

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

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 60—Grain Inspection and Warehousing Chapter 1—Organization and Description

PROPOSED AMENDMENT

2 CSR 60-1.010 General Organization. The department proposes to amend this rule by changing section (2).

PURPOSE: This rule is being amended to reflect the Department's current street address and telephone number.

(2) The address of the main division office is—*[Jefferson State Office Building, 13th Floor]* **1616 Missouri Boulevard**, P.O. Box 630, Jefferson City, MO 65102, *[(314)] (573) 751-2558.*

AUTHORITY: section 536.023, RSMo [1986] Supp. 1998. Original rule filed April 9, 1976, effective July 15, 1976. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 60—Grain Inspection and Warehousing Chapter 4—Missouri Grain Warehouse Law

PROPOSED AMENDMENT

2 CSR 60-4.011 Agricultural Commodities To Be Regulated as Grain. The department proposes to change the purpose section to the correct statute number.

PURPOSE: This rule is being amended to correct statute numbers which have changed.

*PURPOSE: This rule explains the interpretation made by the department regarding the definition of grain in section [411.026(14)] **411.026(17)**, RSMo.*

AUTHORITY: section 411.070, RSMo [1986] Supp. 1998. Original rule filed March 12, 1982, effective June 11, 1982. Amended: Filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed Dec. 13, 1989, effective May 31, 1990. Amended: Filed Feb. 27, 1991, effective July 8, 1991. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 60—Grain Inspection and Warehousing Chapter 4—Missouri Grain Warehouse Law

PROPOSED RESCISSION

2 CSR 60-4.040 Licensing of Grain Weighers and Grain Inspectors. This rule stated the requirements for obtaining a grain weigher's or grain inspector's license. This rule included forms which are to be deleted from the *Code of State Regulations*.

PURPOSE: This rule is being rescinded due to statute changes which eliminated the requirement of the grain weigher and grain inspector's licenses. All forms are to be deleted.

AUTHORITY: section 411.070, RSMo 1986. This rule was previously filed as 2 CSR 40-4.040. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Rescinded: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law**

PROPOSED AMENDMENT

2 CSR 60-4.070 Notification of Destruction or Damage to Grain. The department proposes to amend this rule by changing section (1).

PURPOSE: This rule is being amended to reflect the correct telephone area code for the Grain Regulatory Services.

(1) If grain contained in a licensed warehouse is destroyed or damaged by any means whatsoever, the warehouseman immediately shall notify the Department of Agriculture, Grain Regulatory Services Program, P.O. Box 630, Jefferson City, MO 65102 or by telephoning the Grain Regulatory Services Program at *[(314)] (573) 751-4112*.

AUTHORITY: section 411.070, RSMo [1986] Supp. 1998. This rule was previously filed as 2 CSR 40-4.070. Original rule filed May 5, 1972, effective May 15, 1972. Amended: Filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed Dec. 13, 1989, effective May 31, 1990. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law**

PROPOSED AMENDMENT

2 CSR 60-4.110 Preparation of Financial Statements. The department proposes to amend this rule by changing subsections (1)(F) and (G), eliminating sections (3) and (7) and renumbering the remaining sections, and deleting all forms which follow this rule in the *Code of State Regulations*.

PURPOSE: This rule is being changed to reflect the current law as to who may prepare financial statements and the type of financial statements accepted, and to delete all forms which are a part of this rule.

(1) The following definitions shall apply to these rules:

(F) *[Public accountant or c]* Certified public accountant—Any person permitted to engage in the practice of public accounting under Chapter 326, RSMo;

(G) Qualified accountant—A *[person]* certified public accountant competent in the application of GAAP provided that this person is not the applicant. Also, that if the applicant is an individual, this person is not an employee of the applicant, or if the applicant is a corporation or partnership, this person is not an officer, shareholder, partner or employee of the applicant; and

[(3) If an applicant submits financial statements as submitted to a bank, the financial statements shall be prepared by a qualified accountant in accordance with these rules. If the financial statements are prepared by a bank officer or other employee of the bank, this person shall be a qualified accountant and shall prepare the financial statements in accordance with these rules. Financial statements compiled or prepared by a qualified accountant who is not also a certified public accountant or public accountant shall not contain an opinion by that person regarding the financial statements.]

[(4)](3) The applicant shall submit copies of the financial statements submitted to the applicant's bonding company, or submitted to the Commodity Credit Corporation in support of a Uniform Grain Storage Agreement, or submitted to the United States Department of Agriculture in support of a federal warehouse license if the financial statements are prepared as of a different date, or for a different period of time, or to show different amounts than those submitted with the application for a Missouri grain warehouse license.

[(5)](4) The financial statements required by these rules shall be prepared in accordance with GAAP except as otherwise allowed or required by these rules.

[(6)](5) All financial statements required by these rules shall be prepared on the accrual basis of accounting unless waived by the director. If waived, the director may require the applicant to provide an estimate, prepared by the applicant's qualified accountant, of the effect of converting the financial statements to the accrual basis of accounting.

[(7) The qualified accountant shall certify, on a form prescribed by the director, that s/he is a qualified accountant.]

[(8)](6) If the applicant is an individual, the applicant shall submit a balance sheet and a statement of income and expenses for the proprietorship business in accordance with GAAP. If the applicant is an individual, the applicant also shall submit a personal balance sheet. The applicant, in lieu of submitting a business and a personal balance sheet, may submit a combined balance sheet. Personal nonbusiness assets should be shown at the lower of historical cost or estimated fair market value. If the applicant is an individual and desires to show estimated current values that are higher than the historical cost basis for the proprietorship business balance sheet, the personal balance sheet, or the combined balance sheet, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

[(9)](7) If the applicant is a partnership, the applicant shall submit a balance sheet and a statement of income and expenses for the partnership business in accordance with GAAP. Only the partnership assets and liabilities will be considered in computing net worth. The personal financial statements for the individual partners will not be considered in computing net worth.

[(10)](8) If the applicant is a partnership and desires to show estimated current values that are higher than the historical cost basis, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

[(11)](9) If the applicant is a partnership, a copy of a written partnership agreement shall be submitted.

[(12)](10) If the applicant is a corporation, the applicant shall submit a balance sheet and a statement of income and expenses for the corporation in accordance with GAAP. If the applicant is a corporation and desires to show estimated current values that are higher than the historical cost basis, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

[(13)](11) If the applicant is a corporation and is a party of a majority- or wholly-owned corporate parent/subsidiary relationship, the applicant shall submit the financial statements required by these rules and the consolidated financial statements. For licensing purposes, the director may use the applicant's net worth or the consolidated net worth. If the applicant is a wholly- or majority-owned subsidiary, the director may require the applicant to submit a corporate letter of guaranty from the parent company on a form prescribed by the director.

[(14)](12) If the applicant is a corporation and is a part of a group of related corporations that do business with each other where the same individual or partnership owns a controlling interest in all of the corporations, the applicant shall submit the required financial statements for the applicant and the combined financial statements for the group of related corporations.

[(15)](13) In determining allowable net worth for licensing purposes, the director shall disallow the following assets if s/he is of the opinion that these assets are withdrawals of equity or that these assets are uncollectible: 1) notes receivable due from stockholders, 2) accounts receivable, 3) advances to affiliates, 4) investments or equities in cooperatives or 5) goodwill. The director also may disallow other assets that in his/her opinion are or may be withdrawals of equity, or that are or may be uncollectible.

AUTHORITY: sections 411.070 and 411.260, RSMo [1986] Supp. 1998. Original rule filed Feb. 13, 1980, effective May 11, 1980. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law**

PROPOSED AMENDMENT

2 CSR 60-4.140 Certificates of Deposit. The department proposes to amend this rule by changing sections (1), (3) and (15), and deleting all forms which follow this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to reflect the changes in the ending statute number of the current warehouse law and to delete all forms which are a part of this rule.

(1) A certificate of deposit (CD) issued by a bank or savings and loan association that is a member in good standing with the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation respectively may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain warehouse bond as required by sections 411.010-411.775/800, RSMo. The CD must be in an amount equal to the otherwise required bond.

(3) A CD submitted in lieu of a Missouri grain warehouse bond shall be held in a safe-deposit box of a local bank or savings and loan association by the director of the Missouri Department of Agriculture who shall act as trustee for the benefit of all persons storing grain with the warehousemen as set forth in the Missouri Grain Warehouse Law, sections 411.010-411.775/800, RSMo.

(15) In the event that the amount of the bond required under sections 411.010-411.775/800, RSMo decreases, a licensee may substitute a CD for the lesser amount; however, that substitution shall be made only at maturity of the CD in possession of the Department of Agriculture, or at such time as approved by the director.

