ninety-four pound (94 lb.) bag of Portland Type I cement and six (6) gallons of clean water *[and is the most commonly used cement product for sealing annular spaces].* Five (5) general types of cement are produced: Type I, for general use; Type II, for moderate sulfate resistance or moderate heat of hydration; Type III, for high strength; Type IV, for low heat of hydration; and Type V, for high sulfate resistance. Following are some problems associated with cement slurry grout usage:

[1. During the curing process of cement slurry, the chemical reactions that take place produce heat as a by-product. This heat of hydration can, in some cases, cause failures when riser pipe or casing is made of PVC or ABS materials. When neat cement slurry is used to fill annular spaces that are one and one-half inches to four inches (1 1/2"-4"), temperature increases from sixteen degrees Fahrenheit to forty-five degrees Fahrenheit (16 °F-45 °F) can be achieved. If there is a small washout of the annular space, that increases it to twelve inches (12") and this space is filled with neat cement slurry, temperature increases up to one hundred and seventy degrees Fahrenheit (170 °F) can be achieved. These extreme temperatures can cause riser pipe or casing failures (see 10 CSR 23-3.070(3)(G) for table showing percent of strength loss for PVC casing with elevating temperatures);]

[2.]1. Type III cement used to produce a high strength and additives that are used to speed up set times of cement slurries cause higher than normal heat of hydration temperatures. These can only be used in association with metallic casings or riser pipes with prior approval by the division;

[3. Another problem that occurs during the curing process of neat cement slurry is that it shrinks from twelve

percent to seventeen percent (12%–17%). This shrinkage is not acceptable for monitoring well applications;

[4.12. Cement slurry may only be used if additives are incorporated to minimize shrinkage.

A. Bentonite is the most commonly used additive to prevent shrinkage of cement slurries. The powdered bentonite must be thoroughly mixed with the water before it is added to the cement. Powdered bentonite from two percent to six percent (2%–6%) by weight must be added. The added bentonite improves the workability of the slurry, reduces shrinkage, and reduces the heat of hydration. This additive does reduce the strength of the seal but is adequate for annular sealing. For each percent of bentonite by weight added to a ninety-four pound (94 lb.) bag of Type I cement an additional six-tenths (.6) gallon of water must be added. The following table sets out the amount of bentonite and water needed to be a ninety-four pound (94 lb.) bag of Type I cement to get from one to six percent (1%–6%) cement-bentonite mixture.

CEMENT/BENTONITE SLURRY CALCULATIONS

Product	% bentonite added/ sk cement	total water requirement (gallons)
Type I Portland 1 sack=94 lbs.	[0]	[5.2 to 6]
	1% bentonite=.94 lbs. bentonite/sk of cement	5.8 to 6.6
	2% bentonite=1.9 lbs. bentonite/sk of cement	6.4 to 7.2
	3% bentonite=2.8 lbs. bentonite/sk of cement	7 to 7.8
	4% bentonite=3.8 lbs. bentonite/sk of cement	7.6 to 8.4
	5% bentonite=4.7 lbs. bentonite/sk of cement	8.2 to 9
	6% bentonite=5.7 lbs. bentonite/sk of cement	8.8 to 9.6

B. Other shrinkage reducing additives must be approved in advance by the division;

[5.13. The water used to mix cement slurry must be [clean water, free of oil or other organic material and the total dissolved mineral content must be less than two thousand (2000) ppm. If too much water is used, the grout will be weakened and excessive shrinkage will occur upon curing] of potable quality; and

[6.14. Cement slurry must be emplaced in the annulus via a tremie pipe placed to the bottom of the annular space. The tremie pipe must have a side discharge which directs the grout away from the bentonite seal, reducing the potential for infiltration. Care must be taken so as not to dislodge the bentonite seal that is above the primary filter pack. The grouting of the annular space must be completed in one (1) continual operation, lifting the tremie pipe as the space fills. If determined necessary by the division, a staged grouting procedure will be approved;

(D) Other types of grout may be used when necessary and for good cause if prior approval by the division is granted; and

(E) When zones of high grout loss are anticipated or experienced, contact the division for alternative methods to seal the annulus.

[(12)](10) Well Protection. Surface protection on [monitoring wells is needed] all regulated monitoring wells is required to deter unauthorized entry, prevent surface water from entering the annular space, and to protect the well from accidental damage caused by collision from vehicles or heavy equipment. The two (2) types of

[protective casing] surface completion designs are above-ground completions and flush-mount completions. **Temporary monitoring wells that are plugged within forty-eight (48) hours of initial installation are not required to have a secure cap or locking device.**

(A) Above-Ground Completions. Above-ground completions must meet the following standards:

1. The protective casing must extend from at least one and one-half feet (1 1/2') above the finished grade of the ground surface to a point at least two feet (2') below the finished grade, except as stated in subsection [(12/11)](B) of this rule for flush-mount completions. The riser pipe must be at least two inches (2") below the top of the [protective casing] above-ground completion. The [casing] above-ground completion must be placed in a [n enlarged] hole that is at least eight inches (8") in diameter larger than the [protective casing] above-ground completion size. Care must be taken so that the shape of this hole, when filled with concrete [or cement-slurry], does not encourage frost heaving. The protective casing must be centered in this hole and concrete poured around the casing to secure it. Cement or bentonite slurry is not [to be used] allowed. All water must be removed from the enlarged hole before concrete [may be] is added. The surface of the [grout] concrete must slope away from the protective casing so that pooling of surface water does not occur;

