

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

section 263.534, RSMo 2000 and may be subject to a five dollar (\$5) per acre penalty.

(3) Any cotton grower may apply for a waiver requesting delayed payment. Any cotton grower applying for a waiver shall make application in writing to the director on a form prescribed by the director. This request must be accompanied by an assignment of payment form (FSA form CCC-36, which is incorporated by reference) designating the Missouri Department of Agriculture as first assignee. Should a grower not be eligible to use FSA form CCC-36 as required, a financial statement from a bank or lending agency will be required to be submitted with the waiver application. Any cotton grower *[granted a waiver request and]* submitting an approved FSA form CCC-36 will not be charged additional penalties or interest for delayed payment. Growers who do not have an FSA CCC-36 form on file with the waiver application will be charged interest payable at a rate equal to one percent (1%) above prime per annum as listed in the *Wall Street Journal* on the date of the waiver application. The decision whether or not to waive all or part of these requirements shall be made by the director with the approval of the Board of Directors of the Certified Cotton Growers Organization and notification given to the cotton grower by the director within thirty (30) days after receipt of such application. Failure to file a completed waiver request for delayed payment on or before the designated assessment payment deadline will result in a *[penalty fee]* late assessment charge of up to five dollars (\$5) per acre and may be subject to a penalty of up to five dollars (\$5) per acre. Waivers will expire on a designated date within one (1) year of date of approval. Growers that have not paid assessments and interest by the designated date or have not requested an extension of the waiver will be subject to late assessment charge of up to five dollars (\$5) per acre and may be subject to a penalty of up to five dollars (\$5) per acre.

AUTHORITY: sections 263.505, 263.512, 263.517 and 263.527, RSMo 2000 and 263.534, RSMo Supp. 2004. Original rule filed June 29, 1999, effective Dec. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2005.

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 Agriculture, Plant Industries Division, Judy Grundler, Program Administrator, PO Box 630, 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.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 13—Boll Weevil Eradication

PROPOSED AMENDMENT

2 CSR 70-13.030 Program Participation, Fee Payment and Penalties. The department is amending sections (2) and (3).

PURPOSE: This amendment provides a mechanism to be utilized to recover expenses associated with unpaid assessments.

(2) Failure to pay all assessments due on or before such date as designated by the Certified Cotton Growers Organization will result in a *[penalty fee]* late assessment charge of up to five dollars (\$5) per acre. A cotton grower who fails to pay all assessments, including *[penalties]* late assessment charge is subject to all provisions of

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 13—Boll Weevil Eradication

PROPOSED AMENDMENT

2 CSR 70-13.040 Cotton Stalk Destruction. The department is amending section (2).

PURPOSE: This amendment provides a mechanism to be utilized to recover expenses that may be incurred by late stalk destruction.

(2) Failure to destroy cotton stalks on or before February 1 of each year will result in five dollars (\$5) per acre [*penalty fee*] **late stalk destruction charge and may result in penalty of up to five dollars (\$5) per acre.** In fields with cotton stalks left standing after February 1, the director shall have authority to destroy the standing stalks and assess the grower for actual costs of such destruction in addition to the **late stalk destruction charge and penalty [fees]**. Any grower who cannot destroy cotton stalks before February 1 due to emergency or hardship conditions may apply for a waiver. Any grower applying for a waiver shall make application in writing to the director stating the conditions under which they request such a waiver. The decision of whether or not to waive this requirement shall be made by the director and notification given to the farm operator within two (2) weeks after receipt of such application. The decision shall be based on—

AUTHORITY: section 263.505, RSMo [Supp. 1998] 2000. Original rule filed June 29, 1999, effective Dec. 30, 1999. Amended: Filed Sept. 29, 2005.

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 Agriculture, Plant Industries Division, Judy Grundler, Program Administrator, PO Box 630, 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 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.205 Permits Required; Exceptions. The commission proposes to amend subsection (1)(A).

PURPOSE: The amendment corrects the title of the Resident Cable Restraint Permit.

(1) Any person who chases, pursues, takes, transports, ships, buys, sells, possesses or uses wildlife in any manner must first obtain the prescribed hunting, fishing, trapping or other permit, or be exempted under 3 CSR 10-9.110, with the following exceptions:

(A) A resident landowner or lessee, as defined in this Code, may hunt, trap or fish as prescribed in Chapters 6, 7 and 8 without permit (except landowner deer and turkey hunting permits, Migratory Bird Hunting Permit, **Resident** Cable Restraint Permit and Hand Fishing Permit as prescribed), but only on land s/he owns or, in the case of the lessee, upon which s/he resides, and may transport and possess wildlife so taken.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 14, 2005.

