

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.405 General Provisions. The commission proposes to amend sections (2) and (4).

PURPOSE: This amendment modifies the reciprocal fishing privilege of persons licensed by the state of Kentucky.

(2) Permits Required.

(B) Any person possessing a valid sport fishing license issued by the state of *[Kentucky or]* Arkansas, or who is legally exempted from those license requirements, without further permit or license, may fish in the flowing portions of the *[Mississippi or]* St. Francis

[rivers] River within the boundary of Missouri [adjacent to the state where that person is licensed].

(D) Any person possessing a valid sport fishing license issued by the state of Kentucky, or who is legally exempted from those license requirements, without further permit or license, may fish in the Mississippi River within the boundary of Missouri adjacent to the state of Kentucky. For the purposes of these reciprocal fishing privileges, the river is defined as the main channel and immediate side or secondary channels or chutes. It does not include oxbow or floodplain lakes, or backwaters that extend onto the floodplain or up tributaries when the Mississippi River level exceeds thirty-three feet (33') at the Cairo, Illinois gauging station.

(4) Reciprocal Privileges: Mississippi, Missouri and St. Francis Rivers.

(B) Regulations of the state where the person is licensed shall apply in Arkansas boundary waters. Missouri regulations shall apply in the Missouri portion of Illinois, Kentucky, Tennessee, Nebraska and Kansas boundary waters. Persons licensed in Illinois, **Kentucky**, Tennessee, Kansas and Nebraska, when fishing in waters in which they are not licensed to fish by Missouri, shall comply with the most restrictive laws and regulations of the two (2) states.

(D) Persons licensed in Arkansas *[or Kentucky]* may not fish from or attach any device or equipment to land under the jurisdiction of Missouri.

(E) Persons licensed in Illinois, **Kentucky**, Tennessee, Kansas or Nebraska may fish from or attach devices or equipment to land under the jurisdiction of Missouri.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed March 24, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-10.726 Reciprocal Privileges: Commercial Fishing and Musseling; Commercial Waters. The commission proposes to amend section (1).

PURPOSE: This amendment eliminates reciprocal fishing privileges for persons possessing valid commercial fishing licenses or commercial musseling permits issued by the state of Kentucky.

(1) Any person possessing a valid commercial fishing license or commercial musseling permit issued by the states of Illinois, *[Kentucky,]*

Tennessee, Arkansas, Kansas or Nebraska, or who is legally exempted from the license requirement without further permit or license, may fish or mussel as permitted by this Code in commercial waters within the boundary of Missouri and adjacent to the state where the fisherman or musseler is licensed.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed March 14, 1973, effective March 24, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 24, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

PROPOSED RULE

3 CSR 10-10.732 Tag and Release Fishing Promotion Permit

PURPOSE: This rule establishes a tag and release fishing promotion permit for individuals tagging fish for promotions, contests or other events on selected impoundments.

(1) To engage in tagging and releasing fish in association with a fishing promotion, contest or other event. Fee: Two hundred fifty dollars (\$250).

(2) A tag and release fishing promotion permit authorizes the holder to tag and release one (1) fish into an impoundment of the state, in accordance with the following:

(A) Only one (1) valid permit per impoundment may be possessed by the holder at any one time. No more than two (2) permits shall be valid for the same impoundment at any one time.

(B) Only crappie, black bass and catfish species may be tagged.

(C) Events shall be restricted to Lake of the Ozarks, Stockton Lake, Table Rock Lake and Truman Lake. Tag and release fishing promotion permits may be further restricted for areas within five (5) miles of any portion of an impoundment with an active department fishery research project.

(D) Fish to be tagged shall be obtained from the impoundment specified in the permit in compliance with established seasons, methods and limits.

(E) Fish shall be tagged in the presence of an agent of the department using a technique approved by the department.

(F) Contest rules shall comply with established fishing seasons, methods and limits.

(G) There shall be no fee, registration or other consideration beyond a valid Missouri fishing permit as required by the Wildlife Code to enter or participate in the event.

(H) Maximum duration of any event shall be thirty (30) days.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed March 24, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 30—Missouri Board for Architects, Professional
Engineers, [and] Professional Land Surveyors, and
Landscape Architects**

**Chapter 16—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

4 CSR 30-16.020 Definitions. The board is proposing to delete section (2), and renumber sections (2)–(15).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

[(2) Class of Property.

(A) Rural property—Any property that is not urban or suburban that is used for the production of crops, livestock or minerals, or used as parks, forest or similar use.

(B) Suburban property—Any property which is not urban property that is or is intended to be primarily used for residential purposes or property lying between residential areas whose value is influenced by the presence of such nearby developed real estate.

(C) Urban property—Any property wholly or partly within the corporate limits of any city, town or village, and any commercial and industrial properties, condominium properties, town houses, apartments, and other multi-unit developments.]

[[3]] (2) Controlling corners[.]: Controlling corners are the corners that determine the location of the record title boundary.

[[4]] (3) Exterior corners: Exterior corners of a parcel are the corners that define the shape and size of the parcel.

[[5]] (4) [Legal] Property description[.]: A property description is [A] a description of real property by government survey, metes and bounds, or lot numbers of record. The description must be complete enough so a particular parcel of land can be located and identified.

[[6]] (5) Linear error of closure: Linear error of closure is the square root of the sum of the squares of the error in north coordinates (Y) and in east coordinates (X).

[(7)] (6) [Material variations, whether between surveyed lines and lines of possession, or between record and measured distances or directions are variations so substantial and important that they would influence a reasonably prudent and otherwise knowledgeable person when making decisions in reliance upon the survey.] **Material variations: Materials variations are those differences between surveyed lines and lines of possession or measurements called for in the record source of the property being surveyed that are, in the professional judgement of the surveyor, substantial and important to the location of the subject survey.**

[(8)] (7) **Physical monument[.]:** The term physical monument refers to both natural and artificial physical objects which are accepted and used to mark boundaries and corners.

[(9)] (8) **Property boundary surveys[.]:**

(A) A condominium survey is a survey executed to create and define condominium property in accordance with Chapter 448, RSMo.

(B) An original survey is a survey which creates a new parcel out of a large parent tract, for the purpose of conveying the new parcel. Boundary adjustment plats, consolidation plats, riparian plats, lot splits, and minor subdivisions are examples of original surveys.

(C) A resurvey is a survey executed to remark, reestablish, restore or delineate the boundary line or corners of a parcel previously created by a deed, survey or subdivision.

(D) A subdivision survey is the partitioning of land into two (2) or more parcels by platting the divisions of land in accordance with Chapter 445, RSMo and per the appropriate platting procedures, and from which parcels are then sold by reference to the plat of record.

[(10)] (9) **Radial survey measurement tolerance:** Radial survey measurement tolerance is the computed expected relative accuracy of any distance determined by radial surveying methods. It is computed using an analysis of component distance and direction errors.

[(11)] (10) **Radial survey method:** Radial survey method is the determination of the coordinate values of points by measuring directions and distance from a central point as opposed to determination of the coordinates of points by traverse. The determination of coordinates by "side shots" from a closed traverse is not considered a radial surveying method.

[(12)] (11) **Record title boundaries:** Record title boundaries are the boundaries of the real estate described in the title of record.

[(13)] (12) **Relative position tolerance:** Relative position tolerance is the relative accuracy between all **directly connected** pairs of points in a survey. In practice it is computed for a sampling of pairs of points using either an analysis of component distance and direction errors or from a minimally constrained, correctly weighted least squares adjustment.

[(14)] (13) **Title of record:** Title of record[.] is [A] a title to real estate, evidenced and provable by one (1) or more conveyances or other instruments all of which are duly entered on the public records.

[(15)] (14) **Traverse closure:** Traverse closure is the linear error of closure of the traverse computed either from an analysis of the component distances and direction errors or from the actual traverse measurements.

[(16)] (15) **United States Public Land Survey Corners:** United States Public Land Survey Corners[.] *Corners of the United States Public Land Survey* are those points that determine the boundaries of the various subdivisions represented on the official government plat such as the township corner, the section corner, the

quarter-section corner, blank quarter-section corners, center of section, fractional-section corners, grant corner and meander corner.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 30—Missouri Board for Architects, Professional
Engineers, [and] Professional Land Surveyors, and
Landscape Architects
Chapter 16—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

4 CSR 30-16.030 General Land Surveying Requirements. The board is proposing to amend subsections (1)(A), (3)(F) and (3)(I), delete subsection (3)(O), renumber the remaining subsection accordingly and add new language in subsection (3)(P).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

(1) Research and Investigation.

(A) Every survey executed shall be based on the *[legal]* property description of the parcel or parent tract taken from the title of record. This *[legal]* property description should be provided by the client.

(3) Publication of Results. A plat shall be made showing the results of the survey and a signed and sealed copy of the plat shall be furnished to the client. This survey plat shall conform to all of the following provisions, where applicable:

(F) A *[prominent]* north arrow shall be drawn on every sheet containing graphic survey data;

(I) All vertical dimensions shall be shown by elevations above an established or assumed datum[.] and the source of the established or assumed datum shall be defined on the plat. Vertical dimensions shall be made at the same accuracy standard as property boundary surveys.

1. **Type Urban Property Accuracy shall be one-tenth (0.10) of a foot or 1:20,000 for distances greater than two thousand feet (2,000') and shall apply to any property that is wholly or partly within the corporate limits of any city, town or village, and any**

commercial and industrial property, condominium property, town house property, apartments, and other multi-unit developments.

2. Type Suburban Property Accuracy shall be one-tenth (0.10) of a foot or 1:10,000 for distances greater than one thousand feet (1,000') and shall apply to any property that is not Urban Property, that is or is intended to be primarily used for residential purposes or property lying between residential areas whose value is influenced by the presence of such nearby developed real estate.

3. Type Rural Property Accuracy shall be two-tenths (0.20) of a foot or 1:5,000 for distances greater than one thousand feet (1,000') and shall apply to all property that is not Urban Property or Suburban Property;

[(O)] *The class of property shall be noted on the plat; and*

[(P)] (O) Any material variation between measured and record dimensions shall be noted on the plat./; and

(P) The plat shall identify title documents for adjoining properties, as they appear of record, consistent with the research and investigation provisions of these standards. The source of said title documents shall be shown, preferably by recording book and page reference of the county records.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects

Chapter 16—Missouri Minimum Standards for Property Boundary Surveys

PROPOSED AMENDMENT

4 CSR 30-16.040 Accuracy Standards for Property Boundary Surveys. The board is proposing to make sections (2)–(4) subsections of section (1), add a new section (2) and delete section (5).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferi-

or survey work and the protection of private property rights in Missouri.

(1) The surveyor shall select the proper equipment and method necessary to achieve either the required relative position tolerance, required radial survey measurement tolerance or required traverse closure.

[(2)] (A) If the computed relative position tolerance is greater than the required relative position tolerance, the survey shall be considered unacceptable and shall be remeasured.

[(3)] (B) If the computed traverse closure is greater than the required traverse closure, the traverse shall be considered unacceptable and shall be remeasured.

[(4)] (C) When the radial survey methods are used, it is the responsibility of the surveyor to provide sufficient checks to insure that the relative positional tolerance of all points is not greater than that required in this regulation.

[(5)] *The required relative position tolerance and traverse closure at sixty-eight percent (68%) confidence level shall be— For urban property: one-tenth of a foot (0.10') or 1:20,000 for distances greater than two thousand feet (2000'); Suburban property: one-tenth of a foot (0.10') or 1:10,000 for distances greater than one thousand feet (1000'); Rural property: two-tenths of a foot (0.20') or 1:5,000 for distances greater than one thousand feet (1000').*

(2) The required relative position tolerance and traverse closure at sixty-eight percent (68%) confidence level shall be for:

(A) Type Urban Property Accuracy shall be one-tenth (0.10) of a foot or 1:20,000 for distances greater than two thousand feet (2,000') and shall apply to any property that is wholly or partly within the corporate limits of any city, town or village, and any commercial and industrial property, condominium property, town house property, apartments, and other multi-unit developments.

(B) Type Suburban Property Accuracy shall be one-tenth (0.10) of a foot or 1:10,000 for distances greater than one thousand feet (1,000') and shall apply to any property that is not Urban Property, that is or is intended to be primarily used for residential purposes or property lying between residential areas whose value is influenced by the presence of such nearby developed real estate.

(C) Type Rural Property Accuracy shall be two-tenths (0.20) of a foot or 1:5,000 for distances greater than one thousand feet (1,000') and shall apply to all property that is not Urban Property or Suburban Property.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects

Chapter 16—Missouri Minimum Standards for Property Boundary Surveys

PROPOSED AMENDMENT

4 CSR 30-16.060 Approved Monumentation. The board is proposing to amend subsection (3)(C) and section (6).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

(3) Semi-permanent monuments shall be selected from the following:

(C) In urban built-up areas, a cross-cut or drill hole in concrete, brick, [or] stone paving, or bedrock at the precise position of the corner or on a prolongation of a boundary line; and

(6) When it is impractical to set a required monument, a witness monument shall be set. It should be placed five feet (5') or more away from the point and preferably at an even foot. Witness monuments [less than five feet (5') from the point] must be clearly identified and shown on the plat. The location of the witness monument should be along a line of the survey or a prolongation of such line.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects

Chapter 16—Missouri Minimum Standards for Property Boundary Surveys

PROPOSED AMENDMENT

4 CSR 30-16.070 Detail Requirements for Resurveys. The board is proposing to add new language in subsection (2)(B) and renumber the remaining subsections accordingly.

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

(2) Publication of Results.

(B) The Accuracy Standard, Type Urban, Type Suburban or Type Rural, shall be noted on the plat.