AUTHORITY: sections 411.070(2) [RSMo 1986] and 411.277.1, RSMo [Supp. 1987] Supp. 1998. Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law**

PROPOSED AMENDMENT

2 CSR 60-4.150 Letters of Credit. The department proposes to amend this rule by changing sections (1), (2), (3), (4), (6) and (10), and deleting all forms which follow this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended: section (1), to reflect correct statute numbers and UCP form number; section (2), (4) and 10, to allow the director to use a "letter of demand" for payment of letter of credit proceeds; section (3) to include the telephone number for the public to obtain forms from the department; and section (6) to require notification of cancellation by certified mail, and to delete all forms which are a part of this rule.

(1) A letter of credit issued by a commercial bank chartered under the laws of Missouri or chartered pursuant to the National Banking Act, Title 12 U.S.C. may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain warehouse bond as required by sections 411.010–411.775] **800**, RSMo; provided, that the commercial bank adopts and adheres to the rules enumerated in the International Chamber of Commerce publication [UCP-400] UCP-500 pertaining to letters of credit and issues those letters in conformity with Article V of the *Uniform Commercial Code*, section 400.5-101, RSMo. The letter of credit must be in an amount equal to the otherwise required bond.

(2) The letter of credit shall be irrevocable and the beneficiary shall be the Missouri Department of Agriculture. Payment shall be made immediately upon presentment of a sight draft(s) or a **letter of demand** signed by the director of agriculture or his/her designated representative without accompanying supporting documentation.

(3) All letters of credit shall conform to a required format, unless waived in writing by the director of agriculture. A standard letter of credit form embodying the required format shall be made available upon the request of any licensee or prospective licensee. Forms may be obtained by directing an inquiry to the Division of Grain Inspection and Warehousing, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102 or by **telephone at 573-751-4112**.

(4) A sight draft or **letter of demand** upon a letter of credit may be presented for payment only upon the reasons that bond proceeds may be demanded for disbursement and shall apply to all claims whenever arising.

(6) Letters of credit shall have a term of one (1) year which shall be renewable automatically for additional one (1)-year terms. A letter of credit may be revoked by the licensee or issuer only at its expiration date by giving the Department of Agriculture at least ninety (90) days/'] written notice, **by certified mail**, prior to a renewal date. Notice is not deemed sufficiently given unless the

director of agriculture receives the cancellation notice in writing, **by certified mail**, at least ninety (90) days prior to the renewal date of the letter of credit. Upon the timely receipt of this notice, the licensee shall be required to arrange for substitution of a suitable bond or certificate of deposit (CD) at least sixty (60) days prior to the expiration of the letter of credit. If satisfactory evidence of these arrangements is not timely received, the director shall proceed in accordance with the provisions of section 411.275, RSMo.

(10) In the event that a plurality of letters of credit from any number of issuers are presented in satisfaction of a licensee's bonding obligation, the director may satisfy claims under the Missouri Grain Warehouse Law by presentment of sight drafts or **letter of demand** against one (1) or more letters of credit, without regard to proration.

AUTHORITY: sections 411.070(2) I, RSMo 1988] and 411.277, RSMo [Supp. 1987] Supp. 1998. Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law**

PROPOSED AMENDMENT

2 CSR 60-4.180 Claim Valuation. The department proposes to amend this rule by changing subsection (L) of section (1), and deleting all forms which follow this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to state the correct statute numbers of the Missouri Grain Dealer Law, and to delete all forms which are a part of the rule.

(1) The following words, terms and phrases when used in this rule, except where the context clearly indicates otherwise, shall mean:

(L) Storage grain—any grain received in a warehouse, including grain bank grain, unless sold in accordance with the provisions of section(s) 411.325 or 276.401–[276.581] **276.582**, RSMo;

AUTHORITY: section 411.070, RSMo [1986] Supp. 1998. Original rule filed April 19, 1989, effective June 29, 1989. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law**

PROPOSED AMENDMENT

2 CSR 60-5.010 Agricultural Commodities to be Regulated as Grain. The department proposes to amend this rule by changing the statute number in the Purpose.

PURPOSE: This rule is being changed to reflect the correct statute number in which grain is defined.

PURPOSE: This rule explains the interpretation made by the department regarding the definition of grain in section 276.401(14)(16), RSMo.

AUTHORITY: sections 276.401, [, RSMo Supp. 1987] and 276.406, RSMo [1986] Supp. 1998. Original rule filed March 12, 1982, effective June 11, 1982. Amended: Filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed Feb. 27, 1991, effective July 8, 1991. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law**

PROPOSED RESCISSION

2 CSR 60-5.020 Interpretive Rule. This rule clarified the definition of a grain dealer.

PURPOSE: This rule is being rescinded as the rule is now incorporated in the statutes.

AUTHORITY: section 276.406, RSMo 1986. Original rule filed March 15, 1982, effective June 11, 1982. Rescinded: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law**

PROPOSED RULE

2 CSR 60-5.020 Interpretive Rule

PURPOSE: This rule explains the interpretation made by the Missouri Department of Agriculture of provisions contained in sections 276.401–276.582, RSMo which may be confusing or subject to differing interpretations by interested members of the public.

(1) The provisions of section 276.426(2), RSMo, is deemed to mean—

(A) Payment for grain delivered and sold to a licensed grain dealer, with final price established at or prior to delivery, is covered under the grain dealer's security;

(B) Payment of the agreed-upon minimum price of any valid minimum price contract pursuant to 276.461(10), RSMo is covered by the grain dealer's security; and

(C) Except as provided in section (2) of this rule, payment for grain delivered to a licensed grain dealer for which title has transferred to the licensed grain dealer prior to final price being established is not covered under the grain dealer's security.

(2) For the purposes of determining coverage under the licensed grain dealer's security, grain for which a check was issued as payment by a licensed grain dealer that was not paid by the grain dealer's bank, for whatever reason, shall be deemed to be a grain dealer obligation as if the check was never written (priced but unpaid, deferred payment, delayed price, or minimum price).

AUTHORITY: section 276.406, RSMo Supp. 1998. Original rule filed March 15, 1982, effective June 11, 1982. Rescinded and readopted: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$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 Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

PROPOSED RESCISSION

2 CSR 60-5.030 Scale Tickets. This rule explained when a Class I grain dealer was required to complete a scale ticket and the information to be contained on the ticket.

PURPOSE: This rule is being rescinded as the subject matter is covered in statutes.

AUTHORITY: sections 276.406 and 276.516, RSMo 1986. Original rule filed March 15, 1982, effective June 11, 1982. Rescinded: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

PROPOSED AMENDMENT

2 CSR 60-5.040 Daily Position Record. The department proposes to amend this rule by changing the Purpose and sections (2) and (3).

PURPOSE: This rule is being amended to add class II grain dealer to the requirements of this rule.

PURPOSE: This rule requires [a] Class I and Class II grain dealers to keep a daily position record which reflects grain movements in and out of the facility and total grain in the facility.

(2) [Every] All Class I and Class II grain dealers shall have and maintain a policy for shrinkage due to operational and moisture losses. This policy shall be formulated so that calculated losses are representative of actual shrinkage incurred. Adjustments to the daily position record shall be made for shrinkage. These adjustments shall be made at periodic intervals of at least once per month.

(3) Upward or downward adjustments of the daily position record to measured inventory may be made. However, these adjustments shall be made only upon departmental approval or when so ordered by departmental auditors. No other adjustments based on measured inventory shall be made. Upward or downward adjustments of the daily position record to an actual weigh-up of inventory may be made at any time. However, the Class I or Class II grain dealer shall furnish to the department copies of scale tickets used in that weigh-up.

AUTHORITY: section 276.406, RSMo [1986] Supp. 1998. Original rule filed March 15, 1982, effective June 11, 1982. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

PROPOSED AMENDMENT

2 CSR 60-5.050 Acceptance of Appraisal Values on Financial Statements. The department proposes to amend this rule by changing subsections (1), (2), (5) and (14).

PURPOSE: This rule is being amended to allow all classes of grain dealers to submit an appraisal for values to be considered in their net worth for licensing purposes.

(1) A grain dealer holding a [Class I or Class II] Missouri grain dealer's license or an applicant for a [Class I or Class II] Missouri grain dealer's license may submit an appraisal of fixed assets, such as land, buildings and equipment, for consideration in computing net worth. However, if at any time the director determines that a serious cash flow problem exists or that current liabilities far exceed current assets, the director may disallow the use of an appraisal in computing net worth.