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, Assistant 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Geological Survey and Resource
Assessment Division
Chapter 3—Well Construction Code**

PROPOSED AMENDMENT

10 CSR 23-3.100 Sensitive Areas. The division is amending the Purpose, adding section (7), and updating the forms that follow this rule in the *Code of State Regulations*.

PURPOSE: This amendment requires more stringent well drilling standards to be utilized in areas where groundwater is contaminated with perchloroethylene (PCE) or its degradation products in the New Haven, Franklin County, vicinity. It also changes the name of the Division.

PURPOSE: This rule sets specific additional construction standards for sensitive areas shown on the map that have been designated on the basis of either naturally occurring problems caused by unique groundwater chemistry, anthropogenic contamination, or because they are located in a fragile groundwater environment which is experiencing rapid population growth or urbanization.

(7) **Special Area 3.** Portions of Franklin County within and south of the city of New Haven shall be listed as Special Area 3 (Figures 7B and 7C included herein) due to the contamination of portions of the aquifer by one (1) or more of the following chemicals of concern: tetrachloroethylene (PCE), trichloroethylene (TCE), perchloroethylene (PCE) degradation products, TCE degradation products or other contaminants of the National Public Drinking Water Regulations (NPDWR). In this area it is necessary to utilize more stringent well construction standards for new wells that are drilled into the aquifer and to limit the deepening of existing upper aquifer wells.

(A) The division shall be consulted before constructing a new well in Special Area 3. The division will provide specific guidance on well drilling protocol and construction specifications on a case-by-case basis. The division must provide written approval for all new wells prior to construction.

(B) Before deepening a well in Special Area 3, groundwater sampling and analysis for the chemicals of concern must be conducted by qualified and properly trained individuals and the data submitted within sixty (60) days of the sampling event by the well installation contractor to the division. The division must provide written approval for the deepening of all new wells in Special Area 3. Wells that have been sampled and analyzed and are contaminated with chemicals of concern exceeding maximum contaminant levels (MCLs) and/or action levels (ALs) shall not be deepened.

(C) In addition to specific instructions that are provided by the division pursuant to 10 CSR 23-3.100(7)(A) and (B), the following must be performed at all new wells installed in Special Area 3:

1. All drilling-derived fluids and solid materials shall be containerized and sampled before disposal in an appropriate location based on analytical results;

2. All new and deepened old wells in Special Area 3 shall be constructed with a sampling port or tap within ten feet (10') of the wellhead. Water must be purged from the sampling port prior to collection of a sample;

3. After proper well development, water from all new wells located in Special Area 3 shall be sampled and analyzed for the chemicals of concern, as determined by the division. Qualified and properly trained persons must complete sample collection. In order to document sampling has occurred, a copy of the chain of custody form shall be submitted by the pump installation contractor to the division within sixty (60) days of pump installation; and

4. The data report from all analyses shall be made available by the pump installation contractor to the division and the well owner within sixty (60) days of the sampling event.

(D) At any well being drilled, per division guidance, in which PCE and/or TCE is encountered in a pure-product phase (also known as dense non-aqueous phase liquid or DNAPL), drilling shall cease and the division shall be notified immediately. The division will determine further action.

(E) Properly constructed new or deepened wells that, upon sampling and analysis, are contaminated at levels exceeding MCLs or ALs shall:

1. Be plugged full-length using high-solids bentonite slurry, six percent (6%) bentonite cement or neat cement grout placed under pressure via tremie pipe which extends to within twenty-five feet (25') of the bottom of the borehole. Grout shall extend from the bottom of the borehole to within two feet (2') of land surface. Prior to plugging, all pumps and debris must be removed from the wells. Any liner must be removed or perforated if possible. Casing must be cut at least three feet (3') below ground surface. A registration report and fee (if required) must be submitted within sixty (60) days of abandonment; or

2. With approval from the division, the well owner shall be allowed to install a water treatment system that is designed to properly treat the chemical(s) of concern. The well shall not be used for human consumption until sampling and analysis demonstrates that the water treatment system reduces contaminant levels below MCLs and/or ALs for all chemicals of concern. The division shall be provided a copy of the post-treatment analytical data by the pump contractor within sixty (60) days of the sampling event.