[(B)] (C) If the boundary description surveyed is from a recorded document, then the plat shall show or reference, or both, the record source of the boundary description surveyed. For example: lot, block, subdivision name; deed record book and page; document number.

[(C)] (D) If the boundary description surveyed is not contained in a recorded document (for example, boundary description contained in a lease, or unrecorded contract for deed), then the description provided the surveyor shall be quoted on the plat.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects

Chapter 16—Missouri Minimum Standards for Property Boundary Surveys

PROPOSED AMENDMENT

4 CSR 30-16.080 Detail Requirements for Original Surveys. The board is proposing to amend subsection (2)(B) and add new language in subsection (2)(C).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

(2) Publication of Results.

(B) [Legal] The property description of the parcel created shall be written and shown on the resulting plat of survey.

(C) The Accuracy Standard, Type Urban, Type Suburban or Type Rural, shall be noted on the plat.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects

Chapter 16—Missouri Minimum Standards for Property Boundary Surveys

PROPOSED AMENDMENT

4 CSR 30-16.090 Detail Requirements for Subdivision Surveys. The board is proposing to amend section (2).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

(2) Publication of Results. The plat shall show or reference the record source of the parent parcel from which the subdivision survey was made, and the Accuracy Standard, Type Urban, Type Suburban or Type Rural, shall be noted on the plat.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional

Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects

Chapter 16—Missouri Minimum Standards for Property Boundary Surveys

PROPOSED AMENDMENT

4 CSR 30-16.100 Detail Requirements for Condominium Surveys. The board is proposing to amend subsections (2)(K) and (2)(L) and add new language in subsection (2)(M).

PURPOSE: This rule is being amended to revise, edit and update those standards required for all property boundary surveys in Missouri. This rule is promulgated dually between the Missouri Department of Natural Resources and the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. It provides for a uniform set of standards for the professional surveying methods protecting the public from inferior survey work and the protection of private property rights in Missouri.

(2) Publication of Results. Each plat shall show the following:

(K) The plat shall clearly define the elevation datum used. The current North American Vertical Datum, or a similar well documented datum is preferred. The location and elevation of the benchmark used to establish project datum shall be described on the plat. If no such established datum exists within a reasonable distance of the project, the surveyor will set a permanent monument as a benchmark and shall show its location and elevation on the plat; [and]

(L) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either SHALL BE BUILT or NEED NOT BE BUILT./.; and

(M) The Accuracy Standard shall be Type Urban and shall be noted on the plat.

AUTHORITY: section 327.041, RSMo Supp. [1993] 2001. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102, by facsimile at (573) 751-8046 or by e-mailing moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 145—Missouri Board of Geologist Registration
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 145-1.030 Application for Licensure. The board is proposing to delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment deletes the form that immediately follows this rule in the *Code of State Regulations*.

AUTHORITY: section 256.462.3, RSMo [1994] 2000. Emergency rule filed June 29, 1995, effective July 9, 1995, expired Nov. 5, 1995. Original rule filed Sept. 28, 1995, effective May 30, 1996. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Geologist Registration, Pamela Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 145—Missouri Board of Geologist Registration
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 145-2.030 Post-Baccalaureate Experience in Geology. The board is proposing to delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment deletes the form that immediately follows this rule in the *Code of State Regulations*.

AUTHORITY: section 256.462.3, RSMo [1994] 2000. Emergency rule filed June 29, 1995, effective July 9, 1995, expired Nov. 5, 1995. Original rule filed Sept. 28, 1995, effective May 30, 1996. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Geologist Registration, Pamela Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 145—Missouri Board of Geologist Registration
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 145-2.100 Registered Geologist's Seal. The board is proposing to add new language in subsection (3)(C).

PURPOSE: This amendment clarifies the need for multiple seals when plans, reports, etc. are being prepared by more than one licensed professional.

(3) In addition to the personal seal or rubber stamp, the registered geologist shall also affix his/her signature on or through his/her seal, and place the date of the signature under the seal on each sheet in a set of plans, drawings, specifications, maps, reports, and other documents which are prepared by the registered geologist or under the registered geologist's immediate personal supervision.

(C) If a set of multiple page plans, reports, maps, drawings or other documents or instruments ("documents") contains the seals of more than one (1) licensed or registered professional, the registered geologist should certify, on the title or index page, that his/her seal only relates to the portions of the documents that involve the practice of geology, as defined in section 256.453(7), RSMo. The registered geologist should identify, on the title page or index, the geologic portions of the documents that he/she, or someone under his/her immediate personal supervision, prepared. The registered geologist may identify those portions of the documents that neither he/she nor someone under the registered geologist's immediate personal supervision prepared.

AUTHORITY: sections 256.456 and 256.462.3, RSMo [1994] 2000. Emergency rule filed June 29, 1995, effective July 9, 1995, expired Nov. 5, 1995. Original rule filed Sept. 28, 1995, effective May 30, 1996. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Geologist Registration, Pamela Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 165—Board of Examiners for Hearing
Instrument Specialists
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 165-2.010 Hearing Instrument Specialist in Training (Temporary Permits). The board is proposing to amend subsection (2)(B).

PURPOSE: This proposed amendment clarifies the time limit in which an individual may hold a temporary permit.

(2) An approved temporary permit shall entitle the hearing instrument specialist in training to engage in the practice of fitting hearing instruments as defined by section 346.010(11), RSMo, for a period of one (1) year.

(B) *[No hearing instrument specialist in training shall be issued a temporary permit for more than eighteen (18) months.]* The six (6)-month renewal term shall commence immediately following the expiration of the temporary permit, regardless of when the renewal application is received by the board, such that a hearing instrument specialist in training shall not hold a temporary permit beyond eighteen (18) months from the date the temporary permit was originally issued.

AUTHORITY: sections 346.070, 346.075, 346.080 and 346.115.1(7), RSMo [Supp. 1998] 2000. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1997. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed June 22, 1999, effective Dec. 30, 1999. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Examiners for Hearing Instrument Specialists, Attention: Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 165—Board of Examiners for Hearing
Instrument Specialists
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 165-2.030 Licensure by Examination. The board is proposing to amend subsection (7)(A).

PURPOSE: In order to ensure the integrity of the practical portion of the examination and to ensure that an applicant's abilities are adequately tested, this amendment allows the board to prohibit the use of any particular equipment containing memory storage by an applicant when testing for the practical examination.

(7) The practical portion of the examination shall be conducted by the board or its designees. The following procedures and requirements shall apply:

(A) It shall be the responsibility of the applicant to furnish all equipment needed. **In order to ensure the integrity of the practical portion of the examination and that it adequately tests the applicant's abilities, the board may determine what equipment an applicant is permitted to use and may prohibit the use of any particular equipment containing memory storage, unless it can be demonstrated and verified that the memory can be erased.** Equipment shall be in good working order as evidenced by a receipt of annual calibration of the audiometer. Failure to have the necessary equipment will be sufficient reason to disallow the applicant the opportunity to take the practical portion of the examination and cause forfeiture of the examination fee. If the applicant wishes to take the

next scheduled practical portion of the examination, the applicant must reapply and pay the proper examination fee; and

AUTHORITY: sections 346.060, 346.085 and 346.115.1(7), RSMo [Supp. 1998] 2000. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed June 22, 1999, effective Dec. 30, 1999. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Examiners for Hearing Instrument Specialists, Attention: Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 165—Board of Examiners for Hearing
Instrument Specialists
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 165-2.060 License Renewal. The board is proposing to amend section (3), delete paragraph (8)(B)5. and renumber the remaining paragraphs accordingly.

PURPOSE: This amendment removes the requirement of the licensee to submit a company certificate when reactivating a non-current license.

(3) Each person who engages in the fitting and selling of hearing instruments shall, on or before the renewal date, pay the required fees, present annual receipts of calibration of all audiometers and *[present]* obtain satisfactory evidence that continuing education requirements have been completed. No person whose license has expired and who applies for renewal will be required to submit to an examination as a condition of renewal, if this renewal application is made within two (2) years from the date of expiration.

(8) Reactivation of Non-Current License.

(B) In order to reactivate a non-current license the hearing instrument specialist must submit the following:

1. Renewal application;
2. Renewal fee;
3. Reactivation fee;
4. Annual calibration receipt;
- [5. Company certification;]*

[6.] **5.** Prior to January 2004, proof of twelve (12) hours of attendance at an approved continuing education program(s). These hours must have been obtained during the preceding twelve (12) months from the date of application for reactivation;

[7.] **6.** Effective January 2004, proof of twenty-four (24) hours of attendance at an approved continuing education program(s). These hours must have been obtained during the preceding twenty-four (24) months from the date of application for reactivation.

AUTHORITY: sections 346.095 and 346.115.1(7), RSMo [Supp. 1996] 2000. Emergency rule filed Oct. 28, 1996, effective Nov. 7,

1996, expired May 5, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Amended: Filed July 30, 2001, effective March 31, 2002. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Examiners for Hearing Instrument Specialists, Attention: Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

dollars (\$43,340) annually with a continuous annual cost savings of one thousand three hundred dollars (\$1,300) annually for the life of the rule. It is anticipated that the total savings will recur, may vary with inflation and are expected to decrease at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the savings of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 1—General Rules

PROPOSED AMENDMENT

4 CSR 270-1.021 Fees. The board is proposing to amend subparagraphs (1)(A)7.A. and (1)(A)7.C.

PURPOSE: Pursuant to section 340.214, RSMo, which states the board shall by rule and regulation set the amount of fees authorized by Chapter 340, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 340, RSMo. Therefore, the board is reducing the fees associated with veterinary renewal.

(1) The following fees are established by the Missouri Veterinary Medical Board:

- (A) Veterinarians—
 - 1. Registration Fee \$50.00
 - 2. State Board Examination Fee \$100.00
 - 3. Reciprocity Fee \$150.00
 - 4. Grade Transfer Fee \$150.00
 - 5. Faculty License Fee \$200.00
 - 6. Temporary or Provisional License Fee \$100.00
 - A. Temporary or Provisional License Extension \$50.00
 - 7. Annual Renewal Fee—
 - A. Active \$[100.00] 80.00
 - B. Inactive \$50.00
 - C. Faculty \$[100.00] 80.00
 - 8. Penalty Fee \$100.00
 - 9. Name Change Fee \$15.00
 - 10. Wall Hanging Replacement Fee \$15.00

AUTHORITY: sections 340.210 and 340.232, RSMo 2000. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 14, 1994, effective Sept. 30, 1994. Amended: Filed March 10, 1995, effective Sept. 30, 1995. Amended: Filed Oct. 10, 1995, effective April 30, 1996. Amended: Filed Aug. 31, 1998, effective March 30, 1999. Amended: Filed April 13, 2001, effective Oct. 30, 2001. Amended: Filed April 1, 2003.

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

PRIVATE COST: This proposed amendment is estimated to save private entities an estimated forty-three thousand three hundred forty

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 270 - Missouri Veterinary Medical Board

Chapter 1 - General Rules

Proposed Amendment - 4 CSR 270-1.021 Fees

Prepared February 4, 2003 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual savings with compliance by affected entities
2,167	Veterinarians (renewal fees - \$20 decrease)	\$43,340.00
	Estimated Annual Savings with Compliance for the Life of the Rule	\$43,340.00 with a continuous annual savings of \$1,300

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The above figures were based on FY2003 actuals. The board estimates annual growth rate of 65 licensees annually based on a 3% growth rate. Therefore, the board estimates private entities will save \$43,340 annually with a continuous savings of \$1,300 annually for the life of the rule.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 270-1.031 Application Procedures. The board is proposing to delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment deletes the form that immediately follows this rule in the *Code of State Regulations*.

AUTHORITY: sections 340.210, 340.228 and 340.300, RSMo [1994] 2000. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed June 7, 1995, effective Dec. 30, 1995. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Dana Hoelscher, Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians**

PROPOSED AMENDMENT

4 CSR 270-2.051 Licensure (Exception). The board is proposing to amend subsection (1)(A).

PURPOSE: This proposed amendment corrects the name of the national testing examination from the National Board Examination (NBE) and Clinical Competency Test (CCT) to its current name of the North American Veterinary Licensing Examination (NAVLE).

(1) Faculty members at an American Veterinary Medical Association (AVMA)-accredited college or university who are AVMA board-certified but did not graduate from an AVMA-accredited college of veterinary medicine may apply to the board for a veterinary license under the following conditions:

(A) Achieving a passing score as defined in 4 CSR 270-2.031 on the [National Board Examination (NBE), Clinical Competency Test (CCT)] North American Veterinary Licensing Examination (NAVLE) and Missouri State Board examinations; and

AUTHORITY: sections 340.210, [RSMo Supp. 1993 and] 340.216 and 340.230, RSMo [Supp. 1992] 2000. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards**

PROPOSED AMENDMENT

4 CSR 270-4.031 Minimum Standards for Practice Techniques. The board is proposing to add a new subsection (3)(F) and renumber the remaining subsection accordingly.

PURPOSE: This amendment adds a new section requiring veterinarians to release a written prescription for their clients to take to the pharmacy of their choice provided a valid veterinarian-patient-client relationship exists.

(3) Dispensed Drug Labeling.

(F) All clients shall have the right to receive a written prescription from their veterinarian to take to the pharmacy of their choice so long as a valid veterinarian-patient-client relationship exists.

[(F)] (G) Records shall be maintained of all medications prescribed and dispensed for any animal or group of animals in that animal's individual record or the herd owner's record. These pharmacy records may be transferred, in whole or in part, from one veterinarian to another, in writing or by telephone, at the request of the client/owner, when necessary to continue treatment or disease prevention medication started by the original attending veterinarian.