2. [A small diameter hole must be drilled into the protective casing near the ground level to drain any water that fills the protective casing annulus. Installation of a small amount of gravel for filling the annular space above the drain hole or installing a screen on the drain hole should be sufficient to prevent insects from entering this area] A weep hole or alternate method must be employed to ensure water does not accumulate inside the protective casing to the point that the top of the riser is submerged, except on temporary wells that are plugged within forty-eight (48) hours of initial installation;

3. A locking well cap and a suitable lock must be attached to the top of the [protective casing] above-ground completion. The riser pipe must be sealed with a watertight cap and must extend at least two feet (2') above the finished surface grade in flood prone areas [and be equipped with a watertight cap]. **Temporary monitoring wells are exempt from this paragraph if they are plugged within forty-eight (48) hours of initial installation; and**

[4. All monitoring wells that have a protective casing extending from the ground must have a marker to show location. This marker must be plainly visible so that it can be easily located and its presence will help to prevent accidental damage. In some situations, it may be required that additional protective devices be installed, such as metal concrete filled posts (bolsters) or fencing. This is to prevent damage or unauthorized entrance; and]

[5.14. All monitoring wells must be [labeled] uniquely identified so as to distinguish one (1) well from another on the monitoring site and on the monitoring well certification form.

(B) Flush-Mount Well Completions. [Monitoring wells may only be completed utilizing a flush mount when they must be located in traffic areas.] Flush-mount completions must meet the following standards. In a flush-to-ground completion, the flush-mount assembly is installed around the riser pipe that has been cut off below grade. The flush-mount assembly must be at least eight inches (8") in length and have a [lockable] tamper-resistant watertight [cap] lid. **The riser pipe must be sealed with a watertight cap.** The [assembly] flush-mount surface completion must be set into a hole that is at least eight inches (8") in diameter larger than the diameter of the flush-mount assembly and set in concrete. This completion must withstand all stresses due to traffic and to freeze thaw processes. If the monitoring well is being placed through asphalt or concrete, a hole that is a least four inches (4") in diameter larger than the diameter of the flush-mount assembly must be

[drilled] constructed. The flush mount must then be set in concrete. Cement or bentonite slurry is not **allowed**. [permitted. In areas where significant amounts of runoff occurs, additional safeguards to manage drainage may be necessary to discourage entry of surface runoff.]

[(13) Wells must be adequate in size, design and development for the intended use.]

[(14) Extraction wells must be constructed to standards determined on a case-by-case basis by the division].

(11) Wells must be adequate in size and design for the intended use. Wells should be properly developed in order to allow the collection of representative samples from the horizon being monitored.

(12) Alternate monitoring well construction procedures, methods, or technologies will be considered on a case-by-case basis. Written approval in advance by the division is required.

(13) The installation and use of sampling, development, maintenance, or testing devices and equipment in monitoring wells is not regulated except that the installation of a pumping system in wells used for remediation or clean-up must be performed by a nonrestricted pump installation contractor.

AUTHORITY: sections 256.606 and 256.626, RSMo [(1994)] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 4—Monitoring Well Construction Code**

PROPOSED RESCISSION

10 CSR 23-4.070 Monitoring Well Development. This rule described the minimum standards that must be met in developing a monitoring well.

PURPOSE: This rule is being rescinded as monitoring well development is not regulated through the Missouri Well Construction Code.

AUTHORITY: sections 256.606, 256.626, and 256.637, RSMo 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended:

Filed Nov. 1, 1995, effective June 30, 1996. Rescinded: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250, Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, III Fairgrounds Road, Rolla, Missouri.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 4—Monitoring Well Construction Code**

PROPOSED AMENDMENT

10 CSR 23-4.080 Plugging of Monitoring Wells. The division is amending section (1), deleting sections (4) and (5), and amending and renumbering the remaining sections.

PURPOSE: This amendment revises the standards for the plugging of monitoring wells.

(1) A monitoring well that is abandoned as defined in 10 CSR 23-1.010(1) must be plugged *[immediately]*. If a monitoring well has been determined to present a threat to groundwater, **or determined to be in such a state of disrepair that the well cannot be used for its intended purpose**, the division may order that the well be permanently plugged.

(2) When plugging a monitoring well, the following minimum requirements shall be met:

(A) All pumps, sampling equipment, debris, or other substances must be removed *[that would interfere with the proper plugging of the well]*;

(B) All protective casing and **permanent casing**, riser pipe, and well screen must be removed from the borehole, *[if possible]*, unless approved **in writing** by the division **through the variance process outlined in 10 CSR 23-1.040**. *[Because the primary purpose of well plugging is to eliminate vertical fluid migration along the borehole, the preferred method of plugging involves casing and riser pipe removal.]* If, when removing the casing, the borehole begins to collapse, grout must be simultaneously emplaced while the casing is removed to ensure a proper seal. *[In certain situations, the casing or riser pipe must be drilled out if it cannot be removed before the well is plugged. These situations will be determined on a case-by-case basis by the division. When casing is not required to be removed or if after attempting to remove the casing, it is not possible to remove it, then a hole must be dug around the casing three feet (3') deep and the casing and riser pipe cut off at that depth];*