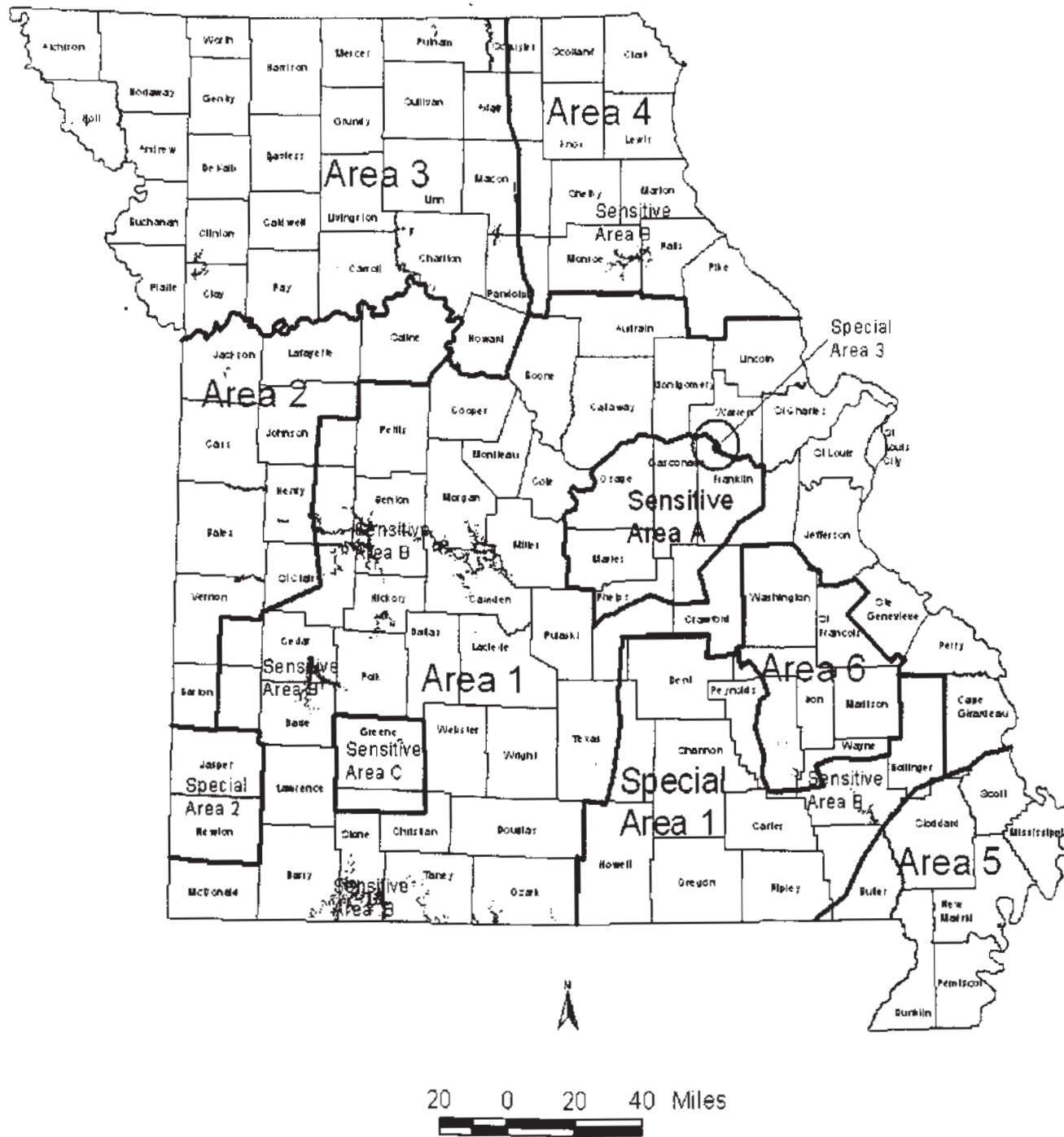


Figure 1. Map showing drilling areas for private well construction regulations. Areas are enlarged in maps on the following pages.