AUTHORITY: sections 340.200 and 340.210, RSMo [1994] 2000. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 14, 1994, effective Sept. 30, 1994. Amended: Filed March 10, 1995, effective Sept. 30, 1995. Amended: Filed Oct. 10, 1995, effective April 30, 1996. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards**

PROPOSED AMENDMENT

4 CSR 270-4.042 Minimum Standards for Continuing Education for Veterinarians. The board is proposing to add new subsection (8)(J), renumber the remaining subsection accordingly and amend section (9).

PURPOSE: This proposed amendment allows programs approved by or sponsored by any national, regional and specialty veterinary organizations to be automatically approved by the board and lowers the sixty (60) day prior approval of continuing education programs to thirty (30) days.

(8) Workshops, seminars and prepared materials on scientific and non-scientific subjects relating to veterinary medicine approved by or sponsored by the following organizations are approved:

(I) American Association of Veterinary State Boards (AAVSB) or its successor—Registry of Approved Continuing Education (RACE);
[and]

(J) Any national, regional and specialty veterinary organizations; and

[[J]] **(K) Other programs receiving prior approval from this board.**

(9) With the exception of any of the previously mentioned educational organizations, any other regularly organized group of veterinarians that wants to sponsor an educational program to meet the standards for license renewal in Missouri shall submit two (2) copies of the program schedule and outline to the board's executive director not fewer than *[sixty (60)] thirty (30)* days prior to the date of the program. The outline must include the program's subject matter, the number of hours required for its presentation and the identity and qualifications of the speakers and instructors. The board shall review the schedule and outline to determine if approval will be granted. The board will not consider requests for approval of any program submitted after it has already been presented.

AUTHORITY: sections 340.210, 340.258 and 340.268, RSMo 2000. Original rule filed April 13, 2001, effective Oct. 30, 2001. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 270—Missouri Veterinary Medical Board Chapter 4—Minimum Standards

PROPOSED AMENDMENT

4 CSR 270-4.060 Minimum Standards for Supervision. The board is proposing to amend the Unregistered Assistant on the Levels of Supervision Table.

PURPOSE: This proposed amendment is to correct the name of the Unlicensed Assistant to the proper terminology of Unregistered Assistant on the Levels of Supervision Table as it is referred to in the rule. There are no other changes to this rule, except the name correction on the chart attached to this rule.

MISSOURI STATE VETERINARY MEDICAL BOARD
REQUIRED LEVELS OF SUPERVISION

	ANESTHESIA MONITORING*	INDUCTION	EUTHANIZA	SURGERY	DIAGNOSIS	PRESCRIBING		TREATMENT		ADMINISTER RABIES	BIOLOGICS OTHERS	ROUTINE DENTAL PROPHY- LAXIS
						CON- TROLLED	NOT CON- TROLLED	@ FACILITY	NOT @ FACILITY			
TEMPORARY LICENSEE	B	B	B	B	B	D	B	C	C	C	C	B
(RVT) REGISTERED VET. TECHNICIAN	B	A	B	D	D	D	D	C	B	D	B	B
<i>[UNLICENSED]</i> UNREGISTERED ASSISTANT	A	D	A	D	D	D	D	C	A	D	A	A
VETERINARY STUDENT	A	A	A	A	A	D	D	C	B	D	B	A
CONSULTING** LICENSEE FROM ALLIED PROFESSIONS	D	D	D	A	A	D	D	A	A	D	D	A
<p>* Monitoring of or administration of pre-calculated dose of anesthesia ** Dentist, Chiropractor, Physician, etc.</p> <p>A = Immediate Supervision: the licensed veterinarian is in the immediate area and within audible and visual range of animal patient and the person treating the patient;</p> <p>B = Direct Supervision: the licensed veterinarian is on the premises where the animal is being treated and is quickly and easily available and the animal has been examined by a licensed veterinarian at such times as acceptable veterinary medical practice requires consistent with the particular delegated animal health care task;</p> <p>C = Indirect Supervision: the licensed veterinarian need not be on the premises but has given either written or oral instructions for the treatment of the animal patient or treatment protocol has been established and the animal has been examined by a license veterinarian at such times as acceptable veterinary medical practice requires consistent with the particular delegated health care task; provided that the patient is not in a surgical plane of anesthesia and the licensed veterinarian is available for consultation on at least a daily basis;</p> <p>D = Not Legal</p>												

AUTHORITY: sections 340.210, 340.222 and 340.326, RSMo 2000. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 13, 2001, effective Oct. 30, 2001. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 270—Missouri Veterinary Medical Board Chapter 7—Disciplinary Proceedings

PROPOSED AMENDMENT

4 CSR 270-7.010 Public Complaint Handling and Disposition Procedure. The board is proposing to delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment deletes the form that immediately follows this rule in the Code of State Regulations.

AUTHORITY: sections 340.210 and 340.282, RSMo [Supp. 1992] 2000 and 620.010.15., RSMo Supp. [1990] 2001. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Dana Hoelscher, Executive Director, PO Box 633, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 90—Vocational Rehabilitation Chapter 4—General Administrative Policies

PROPOSED AMENDMENT

5 CSR 90-4.410 Informal Review. The State Board of Education is proposing to amend section (4).

PURPOSE: This amendment revises the number of days in which a hearing must be conducted after a hearing request has been received to be consistent with federal regulations.

(4) If the informal review is not successful, a formal due process hearing will be conducted within *[forty-five (45)] sixty (60)* days

from the applicant or eligible individual's written request for informal review unless both parties agree to a specified time extension.

AUTHORITY: sections 161.092, RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo [1994] 2000. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 90—Vocational Rehabilitation Chapter 4—General Administrative Policies

PROPOSED AMENDMENT

5 CSR 90-4.420 Due Process Hearing. The State Board of Education is proposing to amend section (4).

PURPOSE: This amendment revises the number of days in which a hearing must be conducted after a hearing request has been received to be consistent with federal regulations.

(4) A hearing will be held within *[forty-five (45)] sixty (60)* days of the request unless a party requests a specified time extension.

AUTHORITY: sections 161.092, RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo [1994] 2000. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 90—Vocational Rehabilitation Chapter 5—Vocational Rehabilitation Services

PROPOSED AMENDMENT

5 CSR 90-5.410 Fees. The State Board of Education is proposing to amend section (1) and add a new subsection (1)(D).

PURPOSE This amendment clarifies the amount of fees to be reimbursed.

(1) Certain fees may be paid by the Division of Vocational Rehabilitation (DVR). However, if the usual and customary fee charged for the service is less than an amount listed, the usual and customary fee is the maximum that will be paid. No additional moneys can be collected from the applicant or eligible individual. The fees are as follows:

(A) Hospitalization Fees/—/: Daily per diem rate established by Missouri Medicaid;

(B) Surgical and Medical Fees/—/: Medicare formula for surgery and related services as approved by the assistant commissioner of DVR or if the service is not covered by Medicare then the rate will be the usual and customary fee as approved by the assistant commissioner of DVR;

(C) [Medical and] Psychological Diagnostic Fees/—/: Usual and customary fees as approved by the assistant commissioner of DVR;

(D) Dental Fees: Missouri Medicaid rates as approved by the assistant commissioner of DVR or if the service is not covered by Medicaid then the rate will be the usual and customary fee as approved by the assistant commissioner of DVR;

[(D)] (E) Community Rehabilitation and Supported Employment Programs/—/: Evaluation of a cost analysis report for each program with the fees approved by the assistant commissioner of DVR; and/or

[(E)] (F) Interpreter Services/—/: Usual and customary fees approved by the assistant commissioner of DVR.

AUTHORITY: sections 161.092, *RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo [1994] 2000. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003.*

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

PRIVATE COST: This proposed amendment is estimated to cost private entities two hundred seventy-four thousand eight hundred thirty-two dollars (\$274,832) in the aggregate for Fiscal Year 2004 with that cost recurring annually over the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	5 CSR 90-5.410 Fees
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1,505	Medical Services - Hospitals, Clinics, Doctors	\$274,832 in FY04 with that cost recurring annually over the life of the rule

III. WORKSHEET

Surgical and Medical Fees:

\$966,921	Funding expended by Vocational Rehabilitation in FY02 for covered medical fees
<u>-\$692,089</u>	Less amount for those services if maximum Missouri Medicare rate was used
\$274,832	Savings in Vocational Rehabilitation case service expenditures

IV. ASSUMPTIONS

For those medical procedures covered by Medicare, the cost of these services would be at the maximum Missouri Medicare rate.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 5—Vocational Rehabilitation Services**

PROPOSED AMENDMENT

5 CSR 90-5.420 Maintenance and Transportation. The State Board of Education is proposing to amend subsections (1)(A) and (2)(A).

PURPOSE: This amendment clarifies when an individual is eligible for maintenance.

(1) The following maintenance and transportation services as defined in the federal act and/or applicable regulations may be provided to applicants or eligible individuals regardless of financial need:

(A) Maintenance when required to enable the applicant or eligible individual **required to leave their domicile and relocate forty-five (45) miles or more** to participate in diagnostic evaluation/services; and/or

(2) The following maintenance and transportation services as defined in the federal act and/or applicable regulations may be provided to applicants or eligible individuals based upon financial need. Exceptions may be made if the individual will suffer economic hardship.

(A) Maintenance (noon meals, personal maintenance, placement maintenance, room and board) may be authorized in association with an eligible individual's Individualized Plan for Employment (IPE) when **the eligible individual is required to leave their domicile and relocate forty-five (45) miles or more and it is necessary for the eligible individual to receive services.**

1. Maintenance may be paid if the actual time required for the service is twenty (20) or more hours per week or the actual time required for the service is less than twenty (20) hours per week and the service is not available within **the forty-five (45) miles** commuting distance of the eligible individual's home.

2. An eligible individual, considered as either independent or dependent in the family household, *[within commuting distance (approximately forty-five (45) miles)]* **who is required to leave their domicile and relocate forty-five (45) miles or more**, may receive two dollars and fifty cents (\$2.50) maximum per day for lunch. An eligible individual considered as independent in the family household, **who is required to leave their domicile and relocate forty-five (45) miles or more**, may receive up to an additional fifteen dollars (\$15) maximum per week if the Division of Vocational Rehabilitation (DVR) can establish a strong economic need. Exceptions may be made if the individual will suffer economic hardship under the plan and there are no available financial resources.

3. Personal maintenance up to ten dollars (\$10) per week, may be authorized for eligible individuals who are considered an independent in the family household and required to *[live away from home. Eligible individuals considered family dependent or eligible individuals remaining in the household within commuting distance will not qualify for personal maintenance]* **leave their domicile and relocate forty-five (45) miles or more.**

4. Placement maintenance may be authorized for a period not to exceed four (4) weeks in association with an IPE **for those eligible individuals who are required to leave their domicile and relocate forty-five (45) miles or more.** This plan should include an emphasis in specific job seeking activities. Placement maintenance may be authorized for a period not to exceed four (4) weeks if the individual is employed or until the individual receives a paycheck (whichever period is shorter).

5. Room and board during college training, up to the amount of the dormitory fees at the nearest Missouri tax supported college, may be authorized *[if an eligible individual lives beyond commuting*

distance] for those eligible individuals who are required to leave their domicile and relocate forty-five (45) miles or more.

6. *[Noon meals]* Maintenance will not be paid during holiday breaks, absences, or vacations during the eligible individual's plan except *[when an individual lives away from the family household to receive services or]* when failure to pay maintenance would jeopardize the planned services.

7. DVR will not authorize maintenance for correspondence or tutorial training, or during convalescent care or hospitalization.

AUTHORITY: sections 161.092, *RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo [1994] 2000.* Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003.

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

PRIVATE COST: This proposed amendment is estimated to cost private entities \$2,631,794 in the aggregate for the Fiscal Year 2004 with the cost recurring annually over the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	5 CSR 90-5.420 Maintenance and Transportation
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
6,399	Individuals with disabilities - Vocational Rehabilitation clients	\$2,631,794 for the FY04 with that cost recurring annually over the life of the rule

III. WORKSHEET

\$4,764,794 maintenance paid in FY02 to 7,110 clients

Approximately 10% of the 7,110 clients attend training away from their domicile – 711 students

Number of students proposed amendment would impact: $7,110 - 711 = 6,399$ students

Cost: $711 \text{ students} \times \$500 \text{ cost of maintenance per month} \times 6 \text{ months} = \$2,133,000$

Savings in Vocational Rehabilitation case costs:

$\$4,764,794 \text{ maintenance paid} - \$2,133,000 \text{ new cost} = \$2,631,794$

IV. ASSUMPTIONS

- Maintenance will only be provided for clients who have to leave their domicile and relocate (45 miles or further) to participate in services.
- Lunch money, meal tickets and placement maintenance will only be provided for those clients who are required to relocate.
- For those clients who need to relocate, monthly allowable maintenance for clients living off campus will be calculated on a monthly rate equal to the dorm rates.
- Estimated monthly cost of students who relocate are \$500 per month for an average of six (6) months.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 5—Vocational Rehabilitation Services**

PROPOSED AMENDMENT

5 CSR 90-5.440 Training. The State Board of Education is proposing to amend subsection (1)(A), paragraph (1)(A)9. and add subparagraph (1)(A)5.A.

PURPOSE: This amendment clarifies the amounts paid for training.

(1) The following training services as defined in the federal act and/or applicable regulations, and 5 CSR 60-900.050 may be provided to eligible individuals based upon financial need:

(A) College, vocational, or proprietary training at an accredited institution may be provided to assist eligible individuals in reaching objectives that are within the scope of their functional limitations, interests, aptitudes and abilities.

1. Eligible individuals must be enrolled in and satisfactorily complete courses that constitute a normal course load for full-time students unless circumstances as approved by the Division of Vocational Rehabilitation (DVR), indicate a need for a reduced course load.