(2) An appraisal must be submitted by an individual or company competent and experienced in conducting appraisals and in making assessments of the fair market value of fixed assets, such as land, buildings and equipment. [(For Appraiser's Certification Form, See 2 CSR 60-4.130)]

(5) If a grain dealer holding a [Class I or Class II] Missouri grain dealer's license or an applicant for a [Class I or Class II] Missouri grain dealer's license desires to submit an appraisal, the director may require that the appraisal be conducted by an individual or professional appraisal company holding the designation Member of the Appraisal Institute (MAI) awarded by the American Institute of Real Estate Appraisers (AIREA) of the National Association of Realtors or that the appraisal be conducted by an individual or professional appraisal company who is a member in good standing of the Society of Real Estate Appraisers (SREA).

(14) To assist the appraiser in setting forth his/her qualifications, experience and other information relating to the performance of the appraisal, the director may prepare a form [(see 2 CSR 60-4.130)] for use by the appraiser. However, in addition to the appraisal form, the appraiser shall submit a copy of the actual appraisal.

AUTHORITY: sections 276.406[~~], RSMo 1986] and 276.421, RSMo [Supp. 1987] Supp. 1998. Original rule filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.~~

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law**

PROPOSED AMENDMENT

2 CSR 60-5.070 Certificates of Deposit. The department proposes to amend this rule by changing sections (1), (3), (12) and (15).

PURPOSE: This rule is being amended to reflect the correct statute numbers of the Missouri Grain Dealer Law, and to remove the requirement that grain dealer license plates be returned to the department upon the surrendering of the license.

(1) A certificate of deposit (CD) issued by a bank or savings and loan association that is a member in good standing with the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation respectively, may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain dealer bond as required by sections 276.401-~~[276.581]~~ **276.582**, RSMo. The CD must be in an amount equal to the otherwise required bond.

(3) A CD submitted in lieu of a Missouri grain dealer bond shall be held in a safe-deposit box of a local bank or savings and loan association by the director of the Missouri Department of Agriculture who shall act as trustee for the benefit of all persons selling grain to the grain dealer as set forth in the Missouri Grain Dealer Law, sections 276.401-~~[276.581]~~ **276.582**, RSMo.

(12) If a licensee desires to surrender its license and requests the return of a CD to the purchaser, the licensee must return its grain dealer license and ~~[all grain dealer license plates and]~~ make written request by registered or certified mail with return receipt for return of the CD. Upon receipt of the written request and submission of the grain dealer license, the director shall hold the CD until the director is satisfied that no claims exist, which may include a minimum ninety (90)-day holding period, before the CD is returned to the purchaser.

(15) In the event that the amount of the bond required under sections 276.401-~~[276.581]~~ **276.582**, RSMo decreases, a licensee may substitute a CD for the lesser amount; however, this substitution shall be made only at maturity of the CD in possession of the Department of Agriculture or at such time as approved by the director.

AUTHORITY: sections 276.406(2), RSMo [1986] Supp. 1998 and 276.431(1), RSMo [Supp. 1987] 1994. Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law**

PROPOSED AMENDMENT

2 CSR 60-5.080 Letters of Credit. The department proposes to amend this rule by changing sections (1), (2), (3), (4), (6), (7), (10), (11) and (14).

PURPOSE: This rule is being amended to reflect the correct statute numbers of the Missouri Grain Dealer Law, remove the requirement that a dealer surrender the grain dealer plates upon surrendering the license, allow the director to use a "letter of demand" to obtain the grain dealer security, add the telephone number of Grain Regulatory Services to the rule, and add the requirement that notice of cancellation of letter of credit be sent by certified mail.

(1) A letter of credit issued by a commercial bank chartered under the laws of Missouri or chartered pursuant to the National Banking Act, Title 12 U.S.C. may be submitted to the Missouri Department of Agriculture in lieu of a Missouri grain dealer bond as required by sections 276.401-~~[276.581]~~ **276.582**, RSMo; provided, that the commercial bank adopts and adheres to the rules enumerated in the International Chamber of Commerce publication *[UCP-400/ UCP-500]* pertaining to letters of credit and issues those letters in conformity with Article V of the *Uniform Commercial Code*, section 400.5-101, RSMo. The letter of credit must be in an amount equal to the otherwise required bond.

(2) The letter of credit shall be irrevocable and the beneficiary shall be the Missouri Department of Agriculture. Payment shall be made immediately upon presentment of a sight draft(s) or **letter of demand** signed by the director of agriculture or his/her designated representative, without accompanying supporting documentation.

(3) All letters of credit shall conform to a required format, unless waived in writing by the director of agriculture. A standard letter of credit form *[(see 2 CSR 60-4.150)]* embodying the required format shall be made available upon the request of any licensee or prospective licensee. Forms may be obtained by directing an inquiry to the Division of Grain Inspection and Warehousing, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102 or by telephone at (573) 751-4112.

(4) A sight draft or **letter of demand** upon a letter of credit may be presented for payment only upon the reasons that bond proceeds may be demanded for disbursement and shall apply to all claims whenever arising.

(6) Letters of credit shall have a term of one (1) year which shall be automatically renewable for additional one (1)-year terms. A letter of credit may be revoked by the licensee or issuer only at its expiration date by giving the Department of Agriculture at least ninety (90) days' written notice, **by certified mail**, prior to renewal date. Notice is not deemed sufficiently given unless the director of agriculture receives the cancellation notice in writing, **by certified mail**, at least ninety (90) days prior to the renewal date of the letter of credit. Upon notice timely received, the licensee shall be required to arrange for substitution of a suitable bond or certificate of deposit (CD) at least sixty (60) days prior to the expiration of the letter of credit. If satisfactory evidence of these arrangements is not timely received, the director shall proceed in accordance with the provisions of section 276.426, RSMo.

(7) If a licensee desires to surrender its license and requests the release of a letter of credit, the licensee must return its grain dealer license *[and all grain dealer license plates]* and make written request by registered or certified mail with return receipt for the release of the letter of credit. Upon receipt of the written request and the submission of the grain dealer license, the director shall hold the letter of credit until the director is satisfied that no claims exist, which may include a minimum ninety (90)-day holding period, before notice of release is transmitted to the issuer.

(10) In the event that a plurality of letters of credit from any number of issuers is presented in satisfaction of a licensee's bonding obligation, the director may satisfy claims under the Missouri Grain Dealer's Law by presentment of sight drafts or **letter of demand** against one (1) or more letters of credit, without regard to proration.

(11) A licensee shall be required to augment letters of credit in any situation where it would be required to increase its coverage under a bond *[[see 2 CSR 60-4.150 for Letter of Credit Amendment]]*; this augmentation shall be commensurate to the increased bond value required. In the event of a decreased bond requirement, a new letter of credit for the lesser amount may be substituted for a prior letter upon the renewal date of the letter of credit, or at such time as approved by the director.

(14) When the director has made written demand for payment of a letter of credit, the letter shall be considered paid if the issuing bank, within three (3) days of the bank's receipt of that demand, pays the sum demanded to the director, the sum demanded or if the issuing bank deposits, at a bank designated by the director, in an escrow account solely in the name of the director within three (3) days of the bank's receipt of that demand. Deposit of the sum demanded in the escrow account shall not constitute refusal or failure of the issuing bank to pay the sum demanded to the director and shall prevent a penalty assessment for refusal or failure to pay the sum demanded to the director. When the sum demanded is deposited in the escrow account, the funds shall remain in the escrow account until the liability of the bank has been determined in accordance with sections 276.401-~~276.581~~ **276.582**, RSMo. In the event that a penalty assessment is necessary in accordance with sections 276.401-~~276.581~~ **276.582**, RSMo, this penalty assessment shall begin on the fourth day following the date of the bank's receipt of written demand for payment by the director and shall be assessed at the rate of one-seventh (1/7) of a week for each day of delay.

AUTHORITY: sections 276.406, RSMo [1986] Supp. 1998 and 276.431, RSMo [Supp. 1987] 1994. Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 60—Grain Inspection and Warehousing Chapter 5—Missouri Grain Dealer's Law

PROPOSED AMENDMENT

2 CSR 60-5.100 Preparation of Financial Statements. The department proposes to amend this rule by changing sections (1) and (2), and deleting sections (3) and (7).

PURPOSE: This rule is being amended to reflect the statute change requiring a certified public accountant to prepare a review or audit level financial statement, and to remove the requirement that the accountant certify that they are qualified to prepare the financial statements.

[EDITOR'S NOTE: Except where indicated, the forms mentioned in this rule follow 2 CSR 60-4.110.]