(C) The well must be filled from bottom to top with grout. 10 CSR 23-4.060/(11)/(9) sets standards for grout types that may be used when plugging monitoring wells; *[and]*

(D) If bentonite grout is used, after the grout is fully cured, check for settlement and top off if necessary. Fill with soil and compact the upper two feet (2') of hole or pave. The purpose of the compacted

soil is to ensure that dehydration of the bentonite grout does not occur over time. If cement-slurry grout is used, fill the upper two feet (2') with soil or pavel. *Slight mounding over the well is recommended to prevent water from standing in the immediate area of the well.*; and

(E) A monitoring well that is less than twenty-four feet (24') in total depth may be totally excavated as opposed to being plugged with grout. If the excavation requires the replacement of material, compacted uncontaminated native material must be used. If this method is chosen, the well must be completely excavated, and a non-restricted monitoring well installation contractor must be on site at all times.

[(2)](3) The plugging or complete excavation of [all] a monitoring well[s] must be reported on a registration report form supplied by the division; this includes monitoring wells which cannot be located and, therefore, cannot be plugged properly. [These forms must be submitted, along with the fee, within sixty (60) days of the plugging (see 10 CSR 23-2 for applicable fees). If the review of the registration report form shows that the well has been plugged according to the rules, a registration number will be issued and sent to the well owner. The registration number indicates that the well was plugged according to the standards set out in the rules. When field screening type of temporary wells are drilled, usually multiple installations per monitoring site are used. All temporary wells per monitoring site may be reported on one (1) registration report form if they are all plugged the same way and only one (1) registration fee is required per site.]

[(3)](4) Monitoring wells must be plugged by a [permitted] nonrestricted monitoring well installation contractor.

[(4) Material used to plug monitoring wells must be compatible with any contaminants in the well so that the plugging action of the grout is not destroyed by any chemical reactions that may take place in the borehole environment.]

[(5) Monitoring wells less than ten feet (10') in depth must be plugged by returning uncontaminated native material or grout into the hole it was taken from, no reporting is required for these wells.]

[(6)](5) Temporary monitoring wells [greater than] ten feet (10') or greater in depth must be plugged by removing any temporary pipe and filling the well from total depth to [ten feet (10')] three feet (3') from the surface with approved grout, with the remainder of the well filled with compacted uncontaminated native material or grout.

AUTHORITY: sections 256.606, 256.615, and 256.623, RSMo [(1994)] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Nov. 18, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Geological Survey Program, Sheri Fry, PO Box 250,

Rolla, MO 65402 or by email at sheri.fry@dnr.mo.gov. To be considered, comments must be received by February 7, 2011. A public hearing is scheduled for 10:00 a.m. on February 3, 2011, at the department's Division of Geology and Land Survey's Annex Bldg, 111 Fairgrounds Road, Rolla, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 12—Liquor Control**

PROPOSED AMENDMENT

11 CSR 45-12.090 Rules of Liquor Control. The commission is amending subsection (5)(B) and adding paragraphs (5)(B)1.-3.

PURPOSE: This amendment revises the restrictions for consumption of alcoholic beverages by employees.

(5) Employees.

(B) An excursion liquor licensee may submit to the director a written request for authorization for—

1. *[[Level I licensees or applicants, the licensee's food and beverage director or corporate officers to consume alcoholic beverages in the nongaming areas of the premises for business purposes. The director's authorization or denial shall be in writing]. Beverage servers are prohibited from taste-testing alcoholic beverages on an excursion gambling boat or facility immediately adjacent to an excursion gambling boat; however, the licensee may train beverage servers at an off-site location by using taste-testing in order to inform the beverage server about the characteristics of beverages offered by the licensee.]*

2. **Employees to consume alcoholic beverages in the nongaming areas of the premises at specific functions sponsored by the excursion liquor licensee. The director's authorization or denial shall be in writing; or**

3. **Training beverage servers in the nongaming areas of the premises by using taste testing in order to inform the beverage server about the characteristics of beverages offered by the licensee. The director's authorization or denial shall be in writing.**

AUTHORITY section[s] 313.004, RSMo 2000 and sections 313.805 and 313.840, RSMo Supp. [2006] 2010. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2010.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 16, 2011, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

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

PROPOSED RESCISSION

13 CSR 70-3.110 Second Opinion Requirement Before Nonemergency Elective Surgical Operations. This rule implemented that a second medical opinion must be obtained before Medicaid will pay for certain nonemergency, elective surgical procedures and the related costs of these surgical procedures.

PURPOSE: This rule is being rescinded as the required second opinion adds to the cost of the service without adding significant prior authorization protections.

AUTHORITY: section 207.020, RSMo Supp. 1993. This rule was previously filed as 13 CSR 40-81.052. Emergency rule filed Sept. 18, 1981, effective Sept. 28, 1981, expired Jan. 13, 1982. Original rule filed Sept. 18, 1981, effective Jan. 14, 1982. Rescinded: Filed Dec. 1, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 97—Health Insurance Premium Payment (HIPP)
Program**

PROPOSED AMENDMENT

13 CSR 70-97.010 Health Insurance Premium Payment (HIPP) Program. The division is amending section (4).

PURPOSE: This amendment adds language to give the department the ability to look at other options available that would cover all MO HealthNet participants but would not have to cover the whole family.