2. Colleges, universities, vocational or proprietary schools must comply with the provisions found in 5 CSR 60-900.050.

3. For eligible individuals enrolled in a Missouri tax supported two (2) or four (4) year college, the cost of education for freshman and sophomore years of college will be calculated at the nearest Missouri community college rate or the Missouri four (4) year college, whichever is less, within a forty-five (45) miles commuting distance. For those areas which do not have a Missouri community college within forty-five (45) miles, but have a Missouri state supported four (4) year college in their local area, the calculation will be based on that state supported four (4) year college rate.

[3.] **4.** For eligible individuals enrolled in private or proprietary degree colleges or certificate programs in Missouri, the cost of the education is based upon the nearest Missouri tax supported two (2) or four (4) year college appropriate for the eligible individual to reach their vocational objective. **Eligible individuals enrolling in the freshman and sophomore year of college will receive services calculated at the nearest Missouri community college rate, within a forty-five (45) mile commuting distance. For those areas which do not have a Missouri community college within forty-five (45) miles, but have a Missouri state supported four (4) year college in their local area, the calculation will be based on that state supported four (4) year college rate.** This includes all primary rehabilitation services (e.g. tuition and fees) and secondary rehabilitation services (e.g. maintenance, transportation, books and supplies) which are determined to be necessary for the eligible individual to attend college or certificate programs. The following are exceptions:

A. The specific job objective which the individual is seeking is not available at the nearest Missouri tax supported two (2) or four (4) year college; and/or

B. The nearest Missouri tax supported two (2) or four (4) year college does not provide appropriate services for the individual's disability-related needs.

[4.] **5.** [Division of Vocational Rehabilitation's maximum rate of authorization for out-of-state college tuition is based upon the lesser of the hourly rate at the University of Missouri-Columbia (updated annually) or the hourly rate of the particular out-of-state college.] **For eligible individuals enrolled in out-of-state colleges or certificate programs, the cost of the education is based upon the lesser of the hourly rate at the nearest Missouri tax supported two (2) or four (4) year college or**

the hourly rate of the particular out-of-state college appropriate for the eligible individuals to reach their vocational objective. This amount may be applied to any of the eligible individual's educational cost(s). For out-of-state colleges any grants, aid, loans, and/or work-study awarded will be used to reduce the individual's participation in the educational costs.

A. Division of Vocational Rehabilitation's maximum rate of authorization for out-of-state college tuition is calculated at the nearest Missouri community college rate, within a forty-five (45) mile commuting distance from the individual's permanent domicile for the freshman and sophomore years. For those areas which do not have a Missouri community college within forty-five (45) miles from the individual's permanent domicile, the calculation will be based upon the nearest Missouri state supported four (4) year college.

[5.] **6.** Any change in vocational goals involving college, vocational, or proprietary training must be agreed to and signed by the individual and approved by DVR.

[6.] **7.** The eligible individual is responsible for the cost of the tuition and/or required textbooks when courses are dropped, withdrawn and/or retaken due to poor grades, unless the eligible individual's reason for withdrawing, dropping and/or failing a course is disability-related or a credit or refund has been obtained.

[7.] **8.** The individual and/or parents must complete DVR's Financial Application. The individual and/or parents must apply for all applicable federal grants and campus financial aid. If an individual is awarded any grant(s) and attends an in-state college, the grant(s) will be used to reduce DVR's participation in the educational costs.

A. If an individual attends a Missouri public, private or proprietary degree program, all federal grants and aid must be used to reduce agency participation in the educational costs.

B. If the individual participates in a work-study program or obtains student loans, money received from either may be used for educational costs not covered by DVR.

C. If an individual attends an out-of-state college or university, all federal grants and aid may be used to pay for educational costs which exceed DVR's level of funding.

[8.] **9.** The eligible individual is responsible for the cost of tuition, books and supplies for elective courses that do not specifically apply to the eligible individual's degree or program.

[9.] **10.** The eligible individual must acquire and maintain at least a minimum grade point average of 2.0 (based on a [four (4)] 4.0 scale) or a 3.0 (based on a [five (5)] 5.0 scale).

[10.] **11.** The eligible individual shall provide a grade report after each semester, quarter, trimester, etc., that documents hours taken, hours completed, grades for each course and grade point average;

AUTHORITY: sections 161.092, *RSMo Supp. 2002* and 178.600, 178.610 and 178.620, *RSMo 2000*. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Dec. 7, 2000, effective July 30, 2001. Amended: Filed March 27, 2003.

PUBLIC COST: This proposed amendment is estimated to cost public tax supported four (4) year colleges seven hundred ninety-six thousand three hundred fifteen dollars (\$796,315) in the aggregate for the Fiscal Year 2004 with that cost recurring for the life of the rule.

PRIVATE COST: This proposed amendment is estimated to cost private entities, the proprietary schools/institutions, \$1,149,578 in the aggregate for the Fiscal Year 2004 with that cost recurring for the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education,

*Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

Rule Number and Name:	5 CSR 90-5.440 Training
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
4 Year Colleges / Universities	\$796,315 in FY04 with that cost recurring annually over the life of the rule

III. WORKSHEET

College Students – 4 year vs. 2 year

FY02 – 1,109 students attended in 4-year institutions costing \$2,654,383

60% - 665 are freshman and sophomores costing \$1,592,630

Cost saving for Vocational Rehabilitation:

$$\$1,592,630 \times 50\% (4\text{-yr vs. } 2\text{-yr tuition cost}) = \$796,315$$

IV. ASSUMPTIONS

- New clients enrolling in freshman and sophomore year of college will receive services calculated based on the nearest community college rate.
- For those areas which do not have a community college within commuting distance (45 miles or further) but have a state-supported 4-year college in their local area, the calculation is based on the state-supported 4-year college rate.
- Sixty percent (60%) of the students in 4-year institutions are freshman and sophomores.
- Two-year community colleges tuition average half that of tuition at four-year universities.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	5 CSR 90-5.440 Training
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
21	Proprietary schools / institutions	\$1,149,578 in FY04 with that cost recurring annually over the life of the rule

III. WORKSHEET*Proprietary Schools vs. Community Colleges*

FY02 -- 1,355 students attended proprietary institutions costing \$6,897,466

25% - 339 students cost of attending proprietary institutions - \$1,724,367

Cost of those students if attending community colleges - \$574,789

Cost savings for Vocational Rehabilitation: \$1,724,367 - \$574,789 = \$1,149,578

IV. ASSUMPTIONS

- If Certificate and Associate degree programs at proprietary schools are also available at the area community colleges and lead to comparable employment outcomes, then cost is calculated at the community college rate.
- Twenty-five percent (25%) of students attending proprietary institutions could attend community colleges to fulfill education requirement to meet their employment goal.
- Proprietary schools costs average three times that of community college costs.

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

PROPOSED RULE

9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA)

PURPOSE: This rule alerts providers to the possible HIPAA Privacy Rule requirements if the provider has determined that it is a covered entity as defined by HIPAA. Once that is established, this rule lists policies and procedures that the HIPAA Privacy Rule requires for each covered entity.

(1) This rule applies to all programs licensed, certified or funded by the Department of Mental Health.

(2) Definitions.

(A) HIPAA: the Health Insurance Portability and Accountability Act of 1996 (45 CFR parts 160 and 164) as it relates to Privacy.

(B) Protected Health Information (PHI): As defined by HIPAA (45 CFR section 164.501), PHI is individually identifiable health information that is—

1. Transmitted by electronic media;
2. Maintained in any medium described in the definition of electronic media; or
3. Transmitted or maintained in any other form or medium.

(C) Individually identifiable health information: As defined by HIPAA (45 CFR section 160.103), individually identifiable health information is any information, including demographic information, collected from an individual that is—

1. Created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
2. Related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and which identifies the individual, or with respect to which there is reasonable basis to believe that the information can be used to identify the individual.

(D) Business associate: As defined by HIPAA (45 CFR section 160.103), a person who, on behalf of the covered entity or provider or of an organized healthcare arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of:

1. A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

2. Any other function or activity regulated by this subchapter; or provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized healthcare arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(3) All providers who determine that they qualify as covered entities must comply with the provisions of the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A covered entity is defined as a healthcare provider, a health plan or a clearinghouse. The effective date of the Privacy Rule is April 14, 2003. IF this provider is a covered entity, THEN HIPAA requires the

appropriate policies and procedures be in place to comply with the HIPAA Privacy Rule. HIPAA requires such policies and procedures to include, but not be limited to, the following topics: Notice of Privacy Practices, Amendment of Protected Health Information (PHI), Client Access to PHI, Accounting of Disclosures, Workforce Training, Verification, Authorization for Disclosures of PHI, HIPAA Complaint Process, Marketing (if applicable), Research (if applicable), Audit and Monitoring of HIPAA compliance, and Business Associates Agreements with those companies providing goods and services which require the disclosure of PHI, etc. Where existing confidentiality protections provided by 42 CFR part 2, related to the release of alcohol and drug abuse records, are greater than HIPAA, then the department anticipates that the provider will consider any such provision of 42 CFR part 2 as the guiding law.

AUTHORITY: section 630.050, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Emergency rule filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. Original rule filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Ann Dirks-Linhorst, Department of Mental Health, Office of Quality Management, PO Box 687, Jefferson City, MO 65102. To be considered, comments must in writing and must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance Abuse Programs**

PROPOSED AMENDMENT

9 CSR 10-7.090 Governing Authority and Program Administration. The department proposes to add a new section (6).

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(6) Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulatory Compliance. The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220.

AUTHORITY: sections 630.050 and 630.055, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Julie Carel, Department of Mental Health, Division of Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must in writing and must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 3—Alcohol and Drug Abuse Programs**

PROPOSED AMENDMENT

9 CSR 30-3.032 Certification of Alcohol and Drug Abuse Programs. The department proposes to add a new paragraph (3)(A)17.

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(3) Other Rules and Standards. In addition to standards for specific programs and services, the organization must comply with other applicable requirements.

(A) The following Core Rules for Psychiatric and Substance Abuse Programs must be met, unless otherwise stipulated in standards for specific programs and services:

1. 9 CSR 10-7.010 Treatment Principles and Outcomes;
2. 9 CSR 10-7.020 Rights, Responsibilities and Grievances;
3. 9 CSR 10-7.030 Service Delivery Process and Documentation;
4. 9 CSR 10-7.040 Quality Improvement;
5. 9 CSR 10-7.050 Research;
6. 9 CSR 10-7.060 Behavior Management;
7. 9 CSR 10-7.070 Medications;
8. 9 CSR 10-7.080 Dietary Services;
9. 9 CSR 10-7.090 Governing Authority and Program Administration;
10. 9 CSR 10-7.100 Fiscal Management;
11. 9 CSR 10-7.110 Personnel;
12. 9 CSR 10-7.120 Physical Plant and Safety;
13. 9 CSR 10-7.130 Procedures to Obtain Certification;
14. 9 CSR 10-7.140 Definitions;
15. 9 CSR 10-5.190 Criminal Record Review; *[and]*
16. 9 CSR 10-5.200 Report of Complaints of Abuse and Neglect.; *and*
17. **9 CSR 10-5.220 Health Insurance Portability and Accountability Act of 1996 (HIPAA).**

AUTHORITY: sections 302.540, RSMo Supp. 2002 and 630.050, 630.655 and 631.102, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed March 8, 2002, effective Sept. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Dewey Price, Department of Mental Health, Division of Alcohol and

Drug Abuse, PO Box 687, Jefferson City, MO 65102. To be considered, comments must in writing and must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and
Developmental Disabilities
Chapter 5—Standards**

PROPOSED AMENDMENT

9 CSR 45-5.060 Procedures to Obtain Certification. The department proposes to add a new section (14).

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(14) The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA).

AUTHORITY: sections 630.050 and 630.655, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Emergency rule filed Feb. 13, 2002, effective March 1, 2002, expired Aug. 27, 2002. Original rule filed Feb. 13, 2002, effective Aug. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. Amended: Filed April 1, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Donna Haley, Department of Mental Health, Division of Psychiatric Services, PO Box 687, Jefferson City, MO 65102. To be considered, comments must in writing and must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 12—Hazardous Waste Fees and Taxes**

PROPOSED AMENDMENT

10 CSR 25-12.010 Fees and Taxes. The commission is amending subsections (1)(D) and (1)(E).

PURPOSE: Section 260.479, RSMo establishes the category tax paid by generators of hazardous waste, including minimum annual amounts, individual site caps, and a company cap. Currently the minimum annual amount is fifty-one dollars and twenty-eight cents (\$51.28), the individual site caps are forty-one thousand and twenty dollars (\$41,020) or eighty-two thousand forty dollars (\$82,040) annually depending on the waste disposal method used, and the company cap is eighty-two thousand forty dollars (\$82,040) annually. The Missouri Hazardous Waste Management Commission is authorized to increase these amounts annually, via the rulemaking process, by as much as 2.55% and has proposed this amendment to effect the rate increase for the December 2003 billings which are calculated on

waste generated and/or shipped off-site from July 1, 2002 through June 30, 2003.

The commission proposes to amend 10 CSR 25-12.010(1)(D) and (1)(E) by increasing the hazardous waste generator category tax rates, minimum and maximums by 2.55%. Subsections (1)(A) through (1)(C) and sections (2) through (5) are not proposed for amendment.

(1) Hazardous Waste Fees and Taxes Applicable to Generators of Hazardous Waste.