(1) The following definitions shall apply to these rules:

(F) *[Public accountant or c]* Certified public accountant—Any person permitted to engage in the practice of public accounting under Chapter 326, RSMo;

(G) Qualified accountant—A *[person]* **certified public accountant** competent in the application of GAAP provided that this person is not the applicant. Also, that if the applicant is an individual, this person is not an employee of the applicant, or if the applicant is a corporation or partnership, this person is not an officer, shareholder, partner or employee of the applicant; and

(2) All applicants for a Missouri grain dealer license shall submit a balance sheet and a statement of income and expenses *[[see 2 CSR 60-4.080 for Application]]*. The financial statements shall be no more than six (6) months old, unless waived by the director. If waived, the director may require interim financial statements as s/he deems necessary. The financial statements shall be prepared by a *[qualified]* **certified public** accountant in accordance with these rules. If the applicant's *[qualified]* **certified public** accountant has prepared a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements, then these items shall also be submitted.

[[3] If an applicant submits financial statements as submitted to a bank, these financial statements shall be prepared by a qualified accountant in accordance with these rules. If the financial statements are prepared by a bank officer or other employee of the bank, the person shall be

a qualified accountant and shall prepare the financial statements in accordance with these rules. Financial statements compiled or prepared by a qualified accountant who is not also a certified public accountant or public accountant shall not contain an opinion by this person regarding the financial statements.]

[(4)](3) The applicant shall submit copies of the financial statements submitted to the applicant's bonding company, or submitted to the Commodity Credit Corporation in support of a Uniform Grain Storage Agreement, or submitted to the United States Department of Agriculture in support of a federal warehouse license if these financial statements are prepared as of a different date, or for a different period of time, or to show different amounts than those submitted with the application for a Missouri grain dealer license.

[(5)](4) The financial statements required by these rules shall be prepared in accordance with GAAP, except as otherwise allowed or required by these rules.

[(6)](5) All financial statements required by these rules shall be prepared on the accrual basis of accounting unless waived by the director. If waived, the director may require the applicant to provide an estimate, prepared by the applicant's qualified accountant, of the effect of converting the financial statements to the accrual basis of accounting.

[(7)] *The qualified accountant shall certify on a form prescribed by the director that s/he is a qualified accountant.]*

[(8)](6) If the applicant is an individual, the applicant shall submit a balance sheet and a statement of income and expenses for the proprietorship business in accordance with GAAP. If the applicant is an individual, the applicant shall also submit a personal balance sheet. The applicant, in lieu of submitting a business and a personal balance sheet, may submit a combined balance sheet. Personal nonbusiness assets should be shown at the lower of historical cost or estimated fair market value. If the applicant is an individual and desires to show estimated current values that are higher than the historical cost basis for the proprietorship business balance sheet, the personal balance sheet or the combined balance sheet, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

[(9)](7) If the applicant is a partnership, the applicant shall submit a balance sheet and a statement of income and expenses for the partnership business in accordance with GAAP. Only the partnership assets and liabilities will be considered in computing net worth. The personal financial statements for the individual partners will not be considered in computing net worth.

[(10)](8) If the applicant is a partnership and desires to show estimated current values that are higher than the historical cost basis, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

[(11)](9) If the applicant is a partnership, a copy of a written partnership agreement shall be submitted.

[(12)](10) If the applicant is a corporation, the applicant shall submit a balance sheet and a statement of income and expenses for the corporation in accordance with GAAP. If the applicant is a corporation and desires to show estimated current values that are higher than the historical cost basis, the estimated current values should be accompanied by a qualified appraisal. If a qualified appraisal is

accepted, appropriate adjustments to the balance sheet will be made by the Missouri Department of Agriculture.

[(13)](11) If the applicant is a corporation and is a part of a majority- or wholly-owned corporate parent/subsidiary relationship, the applicant shall submit the financial statements required by these rules for the applicant and the consolidated financial statements. For licensing purposes, the director may use the applicant's net worth or the consolidated net worth. If the applicant is a wholly- or majority-owned subsidiary, the director may require the applicant to submit a corporate letter of guaranty from the parent company on a form prescribed by the director.

[(14)](12) If the applicant is a corporation and is a part of a group of related corporations that do business with each other where the same individual or partnership owns a controlling interest in all of the corporations, the applicant shall submit the required financial statements for the applicant and the combined financial statements for the group of related corporations.

[(15)](13) In determining allowable net worth for licensing purposes, the director shall disallow the following assets if s/he is of the opinion that these assets are withdrawals of equity or that these assets are uncollectible: 1) notes receivable due from stockholders, 2) accounts receivable, 3) advances to affiliates, 4) investments [are] or equities in cooperatives, and 5) goodwill. The director may also disallow other assets that in his/her opinion are or may be withdrawals of equity, or that are or may be uncollectible.

AUTHORITY: sections 276.406], RSMo 1986] and 276.421, RSMo [Supp. 1987] Supp. 1998. This rule was previously filed as 2 CSR 60-5.090. Original rule filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law**

PROPOSED RULE

2 CSR 60-5.120 Fees

PURPOSE: This rule states what fees shall be charged when not specified by statute. This rule sets fees allowed in 276.423, RSMo.

(1) The fees allowed by section 276.423, RSMo, if not specified, shall be the same rates as specified in 276.506, RSMo.

AUTHORITY: section 276.406, RSMo Supp. 1998. Original rule filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$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 Division of Grain Inspection and Warehousing, Charles Ausfahl, Director, P.O. Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

2 CSR 80-2.180 Adoption of the Grade A Pasteurized Milk Ordinance with Administrative Procedures—[1989] Recommendations of the United States Public Health Service/Food and Drug Administration (PMO) [by Reference]. The board is revising the reference citation in this rule.

PURPOSE: This amendment provides for the adoption of the Grade A Pasteurized Milk Ordinance with Administrative Procedures—Recommendations of the United States Public Health Service/Food and Drug Administration (PMO).

PURPOSE: This rule provides for the adoption [by reference] of the Grade A Pasteurized Milk Ordinance with Administrative Procedures—[1989] Recommendations of the United States Public Health Service/Food and Drug Administration (PMO) which is [a] the recommended ordinance for adoption by state and local governments for the sanitary control of Grade A milk and milk products.

(1) The *Grade A Pasteurized Milk Ordinance with Administrative Procedures—[1989] Recommendations of the United States Public Health Service/Food and Drug Administration (PMO)* establishes minimum standards which must be complied with for satisfactorily producing and for processing Grade A raw milk for pasteurization and Grade A pasteurized milk and milk products in **Missouri**. The document further contains administrative procedures which provide information as to satisfactory compliance with the required items of sanitation.

AUTHORITY: section 196.939, RSMo [Supp. 1993] 1994. Original rule filed March 11, 1980, effective July 1, 1980. Amended: Filed Feb. 1, 1990, effective April 26, 1990. Emergency amendment filed Oct. 25, 1999, effective Nov. 4, 1999, expires May 1, 2000. Amended: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Milk Board, Terry S. Long, Executive Secretary, 915-C Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received on or before January 2, 2000. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 1—Wildlife Code: Organization**

PROPOSED AMENDMENT

3 CSR 10-1.010 Organization and Methods of Operation. The department is amending sections (2)–(4).

PURPOSE: State departments are required by sections 536.023(3) and 252.002, RSMo to provide descriptions of their organizations. This amendment reflects an organizational change by creation of a new subsection and minor editorial changes—all authorized by the Conservation Commission in the internal organization of the Department of Conservation.

(2) The commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees and is assisted by a deputy director with programs and activities carried out by the divisions of fisheries, wildlife, forestry, protection, design and development, outreach and education, administrative services, and by the sections of **private land services**, natural history and human resources. An assistant to director provides leadership for special projects and initiatives as assigned by the director; notably legislative liaison, partnerships with other entities, etc.

(3) The department carries out its programs through the following major administrative units—

(B) Wildlife administers hunting seasons; *[provides wildlife damage control assistance;]* acquires, develops and manages public hunting and other conservation areas; assists private landowners with wildlife habitat efforts; cooperates with federal and state agencies and farm organizations in wildlife management; and conducts research to provide current information on the status of wildlife populations, develops improved management methods and promotes preservation and enhancement of wildlife habitat.

(G) Administrative Services administers the department's support services of information *[management and]* technology, policy coordination, fiscal services and general services. Information *[management and]* technology provides direction and management of the department's information technology assets; defines technology solutions to meet business needs; supports employees' use of those assets, including computer hardware and software systems, telephone systems, two-way radio and other telecommunications systems; and coordination of those systems with other state agencies. Policy coordination provides liaison with federal, state and private concerns on activities involving fish, wildlife and forestry resources; facilitates and coordinates department strategic and other long-range planning; conducts constituency surveys; coordinates geographical information system functions; negotiates for purchase of real property; and manages in-lieu-of tax payments. Fiscal services collects and processes funds received; processes accounts payable; distributes hunting, fishing and special permits; audits permit distributors; maintains inventory records, including the department's real property holdings; and coordinates federal aid programs and funds. General services is responsible for procurement, repair and disposition of fleet, marine and other mechanical equipment; management of the aircraft fleet; maintenance of a distribution center and warehouse for department publications, products and media loan service; operation of offset printing, mailing and sign production services; and provides building and grounds maintenance.