Area 1, Special Areas 2 and 3 and Sensitive Areas A, B, and C

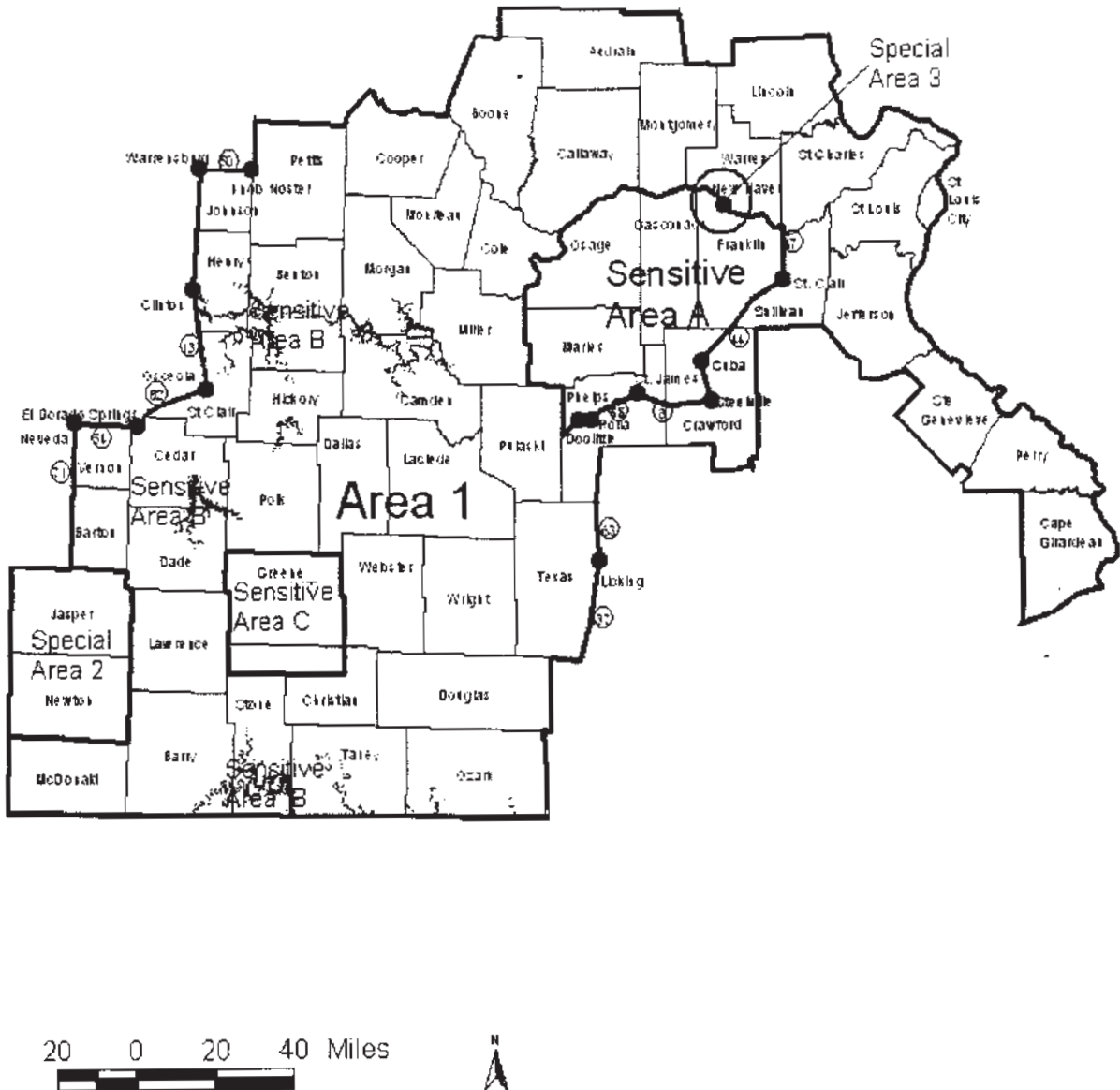


Figure 7B. Area 1, Special Areas 2 and 3, Sensitive Areas A, B, and C map.