(D) An individual generator required to register in accordance with 10 CSR 25-5.262 shall pay a tax based on the volume by weight and management method in accordance with subsection (1)(E) of this rule and as required by section 260.479, RSMo. Sixty percent (60%) of revenues collected from this tax shall be transmitted by the department to the Missouri Department of Revenue for deposit in the hazardous waste remedial fund and forty percent (40%) of revenues collected from this tax shall be deposited in the hazardous waste fund. The tax will be based on the volume of hazardous waste generated and the management method utilized beginning on July 1 of the year preceding the billing year and through June 30 of the billing year. A company shall not annually pay more than *[eighty-two thousand forty dollars (\$82,040)]* **eighty-four thousand one hundred thirty-two dollars (\$84,132)** collectively for all combined plant sites under the provisions of this subsection unless the company also has a facility utilizing blended hazardous waste fuel, nor shall a generator who is required to register in accordance with 10 CSR 25-5.262 pay less than *[fifty-one dollars twenty-eight cents (\$51.28)]* **fifty-two dollars and fifty-nine cents (\$52.59)** annually. However, as outlined in subdivision 260.479.2(2), RSMo these minimum and maximum amounts may be adjusted annually by the commission by up to 2.55%.

1. The following hazardous wastes are exempted from this tax:

A. Any hazardous wastes generated by the state and any political subdivision of the state;

B. Waste oil;

C. Any hazardous waste generated by a person who qualifies as a conditionally exempt generator due to the quantity of waste generated in one (1) month or accumulated at one (1) time as specified under 10 CSR 25-3.260(1)(A)25.; and

D. Hazardous wastes legitimately discharged into a publicly-owned treatment works and exempted in 10 CSR 25-4.261. (Comment: This exclusion does not exclude sludges that are hazardous waste and are generated by industrial wastewater treatment.)

2. This tax shall not be imposed upon the following hazardous waste: hazardous waste fuel produced from hazardous waste by processing, blending or other treatment; hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site under sections 260.435-260.550, RSMo or as part of a remedial plan required under sections 260.350-260.434, RSMo; or smelter slag waste from the processing of materials into reclaimed metals.

A. Beginning with the billing sent out in December 2001 for hazardous waste generated July 1, 2000 through June 30, 2001, the exemption for hazardous waste fuel produced from hazardous waste by processing, blending or other treatment shall be removed in accordance with subdivisions 260.479.5, RSMo and 260.479.7, RSMo. However, this tax on hazardous waste fuel shall be assessed upon and paid by the facility utilizing such hazardous waste fuel as a substitute for other fuel. The tax shall be assessed and paid based upon the reporting year in which the hazardous waste fuel is received by the facility. No individual facility utilizing hazardous waste fuel shall pay more than *[eighty-two thousand forty dollars (\$82,040)]* **eighty-four thousand one hundred thirty-two dollars (\$84,132)** annually as a facility utilizing blended hazardous waste fuel; however, this amount is in addition to the potential *[eighty-two thousand forty dollar (\$82,040)]* **eighty-four thousand one hundred thir-**

ty-two dollar (\$84,132) company cap which these facilities may be subject to as a generator of hazardous waste.

(E) A generator who is not otherwise exempted by paragraph (1)(D)1., 2. or 3. of this rule shall pay a tax in each of the applicable subdivisions.

1. SUBDIVISION A—TAX.

A. A generator who manages hazardous waste by on-site storage that requires a permit in accordance with 10 CSR 25-7.264 or interim status in accordance with 10 CSR 25-7.265 or off-site storage that is not in conjunction with incineration, resource recovery, treatment or any other similar management method and a generator utilizing a disposal facility shall use the following formula to calculate his/her tax for hazardous waste generated from each state fiscal year, July 1 of each year through June 30 of the following year. (Note: A disposal facility means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and, at which, the waste will remain after closure.)

B. Tax in subdivision A = $(\text{\$}22.36/\text{\$}22.93 + (\text{\$}.081926/\text{\$}.084015 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})$. No individual site shall pay more than *[eighty-two thousand and forty dollars (\$82,040)]* **eighty-four thousand one hundred thirty-two dollars (\$84,132)** annually for subdivision A waste.

2. SUBDIVISION B—TAX.

A. A generator who utilizes a management technique not included in subdivision A shall use the following formula to calculate his/her tax for hazardous waste generated during the state fiscal year.

B. Tax in subdivision B = $(\text{\$}11.18/\text{\$}11.47 + (\text{\$}.040963/\text{\$}.042008 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})$. No individual site shall pay more than *[forty-one thousand twenty dollars (\$41,020)]* **forty-two thousand sixty-six dollars (\$42,066)** annually for subdivision B waste.

3. TOTAL—TAX.

A. The total tax for a generator is the applicable tax in subdivision A plus the applicable tax in subdivision B. No company shall pay annually more than *[eighty-two thousand forty dollars (\$82,040)]* **eighty-four thousand one hundred thirty-two dollars (\$84,132)** or less than *[fifty-one dollars and twenty-eight cents (\$51.28)]* **fifty-two dollars and fifty-nine cents (\$52.59)** under subsection (1)(E) unless they are also a facility utilizing blended hazardous waste fuel.

B. The billing of each year will be based on information submitted by generators and facilities on the quarterly manifest summary reports required at 10 CSR 25-5.262(2)(D)1., 10 CSR 25-7.264(2)(E)3. and 10 CSR 25-7.265(2)(E). The billing will be based on waste generated during the previous state fiscal year.

AUTHORITY: sections 260.370, 260.380, 260.390, 260.391, 260.395, 260.437 and 260.479, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed March 27, 2003.

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

PRIVATE COST: This amendment is estimated to cost private entities thirty-eight thousand seven hundred ninety-three dollars (\$38,793) in the next fiscal year and annually thereafter. A detailed fiscal note with the relevant cost information has been filed with the secretary of state.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action beginning at 9:00 a.m. on June 10, 2003 at the Missouri Department of Natural Resources

St. Louis Regional Office, 7545 S. Lindbergh Boulevard, Suite 210, St. Louis, Missouri. Any person wishing to speak at the hearing shall send a written request to the Secretary of the Hazardous Waste Management Commission at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written requests to speak must be postmarked by midnight on May 30, 2003. Faxed or e-mailed correspondence will not be accepted. Any person may submit written comments on this rule action. Written comments shall be sent to the Director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 20, 2003. Faxed or e-mailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Hazardous Waste Fees & Taxes

Division: 25-Hazardous Waste Management Commission

Chapter: 12-Hazardous Waste Fees & Taxes

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 25-12.010 - Fees & Taxes

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 ³ :
441	Large Quantity Generators ¹	\$35,884
2,463	Small Quantity Generators ²	\$2,909
		Total Annual Aggregate Cost of Compliance³: \$38,793

¹The number of entities shown is the total number of current, active registrations classified as Large Quantity Generators.

²The number of entities shown is the total number of current, active registrations classified as Small Quantity Generators.

³Because the duration of this rule is unknown, an annual aggregate cost of compliance is provided

III. WORKSHEET

- Total Category Tax collected to date & anticipated collection on outstanding bills for reporting year FY2002 is \$2,544,000.
- The proposed increase will result in a total Category Tax increase anticipated at about \$64,872.
- Based on FY01 payments, Missouri generators are expected to pay about 59.8% of total collected for FY02, or about \$1,521,312.
- The proposed increase is expected to result in Missouri generators paying an additional \$38,793.
- Because of the progressive nature of the Category Tax formula, Large Quantity Generators will pay about 92.5% of the increase or \$35,884 and Small Quantity Generators will be about \$2,909 or 7.5% of the increase. These percentages are from actual collections to date for FY01 billings.

IV. ASSUMPTIONS

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys

PROPOSED AMENDMENT

10 CSR 30-2.020 Definitions. The board is proposing to delete section (2) and amend and renumber sections (2)–(15).

PURPOSE: The purpose for making changes is to clarify, edit and revise the definitions for sections (4)–(7) and (10)–(16).

[(2)] Class of Property.

(A) Rural property—Any property that is not urban or suburban that is used for the production of crops, livestock or minerals, or used as parks, forest or similar use.

(B) Suburban property—Any property which is not urban property that is or is intended to be primarily used for residential purposes or property lying between residential areas whose value is influenced by the presence of such nearby developed real estate.

(C) Urban property—Any property wholly or partly within the corporate limits of any city, town or village, and any commercial and industrial properties, condominium properties, town houses, apartments, and other multi-unit developments.]

[(3)] (2) Controlling corners[.]: Controlling corners are the corners that determine the location of the record title boundary.

[(4)] (3) Exterior corners: Exterior corners of a parcel are the corners that define the shape and size of the parcel.

[(5)] (4) [Legal] Property description[.]: A property description is [A] a description of real property by government survey, metes and bounds, or lot numbers of record. The description must be complete enough so a particular parcel of land can be located and identified.

[(6)] (5) Linear error of closure: Linear error of closure is the square root of the sum of the squares of the error in north coordinates (Y) and in east coordinates (X).

[(7)] (6) [Material variations, whether between surveyed lines and lines of possession, or between record and measured distances or directions are variations so substantial and important that they would influence a reasonably prudent and otherwise knowledgeable person when making decisions in reliance upon the survey.] **Material variations:** Material variations are those differences between surveyed lines and lines of possession or measurements called for in the record source of the property being surveyed that are, in the professional judgement of the surveyor, substantial and important to the location of the subject survey.

[(8)] (7) Physical monument[.]: The term physical monument refers to both natural and artificial physical objects which are accepted and used to mark boundaries and corners.

[(9)] (8) Property boundary surveys[.]:

(A) A condominium survey is a survey executed to create and define condominium property in accordance with Chapter 448, RSMo.

(B) An original survey is a survey which creates a new parcel out of a large parent tract, for the purpose of conveying the new parcel. Boundary adjustment plats, consolidation plats, riparian plats, lot splits, and minor subdivisions are examples of original surveys.

(C) A resurvey is a survey executed to remark, reestablish, restore or delineate the boundary line or corners of a parcel previously created by a deed, survey or subdivision.

(D) A subdivision survey is the partitioning of land into two (2) or more parcels by platting the divisions of land in accordance with Chapter 445, RSMo and per the appropriate platting procedures, and from which parcels are then sold by reference to the plat of record.

[(10)] (9) Radial survey measurement tolerance: Radial survey measurement tolerance is the computed expected relative accuracy of any distance determined by radial surveying methods. It is computed using an analysis of component distance and direction errors.

[(11)] (10) Radial survey method: Radial survey method is the determination of the coordinate values of points by measuring directions and distance from a central point as opposed to determination of the coordinates of points by traverse. The determination of coordinates by “side shots” from a closed traverse is not considered a radial surveying method.

[(12)] (11) Record title boundaries: Record title boundaries are the boundaries of the real estate described in the title of record.

[(13)] (12) Relative position tolerance: Relative position tolerance is the relative accuracy between all **directly connected** pairs of points in a survey. In practice it is computed for a sampling of pairs of points using either an analysis of component distance and direction errors or from a minimally constrained, correctly weighted least squares adjustment.

[(14)] (13) Title of record: Title of record[.] is [A] a title to real estate, evidenced and provable by one (1) or more conveyances or other instruments all of which are duly entered on the public records.

[(15)] (14) Traverse closure: Traverse closure is the linear error of closure of the traverse computed either from an analysis of the component distance and direction errors or from the actual traverse measurements.

[(16)] (15) United States Public Land Survey Corners: United States Public Land Survey Corners[. Corners of the United States Public Land Survey] are those points that determine the boundaries of the various subdivisions represented on the official government plat such as the township corner, the section corner, the quarter-section corner, blank quarter-section corners, center of section, fractional-section corners, grant corner and meander corner.

AUTHORITY: sections 60.510(7), [and] 60.550, [RSMo 1986 and] 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys

PROPOSED AMENDMENT

10 CSR 30-2.030 General Land Surveying Requirements. The division is amending sections (1) and (3).

PURPOSE: The purpose for the revision of subsection (3)(I) is to add the source of the vertical datum to the plat. The purpose for the revision of paragraph (3)(I)1. is to move from the definitions section of Urban, Suburban and Rural Property Accuracies to the General Land Surveying Requirements, Publication of Results Section. The purpose for the revision to subsection (3)(P) is to add the requirement for identifying title documents of adjoining properties to the final plat.

(1) Research and Investigation.

(A) Every survey executed shall be based on the *[legal]* property description of the parcel or parent tract taken from the title of record. This *[legal]* property description should be provided by the client.

(3) Publication of Results. A plat shall be made showing the results of the survey and a signed and sealed copy of the plat shall be furnished to the client. This survey plat shall conform to all of the following provisions, where applicable:

(F) A *[prominent]* north arrow shall be drawn on every sheet~~;~~ containing graphic survey data;

(I) All vertical dimensions shall be shown by elevations above an established or assumed datum~~;~~ and the source of the established or assumed datum shall be defined on the plat. Vertical dimensions shall be made at the same accuracy standard as property boundary surveys.

1. Type Urban Property Accuracy shall be one-tenth (0.10) of a foot or 1:20,000 for distances greater than two thousand feet (2,000') and shall apply to any property that is wholly or partly within the corporate limits of any city, town or village, and any commercial and industrial property, condominium property, town house property, apartments, and other multi-unit developments.

2. Type Suburban Property Accuracy shall be one-tenth (0.10) of a foot or 1:10,000 for distances greater than one thousand feet (1,000') and shall apply to any property that is not Urban Property, that is or is intended to be primarily used for residential purposes or property lying between residential areas whose value is influenced by the presence of such nearby developed real estate.

3. Type Rural Property Accuracy shall be two-tenths (0.20) of a foot or 1:5,000 for distances greater than one thousand feet (1,000') and shall apply to all property that is not Urban Property or Suburban Property;

[(O) The class of property shall be noted on the plat; and]

[[P]] (O) Any material variation between measured and record dimensions shall be noted on the plat~~;~~; and

(P) The plat shall identify title documents for adjoining properties, as they appear of record, consistent with the research and investigation provisions of these standards. The source of said title documents shall be shown, preferably by recording book and page reference of the county records.