(4) Coverage of Non-MO HealthNet-Eligible Family Members. When it is determined to be cost-effective, the department shall pay for health insurance premiums for non-MO HealthNet-eligible family members if a non-MO HealthNet-eligible family member must be enrolled in the health plan in order to obtain coverage for the MO HealthNet-eligible family members. **When the department determines the health insurance plan or policy not to be cost effective due to the cost of paying for non-MO HealthNet-eligible family members, the department shall consider the cost of the insurance premiums for the policyholder and MO HealthNet-eligible family members only in the determination. This exception shall only apply if the option is available with the health insurance plan.**

However, the needs of the non-MO HealthNet-eligible family members shall not be taken into consideration when determining cost-effectiveness, and payments for deductibles, coinsurances, or other cost-sharing obligations shall not be made on behalf of family members who are not MO HealthNet-eligible.

AUTHORITY: sections 208.153 and 208.201, RSMo Supp. [2007] 2010. Original rule filed June 30, 1994, effective Jan. 29, 1995. Emergency amendment filed Aug. 19, 2005, effective Sept. 1, 2005, expired Feb. 27, 2006. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed Feb. 1, 2008, effective Aug. 30, 2008. Amended: Filed Dec. 1, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities**

PROPOSED AMENDMENT

15 CSR 30-54.210 Notice Filings for Transactions under Regulation D, Rules 505 and 506. The commissioner is amending subsections (1)(A) and (1)(B) and sections (2) and (3), adding a new section (4), and renumbering the remaining section.

PURPOSE: This amendment changes the notice filing requirements for securities offerings made under Regulation D, Rules 505 and 506. These amendments are necessary to align Missouri's filing requirements with federal law.

(1) Rule 505.

(A) Pursuant to section 409.2-203 of the Missouri Securities Act of 2003 (the Act), transactions that are exempt securities under 17 CFR 230.505 are exempt from section 409.3-301, RSMo. As a condition of this exemption, the issuer shall comply with the requirements in sections (3) **and** (4) below.

(B) Disqualification. The exemption under subsection (1)(A) is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:—

1. Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the U.S. Securities and Exchange Commission (SEC);

2. Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;

3. Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or

4. Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminary, or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(2) Rule 506. The issuer shall file a notice under section 409.3-302(c), RSMo, as stated in sections (3) and (4) below.

(3) Notice Filings for Rules 505 and 506. The notice filing required for transactions in Missouri under 17 CFR 230.505 and 17 CFR 230.506, unless the securities or transactions would qualify for an exemption under sections 409.2-201, 409.2-202, or 409.2-203 of the Act, shall consist of the following:

(A) One (1) [manually signed] paper copy of the electronic Form D [(including the Appendix)] filed with the SEC;

[(B) A Form U-2, Consent to Service of Process;]

[(C)](B) The filing fee of one hundred dollars (\$100) as described in 15 CSR 30-50.030; and

[(D)](C) [Each notice shall be filed with the division no later than fifteen (15) calendar days after the first sale of the securities in Missouri.] A cover letter [should be included in the notice filing which states] stating the date [in] on which the first sale of securities had occurred in Missouri or whether no sales have yet occurred in Missouri.

(4) Each notice shall be filed with the commissioner no later than fifteen (15) calendar days after the first sale of the securities in Missouri, unless the due date falls on a Saturday, Sunday, or holiday, in which case the due date is the first business day following.

[(4)](5) Amendments. During the period of the offering, the issuer shall take steps necessary to insure that all material information contained in the notice filing remains current and accurate.

AUTHORITY: sections 409.2-203, 409.3-302, and 409.6-605, RSMo Supp. [2003] 2010. Emergency rule filed Aug. 12, 1982, effective Aug. 22, 1982, expired Dec. 10, 1982. Original rule filed Aug. 11, 1982, effective Dec. 11, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 30, 2010.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matt Kitz, Commissioner of Securities, 600 West Main Street, 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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2063—Behavior Analyst Advisory Board
Chapter 1—General Rules**

PROPOSED RULE

20 CSR 2063-1.005 Behavior Analyst Advisory Board

PURPOSE: Pursuant to section 337.310, RSMo, this rule outlines policies and procedures for the Behavior Analyst Advisory Board.

(1) The purpose of the board is to regulate the practice of behavior analysis concerning the health, safety, and welfare of the inhabitants of this state; to protect the property of the inhabitants of this state from damage or destruction through the dangerous, dishonest, incompetent, or unlawful practice of behavior analysis; and to implement and sustain a system for the examination and regulation of licensed behavior analysts and assistant behavior analysts in this state.

(2) The board shall meet at least quarterly. Additional meetings may be held at the discretion of the board; however, the board shall inform the division of those meetings and the notice of the meeting will be posted in compliance with Chapter 610, RSMo.

(3) Each year, the board shall elect a chair and vice-chair. The chair presides at meetings and works with the executive director on coordinating the board's affairs. If the chair is unable to attend a meeting, the vice-chair shall preside at the meeting.

(4) The board shall act through its executive director who is appointed by the director of the Division of Professional Registration. The executive director shall be responsible for keeping the minutes of board proceedings and perform other duties as requested by the board.

(5) A quorum of the board shall consist of a majority of its members.

(6) Board meetings will generally consist of reviewing applications, interviewing applicants, reviewing complaints and inquiries, determining disciplinary actions regarding licensed behavior analysts or assistant behavior analysts, making recommendations to staff concerning the conduct and management of board affairs, and other board matters.