(H) **Private Land Services provides technical assistance and resource training to private landowners; participates in media and other outreach efforts for resource management; coordinates with other governmental agencies and private organizations to integrate fish, forest, wildlife and natural community considerations with agriculture and other private land initiatives; provides cost-share to assist landowners with priority resource needs; and provides wildlife damage control assistance.**

[(H)](I) Natural History administers the department's natural areas program; coordinates endangered species activities; and provides specialized service in natural history interpretation and coordination of management for nonconsumptive uses of wildlife resources and lands.

[(I)](J) Human Resources recruits employees; maintains personnel records, benefits and compensation; administers the group insurance program, workers' compensation and safety programs; conducts the affirmative action program and new employee orientation, as well as in-service training in human relations, personal communications and supervisory skills.

[(J)](K) General Counsel provides legal advice to the commission and administrative staff; aids in formulating policy; advises in the formulation of regulations; and performs title search related to the acquisition of real property.

[(K)](L) Internal Auditor reviews operations and programs to assure that resources are used efficiently, and provides the commission and administration with information useful in directing and controlling department operations.

(4) *[The]* Conservation Commission *[meets monthly and]* meetings are open to the public. Some of the meetings are held in Jefferson City, with the remainder in various locations throughout the state, often at the invitation of interested local citizens. Any person may be scheduled on a meeting agenda to make a presentation to the commission by submitting a written request to the director at least ten (10) working days prior to a meeting date. Comments or suggestions by letter are always welcomed. Information relating to conservation may be obtained by writing to the director or appropriate staff members, or by calling any conservation office.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 28, 1974, effective July 8, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 25, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, P.O. Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

PROPOSED AMENDMENT

11 CSR 45-9.030 Minimum Internal Control Standards. The commission is updating Appendix A, which is incorporated by reference.

PURPOSE: A comprehensive overview was conducted of the MICS to remove inconsistencies therein and to update the MICS to ensure that they conform with regulations and statutes since enacted. When the Commission adopted the current version, MICS from another state were used, and some of the MICS as originally adopted were inconsistent with riverboat gaming in Missouri.

AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo 1994. 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 June 4, 1999. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment may cost private entities more than \$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 Gaming Commission, P. O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000 at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: Chapter 9

Type of Rulemaking: Proposed Amendment to Rule

Rule Number and Name: 9.030 Minimum Internal Control Standards

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Fifteen riverboat gaming operations	Riverboat gaming operations	Estimates received ranged from \$0.00 to \$220,000 (see below)

III. WORKSHEET

As comprehensive changes were made to the Minimum Internal Control Standards, the Commission's legal staff sent invitations to the general managers to give the Commission estimates of the costs that would be incurred due to the proposed changes. Of the fifteen riverboat operations, six responded.

The Aztar commented that they could implement the changes with minimal or no cost. The Argosy indicated that they were unsure of any additional costs associated with implementing the proposed changes, however, they indicated that the proposed 2:1 ratio of hardcount personnel to security personnel, M.I.C.S. section G-11(a) and (b), might have a financial impact. Due to additional comments received on this section from Harrah's North Kansas City and Harrah's Maryland Heights, changes were made to make the cost less onerous. The 2:1 ratio was retained in (a). However, the language concerning "additional" security officers was changed to "sufficient" security officers to allow greater flexibility in (b).

Harrah's North Kansas City (two riverboats) indicated that the proposed addition to M.I.C.S. section A-10 that would require employees to receive copies of the I.C.S. that deal with their specific job function would cost an estimated \$50,000 initially, and \$20,000 for every year thereafter. The Commission changed the proposed wording of that section so that individual employees will not have to be given individual copies of the I.C.S.'s to keep. They will still have

to read a copy maintained by the riverboat and sign an affidavit that they have read them, however. They further stated that the section quoted above by Argosy, M.I.C.S. section G-11(a) and (b), would require the addition of six additional security personnel that would cost an additional \$150,000 a year. As stated above, the Commission has changed the language to make the cost to the private entity less onerous. Finally, they stated that the proposed change to section L-3(d)(1)(d) that requires the comparing of data from pit tracking records to cage MTL's to determine if the required communication was taking place to ensure that suspicious CTRC's were being properly prepared, would cost the company \$20,000 because of an estimated additional four hours of audit time. The Commission has not made any changes to this section as Harrah's North Kansas City was the only operation to indicate such a cost would be incurred. In addition, the Commission feels that this section is necessary to ensure compliance with the regulations.

Harrah's Maryland Heights (two boats) indicated that M.I.C.S. section A-10 (see Harrah's North Kansas City above) would cause them to incur \$10,000 in additional printing costs. The Commission's response stated above should lessen this considerably. They also indicated that the proposed change to E-8 requiring hopper fill bags prepared in the main cage to electronically weighed and verified would cause them to incur \$5,400 in expenses for acquiring new scales. The Commission has not made any changes to this section as Harrah's Maryland Heights was the only operation to indicate such a cost would be necessary. In addition, the Commission feels such a cost is reasonable in light of the desire to cut down on or eliminate the possibility of theft. The final section noted by Harrah's Maryland Heights concerns section G-11(b), previously discussed above. They noted that in the proposed form, they would incur \$27,378 in additional labor costs. As stated above, the Commission has changed the language in an attempt to make the cost to the private entity less onerous.

IV. ASSUMPTIONS

The Commission assumes that the changes made as to the concerns above will lessen the cost to the affected entities.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED AMENDMENT

11 CSR 45-30.180 Inventory and Ownership of Bingo Equipment. The commission is adding a new section (2).

PURPOSE: This amendment clarifies that each bingo licensee must maintain a separate inventory of the bingo products used during their bingo occasion, pursuant to section 313.025, RSMo. This requirement will assist the commission in assuring an audit trail is established to ensure the applicable taxes are reported and paid pursuant to sections 313.055 and 313.057, RSMo.

(2) Each licensee shall keep a separate inventory of bingo paper and pull tabs. Bingo paper and pull tabs purchased by one licensee may not be used during another licensee's game without prior approval from the commission.

AUTHORITY: section 313.065, RSMo [Supp. 1993] Supp. 1998. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate. Private entities who feel there is cost which exceeds \$500 associated with this proposed amendment are requested to submit the cost (estimated or actual, if available) with the comments.

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 Public Safety, Missouri Gaming Commission, Bingo Division, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000, at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED AMENDMENT

11 CSR 45-30.190 Rules of Play. The commission is amending section (2) and adding a new section (3).

PURPOSE: This amendment clarifies that game operators must start each new bingo game on a new card or sheet for all bingo games conducted, pursuant to section 313.005(1), RSMo.

(2) The amount of the prize and the permissible winning combination/(s) must be clearly announced prior to the start of each game. Verification of the winner of each game shall be openly conducted in the presence of the majority of the players. In the event of multiple winners in any single game, substitute prizes, not to exceed the aggregate announced dollar prize of the game, shall be awarded. All seventy-five (75) objects or balls must be present within the receptacle before each game is started. The physical

drawing of the objects shall be visible to the majority of players and numbers must be announced so that they are clearly heard by all players of that game. All disputes between the players and the licensed organization regarding prizes must be settled between the player(s) and the organization.

(3) When a player achieves the preannounced winning combination and the winning combination is verified, the next game must be commenced with a new bingo card or sheet.

AUTHORITY: section 313.065, RSMo [Supp. 1997] Supp. 1998. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed May 13, 1998, effective Dec. 30, 1998. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate. Private entities who feel there is cost which exceeds \$500 associated with this proposed amendment are requested to submit the cost (estimated or actual, if available) with the comments.

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 Public Safety, Missouri Gaming Commission, Bingo Division, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000, at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED AMENDMENT

11 CSR 45-30.210 Reports. The commission is adding a new section (5).

PURPOSE: This amendment requires licensees to file a progressive game activity report with their quarterly report for each progressive game conducted.

(5) Each licensee must submit with their quarterly report a progressive game activity report for each progressive game conducted. The report must indicate the date of each occasion, the progressive prize offered, the consolation prize offered, number of balls needed to win the progressive prize and the prize amount awarded.

AUTHORITY: section 313.065, RSMo [1994] Supp. 1998. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate. Private entities who feel there is cost which exceeds \$500 associated with this proposed amendment are requested to submit the cost (estimated or actual, if available) with the comments.

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 Public Safety, Missouri Gaming Commission, Bingo Division, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000, at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED AMENDMENT

11 CSR 45-30.220 Bank Account. The commission is adding new sections (2) and (3).

PURPOSE: This amendment requires licensees to separately account for the cash used as game start-up money and prohibits the commingling of bingo receipts and disbursements with the financial records of other activities of the organization pursuant to section 313.040, RSMo.