AUTHORITY: sections 60.510(7), [and] 60.550, [RSMo 1986 and] 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys

PROPOSED AMENDMENT

10 CSR 30-2.040 Accuracy Standards for Property Boundary Surveys. The board is amending sections (1)–(5).

PURPOSE: The purpose of the revision to section (5) is to place the accuracy standards definitions for different types of property as part of the relative positional traverse closure.

(1) The surveyor shall select the proper equipment and method necessary to achieve either the required relative position tolerance, required radial survey measurement tolerance or required traverse closure.

[[2]] (A) If the computed relative position tolerance is greater than the required relative position tolerance, the survey shall be considered unacceptable and shall be remeasured.

[[3]] (B) If the computed traverse closure is greater than the required traverse closure, the traverse shall be considered unacceptable and shall be remeasured.

[[4]] (C) When radial survey methods are used, it is the responsibility of the surveyor to provide sufficient checks to insure that the relative positional tolerance of all points is not greater than that required in this regulation.

[[5] The required relative position tolerance, and traverse closure at sixty-eight percent (68%) confidence level shall be— For urban property: one-tenth of a foot (0.10') or 1:20,000 for distances greater than two thousand feet (2000'); Suburban property: one-tenth of a foot (0.10') or 1:10,000 for distances greater than one thousand feet (1000'); Rural property: two-tenths of a foot (0.20') or 1:5,000 for distances greater than one thousand feet (1000').]

(2) The required relative position tolerance and traverse closure at sixty-eight percent (68%) confidence level shall be for:

(A) Type Urban Property Accuracy shall be one-tenth (0.10) of a foot or 1:20,000 for distances greater than two thousand feet (2,000') and shall apply to any property that is wholly or partly within the corporate limits of any city, town or village, and any commercial and industrial property, condominium property, town house property, apartments, and other multi-unit developments.

(B) Type Suburban Property Accuracy shall be one-tenth (0.10) of a foot or 1:10,000 for distances greater than one thousand feet (1,000') and shall apply to any property that is not Urban Property, that is or is intended to be primarily used for residential purposes or property lying between residential areas whose value is influenced by the presence of such nearby developed real estate.

(C) Type Rural Property Accuracy shall be two-tenths (0.20) of a foot or 1:5,000 for distances greater than one thousand feet

(1,000') and shall apply to all property that is not Urban Property or Suburban Property.

AUTHORITY: sections 60.510(7), [and] 60.550, [RSMo 1986 and] 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

10 CSR 30-2.060 Approved Monumentation. The board is amending subsection (3)(C) and section (6).

PURPOSE: The purpose of the revision to subsection (3)(C) is to allow a drill hole or cut cross in bedrock as a semi-permanent monument.

(3) Semi-permanent monuments shall be selected from the following:

(C) In urban built-up areas, a cross-cut or drill hole in concrete, brick, [or] stone paving, or bedrock at the precise position of the corner or on a prolongation of a boundary line; and

(6) When it is impractical to set a required monument, a witness monument shall be set. It should be placed five feet (5') or more away from the point and preferably at an even foot. Witness monuments [less than five feet (5') from the point] must be clearly identified and shown on the plat. The location of the witness monument should be along a line of the survey or a prolongation of such line.

AUTHORITY: sections 60.510(7), [and] 60.550, [RSMo 1986] and 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

10 CSR 30-2.070 Detail Requirements for Resurveys. The board is amending subsection (2)(B) and renumbering the remaining subsections accordingly.

PURPOSE: The purpose of the addition to section (1) is to add language that was previously part of the section and was left of in the last publication. The purpose of the revision to subsection (2)(B) is to note the accuracy standard on the final plat for resurveys.

(1) Monumentation. The land surveyor shall establish semi-permanent or confirm existing monuments at each and every exterior corner of the parcel or tract being surveyed. All exterior corners shall be set or witnessed with the exception of those along streams or lakes or undedicated/unrecorded roads.

(2) Publication of Results.

(B) The Accuracy Standard, Type Urban, Type Suburban or Type Rural, shall be noted on the plat.

[(B)] (C) If the boundary description surveyed is from a recorded document, then the plat shall show or reference, or both, the record source of the boundary description surveyed. For example: lot, block, subdivision name; deed record book and page; document number.

[(C)] (D) If the boundary description surveyed is not contained in a recorded document (for example, boundary description contained in a lease, or unrecorded contract for deed), then the description provided the surveyor shall be quoted on the plat.

AUTHORITY: sections 60.510(7), [and] 60.550, [RSMo 1986] and 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

10 CSR 30-2.080 Detail Requirements for Original Surveys. The board is amending subsection (2)(B) and adding a new subsection(2)(C).

PURPOSE: The purpose of the revision to subsection (2)(B) is to change the wording "legal description" to "property description."

The purpose of the change to subsection (2)(C) is to note the accuracy standard on original surveys based on property type.

(2) Publication of Results.

(B) [Legal] **The property** description of the parcel created shall be written and shown on the resulting plat of survey.

(C) **The Accuracy Standard, Type Urban, Type Suburban or Type Rural, shall be noted on the plat.**

AUTHORITY: sections 60.510(7), [and] 60.550, [RSMo 1986] and 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

10 CSR 30-2.090 Detail Requirements for Subdivision Surveys. The board is amending section (2).

PURPOSE: The purpose of the revision to section (2) is to note the accuracy standard on subdivision plats.

(2) Publication of Results. The plat shall show or reference the record source of the parent parcel from which the subdivision survey was made, **and the Accuracy Standard, Type Urban, Type Suburban or Type Rural, shall be noted on the plat.**

AUTHORITY: sections 60.510(7), [and] 60.550[, RSMo 1986] and 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 30—Land Survey
Chapter 2—Missouri Minimum Standards for Property
Boundary Surveys**

PROPOSED AMENDMENT

10 CSR 30-2.100 Detail Requirements for Condominium Surveys. The board is amending subsections (2)(K) and (2)(L) and adding a new subsection (2)(M).

PURPOSE: The purpose of the revision to subsection (2)(M) is to note the accuracy standard on condominium plats.

(2) Publication of Results. Each plat shall show the following:

(K) The plat shall clearly define the elevation datum used. The current North American Vertical Datum, or a similar well documented datum is preferred. The location and elevation of the benchmark used to establish project datum shall be described on the plat. If no such established datum exists within a reasonable distance of the project, the surveyor will set a permanent monument as a benchmark and shall show its location and elevation on the plat; *[and]*

(L) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either **SHALL BE BUILT** or **NEED NOT BE BUILT**./; **and**

(M) **The Accuracy Standard shall be Type Urban and shall be noted on the plat.**

AUTHORITY: sections 60.510(7), [and] 60.550[, RSMo 1986] and 448.2-109, RSMo [Supp. 1988] 2000. Original rule filed May 3, 1994, effective Dec. 30, 1994. Amended: Filed March 20, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with J. Michael Flowers, State Land Surveyor, Department of Natural Resources, Land Survey Program, PO Box 250, Rolla, MO 65402. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

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

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

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

(2) Definition of Terms.

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

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

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

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

(3) Basic Application of Exemption.

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

1. Used exclusively for agricultural purposes;
2. Used on land owned or leased for the purpose of producing farm products; and
3. Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail. The term “used directly” encompasses items that are used in some manner prior to the actual commencement of production, during production, or in some manner after the production has terminated. In determining whether items are used directly, consideration must be given to the following factors:

- A. Where the items in question are used;
- B. When the items in question are used; and
- C. How the items in question are used to produce a farm product.; and

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

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

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

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

[(D)] (E) Pursuant to section 144.030.2(34), RSMo, all sales of grain bins for storage of grain for resale are exempt; *[however]* pursuant to this section, parts purchased separately for these bins are not exempt. However, *[G]*grain bins, *[and]* including all parts *[pur-*

chased] that are used in production of a farm product and qualify as farm machinery and equipment are exempt pursuant to section 144.030.2(22).

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

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

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

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

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

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

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

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

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

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

Schedule A Usually Exempt Items

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

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

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

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

**Schedule B
Usually Taxable Items**

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

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

(4) Examples.

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

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

AUTHORITY: sections 144.270 and 144.705, RSMo [1994] 2000. Original rule filed Nov. 18, 1999, effective June 30, 2000. Amended: Filed March 31, 2003.

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

PRIVATE COST: This proposed amendment may or may not cost private entities more than five hundred dollars (\$500) in the aggregate. An accurate estimate cannot be made as the department has no track-

ing mechanism to determine how many taxpayers will take the exemption.

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

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-110.900 Farm Machinery and Equipment Exemption
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by 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:
Potentially anyone involved in producing farm products to be sold at retail or to be fed to livestock or poultry to be sold in processed form at retail.	N/A	The fiscal impact is UNKNOWN . Some taxpayers may pay higher taxes if they follow the amended rule's explanation of the law as currently interpreted by the Supreme Court than if they follow the existing rule's explanation of law as interpreted by the Supreme Court at the time the existing rule was originally promulgated. Additionally, the current rule mistakenly broadens the exemption as contained in the statute, a mistake corrected in the amendment. Taxpayers who followed the rule rather than the statute may pay higher taxes. The department reasonably believes that such taxpayers in the aggregate will pay additional taxes of more than \$500.

III. WORKSHEET

The aggregate fiscal impact is based on representations of taxpayers regarding the impact on them.

IV. ASSUMPTIONS

Some taxpayers may or may not pay more tax after this amendment becomes final than they do now. An accurate estimate cannot be made at this time as the department has no tracking mechanism to determine how many taxpayers will take the exemption.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax—Machinery and Equipment
Exemptions

PROPOSED AMENDMENT

12 CSR 10-111.010 Manufacturing Machinery and Equipment Exemptions. The director proposes to amend sections (2)-(4).

PURPOSE: This amendment reflects recent court cases and to provide for more consistent application of department policies.

(2) Definition of Terms.

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

[(A)] (B) Establish a new manufacturing plant—The complete and final construction of a facility and all of its component parts. Construction shall be deemed completed within a reasonable period of time after production begins.

[(B)] (C) Expand existing manufacturing plant—The purchase of additional machinery, equipment and parts as a result of the physical enlargement of an existing manufacturing, fabricating or mining facility; or the addition of machinery, equipment and parts constituting improvements that result in an actual or potential: i) increase in production volume at the plant, ii) increase in employment at the plant, or iii) increase in the number of types or models of products produced at the plant. This actual or potential increase is measured in relation to the actual or potential production volume, employment or types or models of products produced at the plant before the machinery, equipment and parts were originally put into use at the plant. Documentation which may be provided to establish the requisite intent for potential increase in production include, but are not limited to, the following: capital expenditure authorization requests, production records, production plans, purchase invoices, work authorizations, plant equipment cost savings analysis or reports and asset justification reports.

[(C)] (D) Fabrication—The process of transforming an item into a higher stage of development. It does not imply or signify manufacturing, but the meaning of the term is limited to cutting, carving, dressing, shaping; advancing an elementary shape to a higher stage of development; reworking and cutting shapes to required length.

[(D)] (E) Machinery [and equipment]—[Devices that have a degree of permanence to the business, contribute to multiple processing cycles over time and generally constitute fixed assets other than land and buildings for purposes of business and accounting practices.] Combinations of parts that work together as a functioning unit, even if they are subordinate elements of more complex machinery. Machinery may be simple or complex, but does not include the replacement of an individual part, even if that part becomes an element of a functioning machine.

[(E)] (F) Manufacturing—i) the alteration or physical change of an object or material to produce an article with a use, identity and value different from the use, identity and value of the original; or ii) a process which changes and adapts something practically unsuitable for any common use into something suitable for common use; or iii) the production of new and different articles, by the use of machinery, labor and skill, in forms suitable for new applications; or iv) a process that makes more than a superficial transformation in quality and adaptability and creates an end product quite different from the original; or v) requires the manipulation of an item in such a way as to create a new and distinct item, with a value and identity completely different from the original. Manufacturing does not include processes that restore articles to their original condition (e.g., clean-

ing, repairing); processes that maintain a product (e.g., refrigeration); or processes that do not result in a change in the articles being processed (e.g., inspecting, sorting).

(G) Materials—Tangible personal property that becomes a component of machinery and equipment during installation, construction or operation of the machinery and equipment, or that becomes an ingredient or component part of the final product that is ultimately sold for final use and consumption.

[(F)] (H) Mining—The process of extracting from the earth precious or valuable metals, minerals or ores. This process includes quarrying, but does not include equipment used for water-well drilling or reclamation performed to restore previously mined land to its original state.

[(G)] (I) Parts—Articles of tangible personal property that are components of machinery or equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Items that are consumed in a single processing and benefit only one production cycle are materials and supplies, not parts. Items such as: nuts, bolts, hoses, hose clamps, chains, belts, gears, drill bits, grinding heads, blades, and bearings, would ordinarily be considered [as/ parts. Substances such as fuels and coolants that are added to machinery and equipment for operation are not parts. Substances such as lubricants, paint and adhesives that adhere to the surface of machinery and equipment but are not distinct articles of tangible personal property, are not parts/. T]; these items would be considered [as/ materials and supplies within the meaning of the exemptions.

[(H)] (J) Producing—Includes the meanings of “manufacturing” and “fabricating,” and is used in connection with the creation of intangibles that are taxable but which are not manufactured or fabricated in the sense those terms are commonly understood, e.g., information organized by computer and then sold on tangible media.

[(I)] (K) Product which is intended to be sold ultimately for final use or consumption—Tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state, which is intended at the time of manufacturing, mining or fabrication to be sold at retail. Property or services cannot be considered to be “subject to” the tax of a state unless the property or services are actually to be sold at retail in that state or delivered to a retail customer in that state.

(L) Supplies—Tangible personal property consumed in the installation or construction of machinery and equipment, or in maintaining machinery and equipment during operation. The term supplies does not include fuel because sections 144.030.2(4) and (5), RSMo do not expressly exempt fuel.