(7) Unless otherwise provided by statute or regulation, the board shall be generally guided by and conduct its meetings according to *Robert's Rules of Order*.

(8) Any person requiring information, an application, or complaint form involving the practice of behavior analysis as regulated by the board may contact the board.

AUTHORITY: sections 337.305 and 337.310, RSMo Supp. 2010. Original rule filed Nov. 30, 2010.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions approximately two hundred ten dollars (\$210) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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 State Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0661, or via email at scop@pr.mo.gov. 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.

PUBLIC FISCAL NOTE

I. RULE NUMBER**Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2063 - Behavior Analyst Advisory Board****Chapter 1 - General Rules****Proposed Rule - 20 CSR 2063-1.005 Behavior Analyst Advisory Board**

Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Behavior Analyst Advisory Board	\$210

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for board meetings, process per diem requests and respond to requests for public information; and board member per diem.
- 2) Expense and equipment costs are incurred for board expenses for preparing board agendas, request for public information, and for board member travel expenses to attend the meeting.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 2%	Enforcement - 4%
Personal Service	\$11	\$34
Expense & Equipment	\$38	\$118
Transfers	\$2	\$7
TOTAL	\$51	\$159

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Behavior Analyst Advisory Board were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals with Missouri addresses certified by the Behavior Analyst Certification Board (BACB)®. In the future, the office will base fiscal estimates on actual costs and actual number of licensees. These annual costs will recur each year 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.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 39% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 61% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2— Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$1,400	39% Licensure	\$546
\$1,400	61% Enforcement	\$854

Table 3— Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$4,831	39% Licensure	\$1,884
\$4,831	61% Enforcement	\$2,947

Table 4— Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$300	39% Licensure	\$117
\$300	61% Enforcement	\$183

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 2% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 4% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2063—Behavior Analyst Advisory Board
Chapter 1—General Rules**

PROPOSED RULE

20 CSR 2063-1.010 Definitions

PURPOSE: This rule establishes various definitions and terms used in 20 CSR 2063.

- (1) Applicant—An individual applying for licensure as a behavior analyst or assistant behavior analyst.
- (2) Certifying entity—Behavior Analyst Certification Board (BACB)[®], 2888 Remington Green Lane, Suite C, Tallahassee, FL 32308 and approved by the committee.
- (3) Committee—State Committee of Psychologists as established in section 337.050, RSMo.
- (4) Division—Division of Professional Registration.
- (5) Department—Department of Insurance, Financial Institutions and Professional Registration.
- (6) Family Care Safety Registry—The registry established by the Missouri Department of Health and Senior Services pursuant to section 210.903, RSMo.

AUTHORITY: section 337.310, RSMo Supp. 2010. Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expires June 7, 2011. Original rule filed Nov. 30, 2010.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions approximately forty dollars (\$40) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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 State Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0661, or via email at scop@pr.mo.gov. 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.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2063 - Behavior Analyst Advisory Board

Chapter 1 - General Rules

Proposed Rule - 20 CSR 2063-1.010 Definitions

Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Behavior Analyst Advisory Board	\$40

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for board meetings, process per diem requests and respond to requests for public information; and board member per diem.
- 2) Expense and equipment costs are incurred for board expenses for preparing board agendas, request for public information, and for board member travel expenses to attend the meeting.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 0%	Enforcement - 1%
Personal Service	\$0	\$9
Expense & Equipment	\$0	\$29
Transfers	\$0	\$2
TOTAL	\$0	\$40

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Behavior Analyst Advisory Board were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals with Missouri addresses certified by the Behavior Analyst Certification Board (BACB)®. In the future, the office will base fiscal estimates on actual costs and actual number of licensees. These annual costs will recur each year 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.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 39% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 61% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2– Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$1,400	39% Licensure	\$546
\$1,400	61% Enforcement	\$854

Table 3– Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$4,831	39% Licensure	\$1,884
\$4,831	61% Enforcement	\$2,947

Table 4– Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$300	39% Licensure	\$117
\$300	61% Enforcement	\$183

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that no time involving the administration of the proposed rule will be spent on licensure efforts and 1% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2063—Behavior Analyst Advisory Board
Chapter 1—General Rules**

PROPOSED RULE

20 CSR 2063-1.015 Fees

PURPOSE: This rule establishes and fixes the various fees and charges authorized by Chapter 337, RSMo.

(1) The following fees are established for the Behavior Analyst Advisory Board and are payable to the State Committee of Psychologists:

(A) Application Fee for Behavior Analyst	\$150
(B) Application Fee for Assistant Behavior Analyst	\$150
(C) Biennial Renewal Fee	\$150
(D) Delinquency Fee (in addition to the Renewal Fee)	\$ 50
(E) Inactive Renewal Fee	\$ 50
(F) Inactive Reactivation Fee (section 337.320.8, RSMo)	\$100
(G) Insufficient Check Fee	\$ 25

(2) All fees are nonrefundable.

(3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 337.310, 337.315, 337.320, and 337.340, RSMo Supp. 2010. Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expires June 7, 2011. Original rule filed Nov. 30, 2010.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions approximately fifty-one dollars (\$51) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately fifteen thousand three hundred sixty-nine dollars and eighty-eight cents (\$15,369.88) annually with an annual increase of four hundred sixty-one dollars and ten cents (\$461.10); and fifteen thousand nine hundred fifty-five dollars and forty-eight cents (\$15,955.48) biennially with a biennial increase of four hundred seventy-eight dollars and thirty-three cents (\$478.33) for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0661, or via email at scop@pr.mo.gov. 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.