(2) If an organization uses starting cash, a check must be written to a financial institution, retail establishment or to a charitable organization, to obtain the starting cash, and the starting cash must be redeposited into the bingo checking account no later than the next business day.

(3) Game operators may not deposit receipts from any other fund-raising activities of the organization into the bingo checking account; except as needed, game operators may transfer funds from another account into the bingo checking account to cover bingo game related expenses. Any monies deposited into the bingo checking are deemed to be bingo proceeds and can only be used to pay bingo game expenses or for religious, charitable or philanthropic purposes.

AUTHORITY: section 313.065, RSMo [Supp. 1996] Supp. 1998. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Aug. 5, 1996, effective March 30, 1997. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate. Private entities who feel there is cost which exceeds \$500 associated with this proposed amendment are requested to submit the cost (estimated or actual, if available) with the comments.

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 Public Safety, Missouri Gaming Commission, Bingo Division, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice

in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000, at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED AMENDMENT

11 CSR 45-30.280 Net Receipts from Bingo. The commission is adding new sections (3) and (4).

PURPOSE: This proposed amendment would require game operators to give the commission access to any account into which bingo proceeds are deposited or transferred, to ensure bingo proceeds are used for religious, charitable or philanthropic purposes pursuant to Article III, Sections (39)(a)(1) of the constitution and section 313.040.1, RSMo.

(3) The commission, upon request may examine any account into which bingo proceeds are deposited or transferred.

(4) Any licensee who denies the commission access to any account into which bingo proceeds are deposited or transferred, may have its license suspended until such access is granted.

AUTHORITY: section 313.065, RSMo [Supp. 1993] Supp. 1998. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate. Private Entities who feel there is cost which exceeds \$500 associated with this proposed amendment are requested to submit the cost (estimated or actual, if available) with the comments.

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 Public Safety, Missouri Gaming Commission, Bingo Division, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000, at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED AMENDMENT

11 CSR 45-30.370 Progressive Games. The commission is amending sections (1)–(5) and (7)–(9).

PURPOSE: This amendment clarifies the conduct and number of progressives bingo games which can be conducted by licensed bingo operators pursuant section 313.013, RSMo.

(1) A progressive game is one in which the established prize amount **and the number of bingo balls called** must *[be]* increase/*d]* from one occasion to the next scheduled occasion, if no player completes the required **winning** pattern within the specified number of bingo balls drawn **as posted by the game operator**.

(2) *[Only one (1)]* **Two (2)** progressive games may be conducted per occasion.

(3) A prize for a progressive game may start at an amount not to exceed one thousand dollars (\$1,000) and *[may]* **must** be increased by no more than two hundred fifty dollars (\$250) for each occasion during which the progressive game is played.

(4) If the progressive game prize is not awarded at a bingo occasion, the progressive game shall be continued at *[a future]* **each succeeding** occasion until such time a winner is determined. The winning prize does not have to be the full amount, but *[a]* **one** stated consolation prize may be **offered and** awarded. The consolation prize is exempt from section 313.040(4), RSMo; however, the consolation prize must be less than the value of the progressive game prize amount and only (1) consolation prize may be offered and/or awarded per occasion.

(5) All progressive bingo games must be fully described and posted in the house rules prior to the start of the occasion and must comply with all other statutory and rule and regulation requirements. **Said description shall include dates and times when the progressive games shall be played to include type (B) special events, if any. Each game operator must submit a progressive game activity report for each progressive game with their quarterly report as defined in 11 CSR 45-30.210. The report must indicate the date, progressive prize offered, number of balls needed to win progressive prize and prize amount awarded.**

(7) Each operator's/licensee's progressive game set of rule/*[s]* must remain in effect until the game ends and the winner/*[s]* is determined.

(8) **Type (A) licensees may conduct progressive games during a type (B) occasion as defined in 11 CSR 45-30.065, if approval is granted by the commission prior to the licensed event. The occasion must be open to the public. However, *[P]* progressive games may not be conducted in conjunction with a type (B) Special Event only Bingo License.**

(9) An operator may not cease bingo operations unless the progressive bingo game **in play** is completed and prize is awarded, unless prior approval has been received from the commission.

AUTHORITY: section 313.065, RSMo Supp. 1998. Emergency rule filed Aug. 5, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Original rule filed Aug. 5, 1996, effective March 30, 1997. Amended: Filed May 6, 1999. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate. Private entities who feel there is cost which exceeds \$500 associated with this proposed amendment are requested to submit the cost (estimated or actual, if available) with the comments.

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 Public Safety, Missouri Gaming Commission, Bingo Division, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on January 5, 2000, at the Jefferson City office located at 3417 Knipp Drive, Jefferson City, Missouri.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

PROPOSED RESCISSION

11 CSR 50-2.350 Applicability of Motor Vehicle Emission Inspection. This rule identified the geographical area of the emission inspection program and the vehicles which were required to be emission tested.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Emergency amendment filed Dec. 22, 1983, effective Jan. 6, 1984, expired May 5, 1984. Amended: Filed Jan. 13, 1984, effective April 12, 1984. Emergency amendment filed Jan. 23, 1984, effective Feb. 3, 1984, expired May 25, 1984. Amended: Filed Feb. 10, 1984, effective May 11, 1984. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Emergency amendment filed Aug. 3, 1992, effective Aug. 28, 1992, expired Dec. 25, 1992. Emergency amendment filed Nov. 2, 1992, effective Dec. 26, 1992, expired April 24, 1993. Amended: Filed Aug. 3, 1992, effective Feb. 26, 1993. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

PROPOSED RESCISSION

11 CSR 50-2.360 Emission Fee. This rule identified the fee to be charged for performing an emission inspection.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Emergency amendment filed Aug. 3, 1992, effective Aug. 28, 1992, expired Dec. 25, 1992. Emergency amendment filed Nov. 2, 1992, effective Dec. 26, 1992, expired April 24, 1993. Amended: Filed Aug. 3, 1992, effective Feb. 26, 1993. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.370 Inspection Station Licensing. This rule outlined minimum inspection station requirements for licensing emission inspection stations.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed April 2, 1987, effective June 25, 1987. Amended: Filed May 31, 1990, effective Dec. 31, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.380 Inspector/Mechanic Licensing. This rule outlined minimum requirements for licensing of inspector/mechanics to perform emission inspection tests.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed June 2, 1993, effective Nov. 8, 1993. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.390 Safety/Emission Stickers. This rule established procedures to be followed by inspector/mechanics when issuing safety/emission stickers and in purchasing safety/emission stickers from the Missouri State Highway Patrol.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Amended: Filed Aug. 14, 1987, effective Nov. 12, 1987. Emergency amendment filed Aug. 3, 1992, effective Aug. 28, 1992, expired Dec. 25, 1992. Emergency amendment filed Nov. 2, 1992, effective Dec. 26, 1992, expired April 24, 1993. Amended: Filed Aug. 3, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 3, 1994, effective April 30, 1995. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.401 General Specifications. This rule described the general specifications of the Missouri Analyzer System. The Analyzer System has been used to perform state inspections on motor vehicles in specified areas of the state.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed March 5, 1990, effective June 28, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.402 MAS Software Functions. This rule described the software functions of the Missouri Analyzer System.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed March 5, 1990, effective June 28, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.403 Missouri Analyzer System (MAS) Display and Program Requirements. This rule described the computer screen displays and the software programming requirements of the Missouri Analyzer System.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed March 5, 1990, effective June 28, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.404 Test Record Specifications. This rule described the vehicle test record and calibration data file formats for the Missouri Analyzer System. The test record and calibration data stored the vehicle inspection and gas calibration data generated in the operation of the analyzer.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Feb. 16, 1990, effective June 28, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.405 Vehicle Inspection Certificate, Vehicle Inspection Report and Printer Function Specifications. This rule described the vehicle inspection certificate, vehicle inspection report and printer functions for the Missouri Analyzer System. The system used one printer for printing inspection certificates and another for the vehicle inspection report and general printing.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed March 5, 1990, effective June 28, 1990. Amended: Filed April 2, 1992, effective Sept. 26, 1992. Amended: Filed June 2, 1993, effective Nov. 8, 1993. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.406 Technical Specifications for the MAS. This rule described the technical specifications for the Missouri Analyzer System. The technical specifications included the maintenance functions to be performed by the analyzers, the operating conditions and the hardware.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed March 5, 1990, effective June 28, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.407 Documentation, Logistics and Warranty Requirements. This rule described the documentation, logistics and warranty requirements for the Missouri analyzer specification.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed March 5, 1990, effective June 28, 1990. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.410 Vehicles Failing Reinspection. This rule outlined procedures to be followed by inspection station operators and inspector/mechanics when a vehicle failed reinspection.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Amended: Filed May 31, 1990, effective Dec. 31, 1990. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED RESCISSION

11 CSR 50-2.420 Procedures for Conducting Only Emission Tests. This rule provided a procedure for conducting only an emission inspection on motor vehicles which had been safety inspected within the past sixty days.