(M) Used directly in manufacturing, mining, fabricating or producing a product—Substantially used in, essential to, and comprising an integral part of the manufacturing, mining, fabricating or producing process. Under the integrated plant theory, adopted by Missouri, it is not sufficient to meet only one (1) of these requirements. For example, items used in material storage or handling before the manufacturing process begins may be essential to the process, but generally are not an integral part of the manufacturing process and are therefore not used directly in manufacturing. Similarly, items used for storing the finished product are generally not an integral part of the manufacturing process. The factors that determine whether an article is directly used are: whether the item is essential or necessary to the process; how close, causally, is the item to the production process; and whether the item operates harmoniously with other machinery to make an integrated and synchronized system. The direct use requirement is not limited to those items of machinery, equipment and parts that produce a direct physical change in the composition of the raw materials or work in process. As long as there is a continuous progression from raw materials to finished product and there are no extended interruptions in the manufacturing process, the integrated and synchronized system begins

when raw materials enter the production process and ends when the product is finished.

(3) Basic Application of Exemption.

[(A) Direct use—In determining whether machinery, equipment and parts are used directly in producing a product, Missouri has adopted the integrated plant theory that permits a broad construction of the machinery, equipment and parts exemptions. The language “used directly in” exempts purchases of articles that are both essential and comprise an integral part of the manufacturing process. It is not sufficient to meet only one of these requirements. For example, items used in material storage or handling before the manufacturing process begins may be essential to the process, but are not an integral part of the manufacturing process and are therefore not used “directly” in manufacturing. The factors which determine whether an article is directly used are: whether the item is essential or necessary to the process; how close, causally, is the item to the production process; and whether the item operates harmoniously with other machinery to make an integrated and synchronized system. The direct use requirement is not limited to those items of machinery, equipment and parts that produce a direct physical change in the composition of the raw materials or work in process.]

[(B)] (A) [New or expanded plant exemption—] Pursuant to section 144.030.2(5), RSMo, purchases of machinery, equipment and parts to establish a new or to expand an existing manufacturing, mining or fabricating plant in Missouri which are used directly in manufacturing, mining or fabricating a product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such machinery and equipment are not subject to tax.

[(C)] (B) [Purchase by other than end user—] The exemptions for machinery, equipment and parts in section 144.030.2(4) and (5), RSMo, do not require that the owner of the facility be the purchaser to qualify for the exemption or that the purchaser be the one who uses the machinery, equipment and parts in an exempt fashion. All that is required is that the machinery, equipment and parts are used in a tax-exempt manner. These exemptions “flow through” to the owner. For example, a real property improvement contractor may purchase exempt from tax the machinery, equipment, parts, materials and supplies solely required for installation or construction of such replacement items, if such items are to be used in a tax-exempt manner by the owner.

(C) Pursuant to section 144.030.2(4), RSMo, purchases of replacement machinery, equipment and parts which are used directly in manufacturing, mining, fabricating or producing a product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such replacement machinery, equipment and parts are not subject to tax.

(D) Replacement—To be exempt under section 144.030.2(4), RSMo, the machinery, equipment and parts must replace an existing piece of machinery, equipment or parts. This can include machinery, equipment, or repair and maintenance parts that are identical to the items they replace, as well as items that are different from the ones they replace, such as replacement machinery, equipment or parts added for the purpose of improving or modifying the existing devices. The replacement machinery, equipment and parts must be used in a process that produces a product intended to be sold ultimately for final use or consumption.

[(E) Replacement machinery, equipment and parts— Pursuant to section 144.030.2(4), RSMo, purchases of replacement machinery, equipment and parts which are used directly in manufacturing, mining, fabricating or producing a

product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such replacement machinery, equipment and parts are not subject to tax.]

[(F)] (E) [Use for nonexempt purposes—]In order for the machinery and equipment to be exempt from tax it must be used substantially for an exempt purpose, but need not be used exclusively or primarily for [an exempt] that purpose. However, the purchaser may only claim an exemption for a percentage of the purchase price equal to the percentage of use for an exempt purpose. If several like items are purchased, some for exempt purposes and some for nonexempt purposes, only the number of items essential for the exempt use qualify for the exemption. The purchaser must intend at the time of purchase to use and actually make material use of the machinery and equipment in an exempt capacity to qualify. The fact that it may also be used for nonexempt purposes will not prevent the purchase of the item from qualifying for the exemption. [If several like items are purchased, some for exempt purposes and some for nonexempt purposes, only the number of items essential for the exempt use qualify for the exemption.] If a purchaser buys machinery, equipment or parts under a claim of exemption, the purchaser must self-accrue and remit tax to the department for that portion of the purchase price attributable to use for a nonexempt purpose. The percentage of exempt use may be based on the time used for an exempt purpose or on another formula or method that reasonably reflects the actual exempt use.

(F) When two (2) or more entities are involved in a process, they must be under common ownership and work together to manufacture, mine, fabricate or produce a single product for both to qualify for the exemption under the integrated plant theory. Otherwise, they must each independently satisfy the requirements of this exemption.

(4) Examples.

(G) Same facts as (F). Some of the testing equipment is used for both exempt and nonexempt purposes. The company should purchase the equipment pursuant to a claim of exemption and accrue and remit tax for the percentage of the purchase price equal to the percentage of the time the equipment is used for nonexempt purposes.

[(G)] (H) A ceramic greenware manufacturer purchases six (6) [initial] greenware mug molds, which it is going to use to manufacture greenware mugs to be resold. All six (6) greenware mug molds would be exempt.

[(H)] (I) A rock quarry purchases equipment to remove earth and overburden to expose the rock and to remove rock from the ground. It purchased separate equipment to crush the rock into gravel as a marketable product to be sold at retail. The equipment used to remove the overburden and rock from the ground would qualify as exempt mining equipment and the equipment used to crush the rock into gravel would qualify as exempt manufacturing equipment.

[(I)] (J) A taxpayer operates a concrete manufacturing plant. [It] The taxpayer purchases three (3) replacement concrete mixing trucks and also adds four (4) additional concrete mixing trucks to expand its fleet. The /T/taxpayer also purchased dump trucks to haul concrete slabs that had been manufactured in its plant. The replacement and new additional concrete mixing trucks are directly used in manufacturing and would qualify for the replacement machinery and equipment exemption in section 144.030.2(4), RSMo, and the expanded plant exemption in section 144.030.2(5), RSMo, respectively. The dump trucks would not qualify for exemption because they are not directly used in the manufacturing process. However, if the dump trucks were used in the plant to transport the slabs during the manufacturing process from one processing area to another within the manufacturing plant, these exemptions would apply.

[[J]] (K) A taxpayer creates and sells a nontaxable information service product. To develop its product, the taxpayer purchases computer hardware and software. Because the taxpayer produces a nontaxable service product, it is not manufacturing a product intended to be sold ultimately for final use or consumption and, therefore its purchases of computer equipment are not exempt from tax.

[[K]] (L) A taxpayer has exempt machinery and equipment used directly in manufacturing a taxable product. Taxpayer purchases: i) *[fuels,] lubricants[,] and coolants* for operation of the machinery and equipment; ii) paint and adhesives which will adhere to the surface of the machinery and equipment; and iii) replacement hoses and belts for the machinery and equipment. The *[fuels,] lubricants, coolants, paint and adhesives* added to the machinery and equipment for operation are not parts within the meaning of the exemptions. *[These items are materials and supplies.]* They are exempt only if used for installation or construction of exempt machinery, equipment and parts. The hoses and belts may be purchased exempt from tax because they qualify as replacement parts.

[[L]] (M) A manufacturing company has two (2) sets of storage *[devices] bins*. The first set stores work in process between two (2) separate production areas. The second set stores the finished goods after the manufacturing process has been completed. The first set of storage *[devices] bins* is used directly in manufacturing and thus falls within the exemption. The second set of *[devices] bins* is not directly used in manufacturing and is subject to tax.

[[M]] (N) A manufacturing company uses pneumatic powered tools directly on its assembly line. It also has hand tools used to repair or adjust the machines throughout the plant. The pneumatic powered tools are exempt as machinery and equipment directly used in manufacturing. The hand tools do not qualify as machinery and equipment directly used in manufacturing and are taxable.

[[N]] (O) A commercial photo developer uses "crop cards" to hold individual negatives in the film developing process which are discarded after a single use. The developer also uses tape to connect negative strips so that the negatives may be fed through its automatic film developing machinery and equipment. The crop cards and tape are *[consumable supplies,]* not parts or equipment, and therefore are subject to tax.

[[O]] (P) A steel company manufactures steel products. It purchases train carloads of steel beams that are used in the plant to produce the products. **The steel beams are unloaded from the train and placed in the production line.** The crane used to unload the steel beams *[at the plant] from the train to the production line* is part of the integrated and synchronized system and is used directly in the manufacturing process. *[As long as there is a continuous progression from raw materials to finished product and there are no extended interruptions in the manufacturing process, the integrated and synchronized system begins when raw materials enter the plant site and ends when the finished product leaves the plant site.]*

[[P]] (Q) A taxpayer *[sells and installs computer hardware and software and]* provides information technology services to its customers **in Missouri and Texas.** *[The hardware and software are tangible personal property subject to sales tax.]* The technology services are not subject to tax in Missouri but are subject to tax in Texas. *[and t/The taxpayer remits [sales] tax to Texas on its sales in Texas. [The taxpayer's purchase of machinery and equipment to develop its products and services is intended to manufacture a taxable product or a taxable]* **The computer hardware and software used to provide services to customers in Missouri are subject to tax. Because the services are subject to tax in Texas, the computer hardware and software used by the taxpayer to provide its services in Texas are used to provide a service intended to be sold ultimately for final use or consumption. [The purchase of machinery and equipment is exempt from tax.] The purchase of the computer hardware and software used to provide services in Texas, therefore, is exempt from tax because the technology services are taxable.**

(R) Same facts as (Q), except the same equipment is used to provide services to customers both in Texas and in Missouri. **The taxpayer should purchase the hardware and software under a claim of exemption and accrue and remit tax on the percentage of the purchase price equal to the percentage of time the hardware and software is used to provide services in Missouri.**

[[Q]] (S) A manufacturer purchases four (4) forklifts for use in its plant. The manufacturer intends to use two (2) forklifts to move work in process between two (2) manufacturing steps and the other two (2) for loading the finished product from its warehouse onto trucks. Even though all four (4) forklifts may be rotated between the functions, only the two (2) forklifts essential to the manufacturing process are exempt. **If the manufacturer uses all four (4) forklifts on a rotating basis in both moving work in process and in loading finished product, the manufacturer may purchase all forklifts under the exemption but must remit tax on the amount of the purchase price representing the non-exempt use of the forklifts. Replacement parts used on the forklifts are also subject to tax on the same prorated basis.**

(T) A manufacturer purchases a computer system to provide all accounting functions, for use in designing new products, and to control its production line. The manufacturer may purchase the computer system exempt from tax but must remit to the department tax on that portion of the purchase price equivalent to the percentage of the computer capacity that is not used to control the production line.

(U) A manufacturer purchases machinery and equipment to unload raw materials from delivery vehicles and transport them to the warehouse for storage. This machinery and equipment is not directly used in manufacturing and is not eligible for this exemption.

(V) A manufacturer purchases machinery and equipment to unload raw materials from delivery vehicles and transport them on conveyors directly from the loading dock to the production line. The raw materials remain on the conveyor until used in the production process. This machinery and equipment is integrated and used directly in manufacturing and qualifies for this exemption.

(W) A manufacturer purchases machinery and equipment to take the finished product from the production line to the warehouse for storage. This machinery and equipment is integrated and directly used in manufacturing and is eligible for this exemption. The manufacturer also purchases machinery and equipment to use in handling the finished product in the warehouse and deliver it to vehicles for shipping. This machinery and equipment is not directly used in manufacturing and is not eligible for this exemption.

AUTHORITY: section 144.270, RSMo [1994] 2000. Original rule filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed March 31, 2003.

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

PRIVATE COST: This proposed amendment may or may not cost private entities more than five hundred dollars (\$500) in the aggregate. An accurate estimate cannot be made as the department has no tracking mechanism to determine how may taxpayers will take the exemption.

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

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-111.010 Manufacturing Machinery and Equipment Exemptions
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by 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:
Potentially anyone involved in manufacturing products to be sold at retail	N/A	The fiscal impact is UNKNOWN . Some taxpayers may pay higher taxes if they follow the amended rule's explanation of the law as currently interpreted by the Supreme Court than if they follow the existing rule's explanation of law as interpreted by the Supreme Court at the time the existing rule was originally promulgated. Taxpayers who followed the rule rather than the statute may pay higher taxes. The department reasonably believes that such taxpayers in the aggregate will pay additional taxes of more than \$500.

III. WORKSHEET

The aggregate fiscal impact is based on representations of taxpayers regarding the impact on them.

IV. ASSUMPTIONS

Some taxpayers may or may not pay more tax after this amendment becomes final than they do now. An accurate estimate cannot be made at this time as the department has no tracking mechanism to determine how many taxpayers will take the exemption.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 15—Division of Senior Services
Chapter 4—Older Americans Act**

PROPOSED AMENDMENT

19 CSR 15-4.050 Funding Formula and Fiscal Management. The department proposes to amend this rule by revising sections (2) and (6).

PURPOSE: This amendment revises the referenced language to reflect use of the most recent decennial Census in calculating the funding formulas which allows the Division of Senior Services to disburse funds to the area agencies on aging in the state.