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2063 - Behavior Analyst Advisory Board****Chapter 1 - General Rules****Proposed Rule - 20 CSR 2063-1.015 Fees**

Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Behavior Analyst Advisory Board	\$51

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for board meetings, process per diem requests and respond to requests for public information; and board member per diem.
- 2) Expense and equipment costs are incurred for board expenses for preparing board agendas, request for public information, and for board member travel expenses to attend the meeting.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 2%	Enforcement - 0%
Personal Service	\$11	\$0
Expense & Equipment	\$38	\$0
Transfers	\$2	\$0
TOTAL	\$51	\$0

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Behavior Analyst Advisory Board were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals with Missouri addresses certified by the Behavior Analyst Certification Board (BACB)®. In the future, the office will base fiscal estimates on actual costs and actual number of licensees. These annual costs will recur each year 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.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 39% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 61% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2— Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$1,400	39% Licensure	\$546
\$1,400	61% Enforcement	\$854

Table 3— Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$4,831	39% Licensure	\$1,884
\$4,831	61% Enforcement	\$2,947

Table 4— Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$300	39% Licensure	\$117
\$300	61% Enforcement	\$183

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 2% of the total time involving the administration of the proposed rule will be spent on licensure efforts and no time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2063 - Behavior Analyst Advisory Board

Chapter 1 - General Rules

Proposed Rule - 20 CSR 2063-1.015 Fees

Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

1st Year of Implementation of the Rule and Annually Thereafter

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
78	Behavior Analyst Applicants (Application Fee @ \$150)	\$11,700.00
24	Assistant Behavior Analyst Applicants (Application Fee @ \$150)	\$3,600.00
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Postage @ \$0.44)	\$44.88
1	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Insufficient Fee Service Charge @ \$25)	\$25.00
Estimated Cost of Compliance During the First Year of Implementation of the Rule		\$15,369.88 with an annual increase of \$461.10

2nd Year of Implementation of the Rule and Biennially Thereafter

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
105	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Biennial Renewal Fee @ \$150)	\$15,759.00
105	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Postage @ \$0.44)	\$46.23
1	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Delinquency Fee @ \$50)	\$50.00
1	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Inactive Renewal Fee @ \$50)	\$50.00
1	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Inactive Reactivation Fee @ \$100)	\$39.25
Total Cost of Compliance Beginning the Second Year of Implementation and Continuing Biennially Thereafter		\$15,944.48 with a biennial increase of \$478.33

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The number of applicants estimated is based on the Behavior Analyst Certification Board (BACB) registry as of November 8, 2010. Only the number of individuals residing in Missouri were used in calculating this fiscal note. The committee does recognize that individuals residing in another state or become certified after the filing of this rule may apply for licensure; therefore, a three percent (3%) annual growth rate was estimated for this fiscal note.
2. The fees reported in this fiscal note are also reported in the fiscal notes accompanying 20 CSR 2063-2.005 and 20 CSR 2063-2.010 in accordance with the provisions of sections 536.200 and 536.205, RSMo. Applicants and licensees will only be required to pay the fee as required by the respective rule.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The committee is statutorily obligated to enforce and administer the provisions of section 337.300 through 337.345, RSMo. Pursuant to Section 337.320, RSMo, the committee shall by rule and regulation set the amount of fees authorized by section 337.300 through 337.345, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of section 337.300 through 337.345, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2063—Behavior Analyst Advisory Board
Chapter 1—General Rules**

PROPOSED RULE

20 CSR 2063-1.020 Policy for Handling Release of Public Records

PURPOSE: This rule sets forth the board's written policy in compliance with sections 610.010–610.030, RSMo, regarding the release of information on any meeting, record, or vote of the board.

(1) The Behavior Analyst Advisory Board is a public governmental body as defined in Chapter 610, RSMo, and adopts the following as its written policy for compliance with the provisions of that chapter. This policy is open to public inspection and implements the provisions of Chapter 610, RSMo, regarding the release of information of any meeting, record, or vote of the board which is not closed pursuant to the provisions of Chapter 610, RSMo.

(2) All public records of the Behavior Analyst Advisory Board shall be open for inspection and copying by any member of the general public during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted) upon a minimum of a three (3)-day notice and appointment except for those records closed pursuant to section 610.021, RSMo. All public meetings of the Behavior Analyst Advisory Board not closed pursuant to the provisions of section 610.021, RSMo, will be open to any member of the public.

(3) The Behavior Analyst Advisory Board establishes the executive director of the board or his/her authorized representative as the custodian of its records as required by section 610.023, RSMo. The executive director or his/her authorized representative is responsible for the maintenance of the board's records and is responsible for responding to requests for access to public records.

(4) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost for inspecting and copying the records. The fees charged by the board shall be as follows:

(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication;

(B) The board may require payment for the fees prior to making the copies; and

(C) Fees collected shall be remitted to the director of revenue for deposit to the credit of the State Committee of Psychologists' Fund.