PURPOSE: The purpose of this rescission is to rescind a rule that is no longer applicable due to the passage of legislation which shifts the responsibility for the emission inspection program to the Department of Natural Resources.

AUTHORITY: section 307.366, RSMo 1994. Emergency rule filed Dec. 27, 1983, effective Jan. 6, 1984, expired May 5, 1984. Original rule filed Jan. 13, 1984, effective April 12, 1984. Amended: Filed May 31, 1990, effective Dec. 31, 1990. Emergency amendment filed Aug. 3, 1992, effective Aug. 28, 1992, expired Dec. 25, 1992. Emergency amendment filed Nov. 2, 1992, effective Dec. 26, 1992, expired April 24, 1993. Amended: Filed Aug. 3, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 3, 1994, effective April 30, 1995. Emergency rescission filed Nov. 1, 1999, effective Jan. 1, 2000, expires June 28, 2000. Rescinded: Filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$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 Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—[Division of Water Safety] Missouri State
Water Patrol
Chapter 5—Aids to Navigation and Regulatory
Markers**

PROPOSED AMENDMENT

11 CSR 80-5.010 Approval of Aids to Navigation and Regulatory Markers. The division is amending the Purpose and section (1) as section (1) and (9) and adding new sections (2)–(8), and (10).

PURPOSE: This amendment is to include guidelines for buoy applications and hearings, as well as to bring the rule (as it exists) current regarding technical information about the Missouri State Water Patrol.

PURPOSE: [Under section 306.124, RSMo, the Department of Public Safety shall establish a uniform marking system for aids to navigation and regulatory markers for the public safety and welfare.] This rule regulates the placement of aids to navigation and regulatory markers on the water areas of the state of Missouri to ensure that such aids and markers are uniform and promote the public safety and welfare.

(1) All persons requesting permission to place or have placed an aid to navigation or regulatory marker as defined in section 306.124, RSMo on the waters of the state of Missouri must complete an application form supplied by the [Division of Water Safety] Missouri State Water Patrol, P.O. Box [603] 1368, Jefferson City, MO 65102-[0603] 1368. All applications must be submitted to the [Division of Water Safety] Missouri State Water Patrol General Headquarters in Jefferson City at least thirty (30) days before the date permission is requested. The application will be reviewed by the [Division of Water Safety] Missouri State Water Patrol at a public [buoy] hearing after notice of the hearing has been published in the county paper at least ten (10) days before the hearing. **Hearings will be conducted only between April 1 and the third Monday in September.** The commissioner of the [Division of Water Safety] Missouri State Water Patrol, or his/her designated representative, shall approve or disapprove all applications within a reasonable length of time after the conclusion of the hearing.

(2) Applications for buoys one hundred feet (100') from a dock—

(A) Applications must include a copy of the applicant's dock permit (306.903, RSMo);

(B) The application must include a diagram of the cove, the distance between the most lakeward portion of the applicant's dock and the dock(s) on the opposite side of the cove;

(C) The application must show the proposed placement of the buoy(s) requested in relationship to the applicant's dock;

(D) Docks that are within one hundred feet (100') of the applicant's dock must be indicated on the application; and

(E) Because of increased potential for boating accidents due to constricting of traffic lanes, "no wake-idle speed" buoys will not be approved for docks that are less than three hundred feet (300') from a dock on the opposite side of the cove.

(3) Applications to buoy the full width of a cove—

(A) If the width of the cove is such that the distance between docks on opposite sides of the cove is in excess of four hundred feet (400'), the cove shall not be buoyed unless in the opinion of officials of the Missouri State Water Patrol the volume of boating traffic is significantly disproportionate to similar coves on the same body of water, or traffic accident data support the need for "idle speed-no wake" buoys;

(B) Applications to buoy coves that have a distance of four hundred feet (400') or less between docks on opposite sides of

the cove must include a plot map of the cove with all affected owners names on their plot (306.903, RSMo);

(C) The application must include a petition signed by a minimum of seventy-five percent (75%) of the property owners. The signature petition shall include each property owner's dock permit number;

(D) The applicant is responsible for submitting proof of property ownership and documentation that seventy-five percent (75%) or more of property owners are in agreement;

(E) There will be a one (1) property, one (1) vote rule applied, to be determined by property tax receipts;

(F) Second tier homeowners and condominium owners may sign the petition if they own or lease a dock. Second tier owners may prove ownership by personal property tax receipts;

(G) Placement of buoys in a diagonal pattern, rather than a straight line, may be permitted if the shoreline and situation necessitate such a pattern;

(H) If there are permitted buoys within the area that is to be controlled upon approval, the permit number of the existing buoys must be submitted with the application. If the new application is approved, all existing permits within the new controlled area will be cancelled and the previously permitted buoys removed;

(I) Owners of property within a permitted area may, by petition, request a revocation of permitted buoys. Revocation will only be considered, however, if twenty-six percent (26%) or more of property owners sign the petition requesting revocation. The one (1) property, one (1) vote rule applies;

(J) Approved buoys for a "no wake-idle speed" cove shall be placed one hundred feet (100') below or prior to the first dock affected, unless it would extend the buoys into the main channel;

(K) If a cove is such that it has a bottleneck effect within the cove and then opens up in excess of four hundred feet (400') between docks on opposite sides, the property owners may petition for "no wake-idle speed" buoys to control speed within the bottleneck and one hundred feet (100') on each side. The permittee shall be required to place a four feet by six feet (4' x 6') sign on a dock or approved structure at each end of the zone reading, "no wake-idle speed" and conforming to prescribed markings. The sign must face boaters when entering the controlled zone from either side; and

(L) Lighted signs and flashing lights on buoys will be discouraged unless one hundred percent (100%) of the property owners in the affected cove agree to the application for lights. All property owners within two hundred feet (200') of the marked "no wake-idle speed" zone must agree to all proposed lighting schemes. If lighted signs or buoys are approved, affected property owners may, by petition, request to have the lights removed. The Missouri State Water Patrol Buoy Committee may not consider removal of permitted lights unless the petition to remove the lights bears the validated signatures of twenty-six percent (26%) or more of the current property owners in the permitted area. Shoreline property owners within two hundred feet (200') of the permitted area may be included in the revocation petition.

(4) Modification(s) to an existing buoy permit must be approved by the Missouri State Water Patrol. A request to relocate existing permitted buoys will require a new application and hearing. New applications must conform to the above rules. Modifications of an existing permit for name or ownership change only, does not require a new hearing.

(5) Buoy applications for the same general area will be considered not more than two (2) times in a calendar year.

(6) For all buoy application concerns, a personal watercraft is considered a boat for all legal purposes.

(7) All rejected buoy applications shall be granted one (1) appeal for the same location. Appeal hearings will normally be held at Missouri State Water Patrol General Headquarters in Jefferson City. Either the commissioner or the director of field services will hear the appeal.

(8) Temporary buoy permits for regattas, construction sites, etc., will each be considered on their own merits.

(9) It will be the responsibility of the applicant to purchase, install and maintain all approved buoys. The buoys must be installed within sixty (60) days of the approval date. The *[Division of Water Safety]* Missouri State Water Patrol will mark approved buoy(s) for identification purposes by affixing to each buoy a metal stick-on tag showing the buoy permit number. All buoys must have reflective tape. If the buoys are removed during the winter months they must be replaced prior to May 1 of each year. The commissioner of the *[Division of Water Safety]* Missouri State Water Patrol may revoke the permit of any applicant upon failure to abide by these rules, if the buoy installation and placement is not in good maintenance and repair, not at specified locations as indicated on approval sent to the applicant by the commissioner or for the well-being of the public health and welfare as determined necessary by the commissioner upon a fifteen (15)-day written notice to the applicant. Buoys that have shifted in position because of water level, boat waves or some force of nature and the buoy still performs the purpose set forth in the application shall remain a legal navigation marker unless determined otherwise by the commissioner.

(10) The Missouri State Water Patrol retains, pursuant to section 306.124, RSMo, sole discretion to provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. Nothing in this rule shall be construed to create in any other party any right or entitlement to the privilege of placing such aids or markers or any legal duty on behalf of the Missouri State Water Patrol to approve or disapprove any request to place such aids or markers.