(2) The intrastate funding formula for the state of Missouri shall be established by the proportion of the population in each planning and service area (PSA) as calculated by using the following four (4) factors:

(E) Data used to compute the area agency on aging allotment percentages [for all Fiscal Years preceding 2003 was] will be derived from the [1990] most recent decennial Census of Population and Housing, [Summary Tape 3A] for the following categories:

1. Population sixty (60) years of age and over [for funds allocated for the period July 1, 1994 through June 30, 1995];
2. Population sixty (60) years of age and over, below poverty;
3. Population sixty (60) years of age and over, minority below poverty;
4. Population sixty (60) years of age and over, rural or geographically isolated; and
5. Population sixty (60) years of age and over, minority;

(F) Data from the [1990] most recent decennial Census of Population and Housing, [Summary Tape File 4A was] will be used for the following categories:

1. Population sixty (60) years of age and over with a disability;
2. Population sixty (60) years of age and over with limited English;

(G) Data used to compute the area agency on aging allotment percentages was derived from the 1999 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 2001 through June 30, 2002;

(H) Data used to compute the area agency on aging allotment percentages was derived from the 2000 Census prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 2002 through June 30, 2003;

(I) Based on the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 2002 beginning July 1, 2001 and ending June 30, 2002, are as follows:

1. Southwest Missouri Office on Aging—12.93%;
2. Southeast Missouri Area Agency—10.40%;
3. District III Area Agency—6.56%;
4. Northwest Missouri Area Agency—6.23%;
5. Northeast Missouri Area Agency—5.55%;
6. Central Missouri Area Agency—11.03%;
7. Mid-America Regional Council—14.53%;
8. Mid-East Area Agency—20.93%;
9. St. Louis Area Agency—8.21%; and
10. Region X Area Agency—3.63%; and

(J) Based on the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 2003 beginning July 1, 2002 and ending June 30, 2003, are as follows:

1. Southwest Missouri Office on Aging—13.16%;
2. Southeast Missouri Area Agency—10.43%;
3. District III Area Agency—6.60%;
4. Northwest Missouri Area Agency—6.18%;
5. Northeast Missouri Area Agency—5.58%;
6. Central Missouri Area Agency—11.16%;
7. Mid-America Regional Council—14.41%;
8. Mid-East Area Agency—21.01%;
9. St. Louis Area Agency—7.82%; and
10. Region X Area Agency—3.65%.]

(6) The intrastate funding formula for the allocation of Title III funds for Disease Prevention and Health Promotion Services shall be established by the proportion of the sum of the factors for each PSA to the total of the factors for the state as calculated by using the following three (3) factors:

[(D) Data used for the following categories was derived from the 1990 Census of Population and Housing Summary Tape File 2A for use in allocating funds for the Fiscal Years preceding 2003:

1. Population sixty (60) and over;
2. Population sixty (60) and over minority;]

[(E)] (D) Data used for the following categories [was] will be derived from the [2000] most recent decennial Census for use in allocating funds [for Fiscal Year 2003].

1. Population sixty (60) and over;
2. Population sixty (60) and over minority;

[(F)] (E) Data used for the population sixty (60) and over below poverty [was] will be derived from the [1990] most recent decennial Census of Population and Housing, [Summary Tape File 4A];

[(G)] (F) Data used for the population per square mile [was] will be derived from the [1990] most recent decennial Census of Population and Housing Unit Counts, [Table 4];

[(H)] (G) Data from the Missouri Department of Social Services, Division of Medical Services [was] will be used for population sixty (60) and over receiving Medicaid assistance;

[(I)] (H) Data from the Department of Health and Senior Services [was] will be used for the population sixty (60) and over residing in HPSAs;

[(J) Based upon the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2002 are as follows:

1. Southwest Missouri Office on Aging—14.27%;
2. Southeast Missouri Area Agency—12.18%;
3. District III Area Agency—6.46%;
4. Northwest Missouri Area Agency—7.86%;
5. Northeast Missouri Area Agency—5.74%;
6. Central Missouri Area Agency—8.33%;
7. Mid-America Regional Council—8.45%;
8. Mid-East Area Agency—19.65%;
9. St. Louis Area Agency—11.02%; and
10. Region X Area Agency—6.04%; and

(K) Based upon the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2003 are as follows:

1. Southwest Missouri Office on Aging—12.31%;
2. Southeast Missouri Area Agency—10.21%;
3. District III Area Agency—7.03%;
4. Northwest Missouri Area Agency—7.15%;
5. Northeast Missouri Area Agency—6.78%;
6. Central Missouri Area Agency—10.40%;
7. Mid-America Regional Council—12.54%;
8. Mid-East Area Agency—20.40%;
9. St. Louis Area Agency—7.47%; and
10. Region X Area Agency—5.71%.]

AUTHORITY: section 660.050, RSMo Supp. 2001. This rule was previously filed as 13 CSR 15-6.195 and 13 CSR 15-4.050. Original

rule filed Jan. 6, 1986, effective April 30, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 31, 2003.

PUBLIC COST: In accordance with section 305 of the Older Americans Act, the Division of Senior Services as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three (3) are public organizations. The public entities and their respective increase/(decrease) in revenues are: Mid-America Regional Council Area Agency on Aging—(\$4,028), City of St. Louis Area Agency on Aging—(\$75,887) and Area Agency on Aging Region X—\$7,508.

PRIVATE COST: In accordance with section 305 of the Older Americans Act, the Division of Senior Services as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three (3) are public organizations. The non-profit agencies and their respective increase/(decrease) in revenues are: Southwest Missouri Office on Aging—\$46,053, Southeast Missouri Area Agency on Aging—(\$1,301), District III Area Agency on Aging—\$1,318, Northwest Missouri Area Agency on Aging—(\$2,104), Northeast Missouri Area Agency on Aging—\$1,060, Central Missouri Area Agency on Aging—\$14,064 and Mid-East Area Agency on Aging—\$13,317.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Senior Services, Linda Allen, Director, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19 - Department of Health & Senior ServicesDivision: 15 - Division of Senior ServicesChapter: 4 - Older Americans ActType of Rulemaking: Proposed AmendmentRule Number and Name: 19 CSR 15-4.050, Funding Formula and Fiscal Management

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Mid America Regional Council	(\$ 4,028)
City of St. Louis	(\$75,887)
Area Agency on Aging Region X	\$ 7,508

III. WORKSHEET

Funding formula for distribution of funds:

	Increase/ (Decrease) in Title III Funds	Increase/ (Decrease) in Disease Prevention Funds
Mid America Regional Council	\$12,050	(\$16,078)
City of St. Louis	(\$81,337)	\$ 5,450
Area Agency on Aging Region X	<u>\$ 3,012</u>	<u>\$ 4,496</u>
Totals	(\$66,275)	(\$ 6,132)

IV. ASSUMPTIONS

- In accordance with the federal Older Americans Act (OAA), this rule relates to the Missouri Department of Health & Senior Services/Division of Senior Services (DHSS/DSS), the designated state agency responsible for development and implementation of a state plan on aging under Titles III, V and VII of the Act.
- This rule is specific to the state unit on aging within DHSS/DSS as mandated by Title III of the OAA and designated area agencies on aging. In accordance with section 305 of the OAA, DSS as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three

- (3) are public organizations. The non-profit agencies are: Southwest Missouri Office on Aging, Southeast Missouri Area Agency on Aging, District III Area Agency on Aging, Northwest Missouri Area Agency on Aging, Northeast Missouri Area Agency on Aging, Central Missouri Area Agency on Aging and Mid-East Area Agency on Aging. The public entities are: Mid-America Regional Council Area Agency on Aging, City of St. Louis Area Agency on Aging and Area Agency on Aging Region X.
3. This rule is mandated by the OAA; therefore, a takings analysis is not required under section 536.017, RSMo 2000.
 4. The OAA mandates Title III funds, with limited exceptions detailed within section 304, be distributed to area agencies on aging designated by the state unit on aging. DSS, the designated state unit on aging, is responsible for developing in consultation with the area agencies on aging an intrastate funding formula for distribution of Title III funds to area agencies on aging. The intrastate funding formula is based upon criteria found within section 305 of the OAA.
 5. This rule is federally mandated; therefore, the life of the rule cannot be determined by DSS.
 6. The aggregate decrease in public revenues over the life of the rule may be obtained by multiplying the revenues above by the number of years the rule is projected to be in effect. Consideration should be given to the demographic changes as contained within information from the US Department of Commerce, Bureau of the Census and population estimates prepared by the Missouri Office of Administration. Further, the area agency on aging funding levels are annually affected by the level of federal, Administration on Aging grant awards to Missouri.
 7. Area agencies on aging do not cover the same number of counties nor do they receive the same level of funding. In order to obtain a reasonable estimate of the decreased revenue to a single area agency on aging, first divide the anticipated decrease in public revenues by the number of public or private area agencies on aging affected under this specific fiscal note.
 8. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19 - Department of Health & Senior Services

Division: 15 - Division of Senior Services

Chapter: 4 - Older Americans Act

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 19 CSR 15-4.050, Funding Formula and Fiscal Management

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:
7	Area agencies on aging	\$72,407*

*The aggregate change over the life of the rule may be obtained by multiplying the revenues above by the number of years the rule is projected to be in effect.

III. WORKSHEET

Funding formula for distribution of funds:

	Increase/ (Decrease) in Title III Funds	Increase/ (Decrease) in Disease Prevention Funds
Southwest Office on Aging	\$27,112	\$18,941
Southeast MO Area Agency	(\$15,062)	\$13,761
District III Area Agency	(\$ 9,037)	\$10,355
Northwest MO Area Agency	(\$12,050)	\$ 9,946
Northeast MO Area Agency	(\$ 6,025)	\$ 7,085
Central MO Area Agency	\$ 6,025	\$ 8,039
Mid East Area Agency	<u>\$75,312</u>	<u>(\$61,995)</u>
Totals	\$66,275	\$ 6,132

IV. ASSUMPTIONS

1. In accordance with the federal Older Americans Act (OAA), this rule relates to the Missouri Department of Health & Senior Services/Division of Senior Services (DHSS/DSS), the designated state agency responsible for development and implementation of a state plan on aging under Titles III, V and VII of the Act.
2. This rule is specific to the state unit on aging within DHSS/DSS as mandated by Title III of the OAA and designated area agencies on aging. In accordance with section 305 of the Act, DSS as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three (3) are public organizations. The non-profit agencies are: Southwest Missouri Office on Aging, Southeast Missouri Area Agency on Aging, District III Area Agency on Aging, Northwest Missouri Area Agency on Aging, Northeast Missouri Area Agency on Aging, Central Missouri Area Agency on Aging and Mid-East Area Agency on Aging. The public entities are: Mid-America Regional Council Area Agency on Aging, City of St. Louis Area Agency on Aging and Area Agency on Aging Region X.
3. This rule is mandated by the OAA; therefore, a takings analysis is not required under section 536.017, RSMo 2000.
4. The OAA mandates Title III funds, with limited exceptions detailed within section 304, be distributed to area agencies on aging designated by the state unit on aging. DSS, the designated state unit on aging, is responsible for developing in consultation with the area agencies on aging an intrastate funding formula for distribution of Title III funds to area agencies on aging. The intrastate funding formula is based upon criteria found within section 305 of the OAA.
5. This rule is federally mandated; therefore, the life of the rule cannot be determined by DSS.
6. The aggregate decrease in public revenues over the life of the rule may be obtained by multiplying the revenues above by the number of years the rule is projected to be in effect. Consideration should be given to the demographic changes as contained within information from the US Department of Commerce, Bureau of the Census and population estimates prepared by the Missouri Office of Administration. Further, the area agency on aging funding levels are annually affected by the level of federal, Administration on Aging grant awards to Missouri.
7. Area agencies on aging do not cover the same number of counties nor do they receive the same level of funding. In order to obtain a reasonable estimate of the decreased revenue to a single area agency on aging, first divide the anticipated decrease in public revenues by the number of public or private area agencies on aging affected under this specific fiscal note.
8. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Health Standards and Licensure
Chapter 40—Comprehensive Emergency Medical Services
Systems Regulations**

PROPOSED AMENDMENT

19 CSR 30-40.309 Application and Licensure Requirements Standards for the Licensure and Relicensure of Ground Ambulance Services. The department is amending this rule by adding a new section (13).

PURPOSE: The amendment sets forth the process for an existing ambulance service licensee to reduce their primary service area.

(13) An existing ambulance service licensee may apply for and be granted by Bureau of EMS a reduction in their primary service area if they meet the following requirements:

(A) Submit a completed application for licensure, requesting a reduction of their ambulance service area and include a detailed description of the affected area that will no longer be included in their primary service area; and

(B) Provide written documentation of an agreement with another licensed ambulance service, stating the service has agreed to provide ambulance service to the vacated service area through an expansion of their services, by either contract or mutual aid agreement or provide public notice to residents of the affected area.

1. Public notice to residents of the affected area includes:

A. Publishing notice in a newspaper of the largest general circulation, that is published in the county in the area affected by the decision to withdraw ambulance coverage, a minimum of one (1) year in advance of the proposed date of discontinuation of ambulance services. A completed affidavit of publication and an original clipping of published notice must accompany the application for licensure; and

B. Providing written notice to the county commission of any county that as a whole or in part, will be affected by the discontinuation of services, a minimum of one (1) year in advance of the proposed date of discontinuation of ambulance services.

AUTHORITY: sections 190.103, 190.107, 190.176 and 190.190, RSMo 2000, and 190.105, 190.109, 190.120, 190.160, 190.165, 190.175, and 190.185, RSMo Supp. [1998] 2002. Emergency rule filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Original rule filed Sept. 1, 1998, effective Feb. 28, 1999. Emergency amendment filed March 31, 2003, effective April 14, 2003, expires Oct. 11, 2003. Amended: Filed March 31, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Health Standards and Licensure, Lois Kollmeyer, Director, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.