(5) Whenever a request for access to public records is made and the custodian believes that access is not required under the provisions of Chapter 610, RSMo, the custodian shall consult with the Office of the Attorney General before making a determination whether to deny access to the records. In the event that contact by the custodian with the Office of the Attorney General is not practicable or is impossible, the custodian may make a decision whether to deny access. However, in those events, the custodian shall consult with the Office of the Attorney General concerning the decision within five (5) working days of the decision. Whenever the decision is made to deny access, the custodian will comply with the requirements in section 610.023, RSMo, concerning informing the individual requesting access to the records. Whenever the custodian denies access to the records, the custodian shall supply to members of the board copies of the written response conveying the denial to the requesting individual. At the next meeting of the board, the board shall either affirm the decision of the custodian or reverse the decision of the custodi-

an. In the event that the board decides to reverse the decision of the custodian, the board shall direct the custodian to so advise the person requesting access to the information and supply the access to the information during regular business hours at the convenience of the requesting party.

(6) The custodian shall maintain a file which will retain copies of all written requests for access to records and responses to these requests through the current audit period. The file shall be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

AUTHORITY: section 337.310, RSMo Supp. 2010 and sections 610.010–610.030, RSMo 2000 and Supp. 2010. Original rule filed Nov. 30, 2010.

PUBLIC COST: This proposed rule will cost public entities approximately forty dollars (\$40) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

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 State Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0661, or via email at scop@pr.mo.gov. 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.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2063 - Behavior Analyst Advisory Board
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2063-1.020 Policy for Handling Release of Public Records
 Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Behavior Analyst Advisory Board	\$40

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for board meetings, process per diem requests and respond to requests for public information; and board member per diem.
- 2) Expense and equipment costs are incurred for board expenses for preparing board agendas, request for public information, and for board member travel expenses to attend the meeting.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 0%	Enforcement - 1%
Personal Service	\$0	\$9
Expense & Equipment	\$0	\$29
Transfers	\$0	\$2
TOTAL	\$0	\$40

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Behavior Analyst Advisory Board were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals with Missouri addresses certified by the Behavior Analyst Certification Board (BACB)®. In the future, the office will base fiscal estimates on actual costs and actual number of licensees. These annual costs will recur each year 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.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 39% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 61% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2— Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$1,400	39% Licensure	\$546
\$1,400	61% Enforcement	\$854

Table 3— Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$4,831	39% Licensure	\$1,884
\$4,831	61% Enforcement	\$2,947

Table 4— Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$300	39% Licensure	\$117
\$300	61% Enforcement	\$183

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that no time involving the administration of the proposed rule will be spent on licensure efforts and 1% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2063—Behavior Analyst Advisory Board
Chapter 2—Licensure Requirements**

PROPOSED RULE

20 CSR 2063-2.005 Application for Licensure

PURPOSE: This rule outlines the procedures to apply for licensure and temporary permits for behavior analysts and assistant behavior analysts.

(1) Applications for licensure pursuant to section 337.315, RSMo, shall be submitted on the form which may be obtained by contacting the Behavior Analyst Advisory Board.

(2) Behavior Analyst License.

(A) Applicants applying for licensure as a behavior analyst shall submit—

1. A completed application for licensure which is typewritten or printed in black ink, signed, and notarized;

2. The appropriate licensure fee pursuant to 20 CSR 2063-1.015;

3. One (1) recent photograph, pursuant to section 337.315.1, RSMo, of the applicant's head and shoulders (commonly known as passport style) that fairly depicts the applicant's appearance;

4. Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and Federal Bureau of Investigation (FBI) fingerprint background check. Any fees due for fingerprint background checks shall be paid by the applicant;

5. Proof of having passed an examination and been certified as a board-certified behavior analyst from a certifying entity as defined pursuant to 20 CSR 2063-1.010;

6. Proof of active status as a board-certified behavior analyst; and

7. Verification of licensure in any other state in which the applicant holds a license as a behavior analyst. Verification of licensure must be received by the board directly from the issuing state agency.

(3) Assistant Behavior Analyst License.

(A) Applicants applying for licensure as an assistant behavior analyst shall submit—

1. A completed application for licensure which is typewritten or printed in black ink, signed, and notarized;

2. The appropriate licensure fee pursuant to 20 CSR 2063-1.015;

3. One (1) recent photograph, pursuant to section 337.315.1, RSMo, of the applicant's head and shoulders (commonly known as passport style) that fairly depicts the applicant's appearance;

4. Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and Federal Bureau of Investigation (FBI) fingerprint background check. Any fees due for fingerprint background checks shall be paid by the applicant;

5. Proof of having passed an examination and been certified as a board-certified assistant behavior analyst from a certifying entity as defined pursuant to 20 CSR 2063-1.010;

6. Proof of active status as a board-certified assistant behavior analyst;

7. Verification of licensure in any other state in which the applicant holds a license as an assistant behavior analyst. Verification of licensure must be received by the board directly from the issuing state agency; and

8. Proof the applicant will be directly supervised by a licensed behavior analyst on a form provided by the board.

(4) Temporary License.

(A) Applicants who are licensed in another state requesting a temporary license shall—

1. Meet the respective requirements of section (2) or (3) of this rule;

2. Submit a copy of a valid license issued in another state; and

3. Have no disqualifying criminal history appear on the Family Care Safety Registry.

(B) Temporary licenses shall expire upon issuance of a permanent license or denial of the application but no later than ninety (90) days from issuance of the temporary license.