AUTHORITY: section 306.124, RSMo [1986] 1994. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed Aug. 25, 1977, effective Jan. 13, 1978. Amended: Filed Sept. 13, 1983, effective Jan. 13, 1984. Amended: Filed May 31, 1984, effective Sept. 14, 1984. Amended: Filed Oct. 29, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED RULE

12 CSR 10-23.450 Guidelines for Use of Handicapped Parking Cones.

PURPOSE: This rule establishes guidelines for the use of handicapped parking cones.

(1) Any person who is issued disabled person license plates or a removable windshield placard and who uses a wheelchair or transports a person who uses a wheelchair, may utilize a parking cone bearing the international symbol of accessibility and the words "wheelchair parking space."

(2) Parking cones shall be predominantly orange, fluorescent red-orange or fluorescent yellow-orange, not less than eighteen (18) inches (18") in height and shall be made of a material that can be struck without damaging vehicles on impact.

(3) Any cone that conforms to the requirements of this provision will be sufficient for use by such person without further authorization from the director.

AUTHORITY: section 301.139, RSMo Supp. 1999. Original rule filed Oct. 27, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

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

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

PROPOSED RULE

12 CSR 10-26.010 Bona Fide Established Place of Business

PURPOSE: The department must determine that applicants/licenses such as boat dealers, boat manufacturers, motor vehicle dealers, wholesale motor vehicle dealers, motor vehicle manufacturers, public motor vehicle auctions and wholesale motor vehicle auctions maintain a bona fide established place of business. This rule establishes criteria that may be used in determining if this requirement has been met.

(1) In order to constitute a bona fide established place of business, hereinafter referred to as a "business location," for boat dealers, boat manufacturers, motor vehicle dealers, motor vehicle manufacturers, wholesale motor vehicle dealers, public motor vehicle auctions and wholesale motor vehicle auctions—

(A) The business location must be a permanently enclosed building or structure either owned or leased. The business location must be actually occupied and primarily used in whole, or in clearly designated and segregated part, as a place of business by the licensee for the manufacturing, selling, auctioning, bartering, trading or exchanging of motor vehicles, trailers or boats.

1. Example: An applicant for a motor vehicle dealer license maintains a building or structure primarily used in the operation of a business other than the sale or exchange of motor vehicles. As a sideline, the applicant desires to engage in the business of selling motor vehicles. The building or structure used primarily for some

other business, other than the selling or exchanging of motor vehicles, does not qualify as a bona fide established place of business for the selling of motor vehicles unless an area is clearly designated and segregated and records are separately maintained for the purpose of selling, bartering, trading or exchanging of motor vehicles or trailers;

(B) The business location must be open regular business hours during which the public and the department are able to contact the licensee. Regular business hours for purposes of this rule shall be a minimum of twenty (20) hours per week, at least four (4) of the six (6) days of Monday through Saturday each week. Only hours falling between 6 a.m. and 10 p.m. will be considered by the department in the twenty (20) hour minimum. The business hours shall be posted at the business location. The business location must contain a working telephone (other than a mobile or cellular phone) in the licensee's name with an advertised public number that must be maintained during the entire period of licensure;

(C) The licensee must maintain at the business location the books, records, files and other items required and necessary to conduct the business. Such items shall be accessible for inspection during regular business hours. If a licensee is also licensed as an auction, the auction records must be kept separately from the dealer records;

(D) Unless otherwise specified, the business location of a licensee other than a wholesale dealer or boat dealer must also contain an area or lot which shall not be a public street upon which one (1) or more vehicles may be displayed.

1. The display area or lot must be of sufficient size to physically accommodate vehicles of the type which the licensee is licensed to sell.

2. The display area or lot must be used exclusively for display by the licensee and must be situated to prevent confusion or uncertainty concerning its relationship to the licensee.

3. The display area or lot must provide unencumbered visibility from the nearest public street of the vehicles being sold by the licensee.

4. Auctions that are also licensed as dealers must maintain a display area or lot separate from the dealership lot for auction vehicles.

5. A licensee in more than one (1) class of business may use the same building and display area for all classes so long as each use is separately and clearly marked. Records must be maintained separately and separate signs as specified in subsection (1)(E), must be displayed;

(E) The licensee must display an exterior sign, if applicable.

1. A licensee except a wholesale motor vehicle dealer must display an exterior sign that shall be of a permanent nature, erected on the exterior of the structure or on the display area, constructed or painted and maintained to withstand reasonable weather conditions and the sign must be readable. The sign must—

A. Identify the name of the licensee and class of the business conducted;

B. Have letters at least six inches (6") in height;

C. Be clearly visible to the public; and

D. Comply with local sign ordinances, if any.

2. A temporary sign may suffice during the period of time required to obtain a permanent sign provided the order for construction, purchase or painting has in fact been placed. A copy of the sign order must be submitted with the application along with a picture of the temporary sign.

3. A public motor vehicle auction licensee shall display, in a conspicuous manner, two (2) additional signs, each of which shall bear the following warning in letters at least six inches (6") high: "Attention Buyers: Vehicles sold at this auction may not have had a safety inspection." The dimensions of each sign shall be at least two feet by two feet (2' × 2'); and

(F) A new motor vehicle franchise dealer's business location shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under the franchiser's warranty.

(2) The bona fide established place of business of a licensee must be maintained for the entire licensure period. If the bona fide established place of business is not maintained, the licensee must notify the department within ten (10) days and surrender at that time the licensee's temporary permits, license and license plates/certificates of number. If the licensee intends to relocate prior to the expiration of the license, the department must be informed of such intent at the time the license is surrendered. If the business is then certified at a new location, the department will return the temporary permits, license plates/certificates of number and issue a new license reflecting the new location for no additional fee. The department or its representative reserves the right to determine the existence of a bona fide established place of business at any time.

(3) A licensee who changes its business location during the licensure year must notify the department of that change prior to operating at the new site. The following must be submitted to the department:

(A) A new application certified by authorized law enforcement that the new location meets the requirements of a bona fide established place of business. "Change of Address" must be indicated at the top of the application.

1. If the business changes locations ninety (90) days or less before the expiration of the current license, a renewal application reflecting the new address should be filed instead of a change of address.

2. If the location change is not effective immediately upon filing the renewal application, a letter indicating the effective date of the address change must accompany the renewal application; and

(B) A photograph of the business location that meets the specifications required of new applicants.

(4) If a licensee changes the business name during the licensure year, the licensee must notify the department of the name change prior to operating under the new name. The following must be submitted to the department:

(A) A new application properly completed that indicates "Name Change Only" at the top of the application. The application is not required to be certified by authorized law enforcement;

(B) A photograph of the business location that meets the specifications required of new applicants and that clearly shows the business sign displaying the new business name; and

(C) A corporate surety bond, bond rider, or revision to the irrevocable letter of credit that reflects the licensee's new business name.

(5) When a licensee changes its business name and/or location, it must also file the change with the Office of the Secretary of State.

(6) Each business location where a licensee auctions, manufactures, sells or displays motor vehicles, trailers or boats must be licensed separately with the department. However, when a licensee has more than one (1) location in the same city or with the same city mailing address, the licensee may operate under the same name and license number by filing a proper application for each business location with the department and maintaining a bona fide place of business at each location. No additional fees are required for the additional locations in these two (2) cases.

(7) A licensee may store cars at a storage lot location other than at the licensed business location, provided the department is notified of the storage location and no sales activity occurs on the storage lot.

AUTHORITY: sections 301.553 and 301.560, RSMo Supp. 1998. Original rule filed Nov. 1, 1999.

PUBLIC ENTITY COST: This proposed rule is estimated to cost state agencies \$2,850 in FY 2000. Total annual aggregate cost of \$2,850 is a one-time cost. See detailed fiscal note for further explanation.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

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

FISCAL NOTE PUBLIC ENTITY COSTS

I. RULE NUMBER

Title: Department of Revenue
 Division 10: Director of Revenue
 Chapter 26: Dealer Licensure
 Type of Rulemaking: Proposed Rule
 Rule Number and Name: 12 CSR 10-26.010 Bona Fide Established Place of Business

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Revenue	\$2,850
Total	\$2,850

III. WORKSHEET

Fund Affected	Estimated Cost of Compliance FY99	Estimated Cost of Compliance FY00	Estimated Cost of Compliance FY01
Motor Vehicle Commission Fund	-0-	\$2,850	-0-
Total	-0-	\$2,850	-0-

IV. ASSUMPTIONS

This Proposed Rule clarifies the requirements for a bona fide established place of business as required by law, without imposing any additional requirements. The rule also clarifies requirements when a dealership changes locations/business names or has multiple locations in the same city or with the same city mailing address. The department will incur publication and mailing costs to approximately 6,000 dealers as follows:

Postage: 6,000 x .33 = \$1,980
 Printing/envelopes: 6,000 x .145 = \$870
 Total: \$2,850