(C) Holders of a temporary license requesting an extension shall submit a written request to the committee. As provided by section 337.315.4, RSMo, the temporary license may be extended one (1) time by the committee.

(5) The applicant shall be informed in writing of the decision regarding the application for licensure.

(6) The board or committee may delegate the preliminary review of license applications to the executive director.

AUTHORITY: sections 337.315 and 337.345, RSMo Supp. 2010. Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expires June 7, 2011. Original rule filed Nov. 30, 2010.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions approximately three hundred six dollars (\$306) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately twenty-two thousand ninety-three dollars and thirty-eight cents (\$22,093.38) for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0661, or via email at scop@pr.mo.gov. 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.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2063 - Behavior Analyst Advisory Board

Chapter 2 - Licensure Requirements

Proposed Rule - 20 CSR 2063-2.005 Application for Licensure

Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Behavior Analyst Advisory Board	\$306

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to prepare for board meetings, process per diem requests and respond to requests for public information; and board member per diem.
- 2) Expense and equipment costs are incurred for board expenses for preparing board agendas, request for public information, and for board member travel expenses to attend the meeting.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Atto

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 12%	Enforcement - 0%
Personal Service	\$66	\$0
Expense & Equipment	\$226	\$0
Transfers	\$14	\$0
TOTAL	\$306	\$0

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Behavior Analyst Advisory Board were determined by using allotment figures for personal service, expense and equipment, and transfers based on the number of individuals with Missouri addresses certified by the Behavior Analyst Certification Board (BACB)®. In the future, the office will base fiscal estimates on actual costs and actual number of licensees. These annual costs will recur each year 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.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 39% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 61% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2— Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$1,400	39% Licensure	\$546
\$1,400	61% Enforcement	\$854

Table 3— Allocation of Expense & Equipment

Allotment	Percentage & Category	Dollar Amount
\$4,831	39% Licensure	\$1,884
\$4,831	61% Enforcement	\$2,947

Table 4— Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$300	39% Licensure	\$117
\$300	61% Enforcement	\$183

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 12% of the time involving the administration of the proposed rule will be spent on licensure efforts and no time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2063 - Behavior Analyst Advisory Board

Chapter 2 - Licensure Requirements

Proposed Rule - 20 CSR 2063-2.005 Application for Licensure

Prepared November 22, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

1st Year of Implementation of the Rule

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
78	Behavior Analyst Applicants (Application Fee @ \$150)	\$11,700.00
24	Assistant Behavior Analyst Applicants (Application Fee @ \$150)	\$3,600.00
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Postage @ \$0.44)	\$44.88
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Notary @ \$2.00)	\$204.00
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Photo @ \$7.00)	\$714.00
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Highway Patrol Fingerprinting Fees @ \$39.25)	\$4,003.50
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (L1 Finger Printing Fee @ \$12.95)	\$1,320.90
102	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Copies of Certification Card @ \$.05)	\$5.10
20	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Licensure Verification @ \$25)	\$500.00
20	Behavior Analyst Applicants and Assistant Behavior Analyst Applicants (Temporary License - Copy of Valid License from Another State @ \$.05)	\$1.00
	Estimate Cost During the First Year of Implementation of the Rule and Annually Thereafter	\$22,093.38 with an annual growth rate of \$662.80

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The number of applicants estimated is based on the Behavior Analyst Certification Board (BACB) registry as of November 8, 2010. Only the number of individuals residing in Missouri were used in calculating this fiscal note. The committee does recognize that individuals residing in another state and other individuals who become certified after the filing of this rule may apply for licensure; therefore, a three percent (3%) annual growth rate was calculated in this fiscal note. In the future, the office will assess fees based on actual costs and actual number of licensees.
2. The application fees reported in this fiscal note are also reported in the fiscal note accompanying 20 CSR 2063-1.015 in accordance with the provisions of sections 536.200 and 536.205, RSMo. Applicants will only be required to submit the fee with the application as required by this rule.
3. Applicants are required to be certified with The Behavior Analyst Certification Board (BACB), which is the certifying entity currently recognized by the board. In order to become certified an applicant would have to meet the following qualifications and pay all fees directly to BACB or other required entities associated with certification, education, training and examination. Those fees are not represented in this fiscal note due to the variance in direct and indirect costs associated with travel, education expenses and reimbursement, etc. which could vary from applicant to applicant.

Behavior Analysts:

- Bachelor's, master's degree, or doctoral degree;
- Specific number of supervised hours depending upon the degree obtained; and
- Completion of an BACB approved examination;

Assistant Behavior Analysts:

- Bachelor's degree;
- 1000 hours of supervised experience; and
- Completion of an BACB approved examination;

4. Proof of current BACB certification is an essential component of the requirements for licensure. The applicant will be required to provide a copy of their current certification card. The office will also require verification of the certification directly with BACB. Although the BACB is authorized to charge a fee for verifications, they do not currently charge a fee for e-mail verifications confirming certification to a state agency. If paper or fax verifications are required a \$25.00 fee will be assessed for each verification. For the purposes of this fiscal note, the committee is going to assume all verification will be send via email to the BACB and will not be any additional expense incurred by the applicant.
5. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The committee is statutorily obligated to enforce and administer the provisions of section 337.300 through 337.345, RSMo. Pursuant to Section 337.320, RSMo, the committee shall by rule and regulation set the amount of fees authorized by section 337.300 through 337.345, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of section 337.300 through 337.345, RSMo.