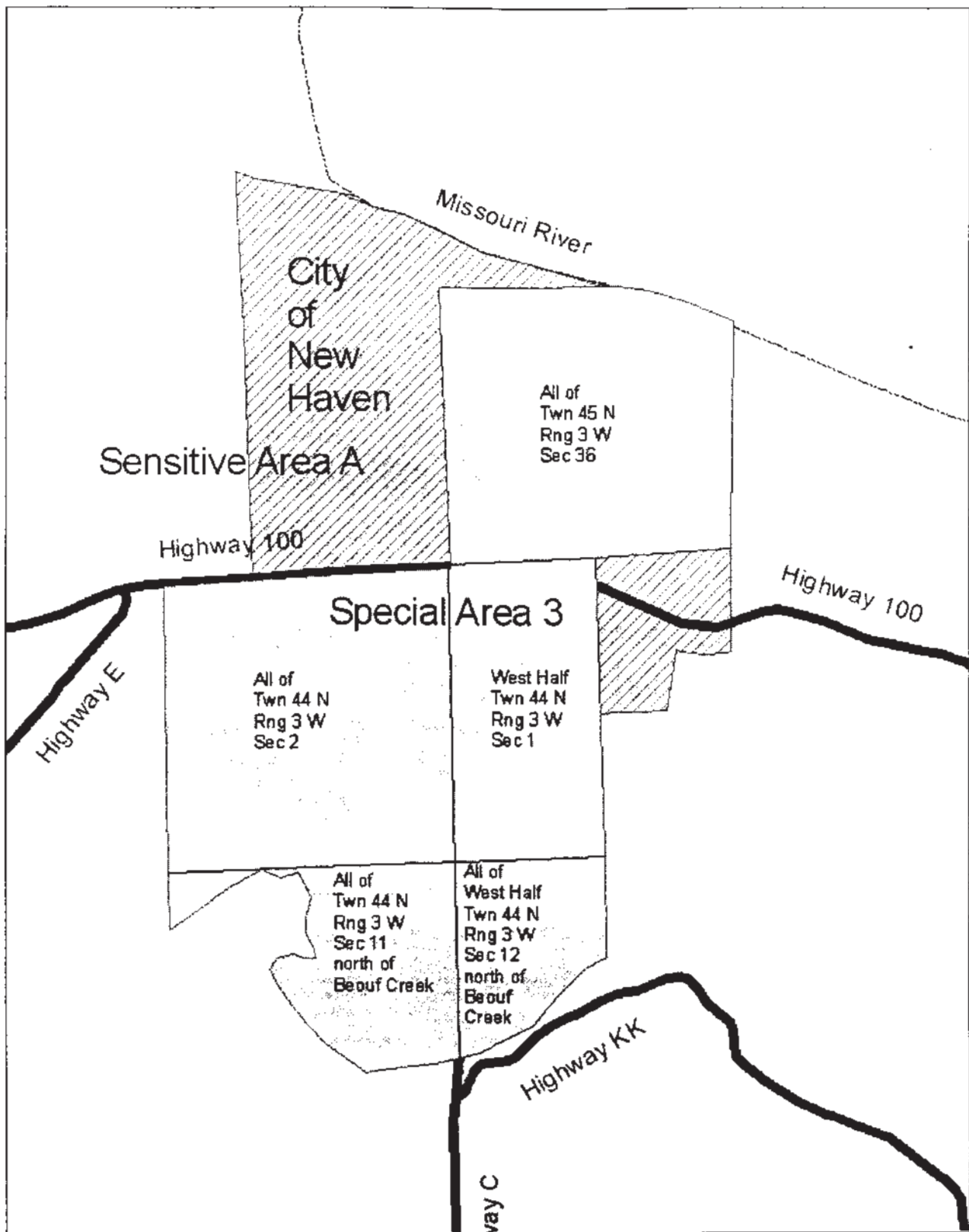


Figure 7C. Special Area 3 and Sensitive Area A

AUTHORITY: sections 256.606 and 256.626, RSMo 2000. Original rule filed April 2, 1987, effective July 27, 1987. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 21, 2005, effective April 1, 2005, expired Sept. 27, 2005. Amended: Filed Sept. 27, 2005.

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 cost private entities one hundred thousand dollars (\$100,000) in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10 – Department of Natural Resources

Division: 23 – Geological Survey and Resource Assessment Division

Chapter: 3 – Well Construction Code

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 23-3.100 – Sensitive Areas

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:
5 deep impacted zone wells	Private Landowners	\$80,000
15 deep Special Area 3 wells (in Special Area 3, out of impact zone)	Private Landowners	\$20,250
		Total Aggregate Cost of Compliance is about \$100,000

III. WORKSHEET

- Nine wells were constructed within the location of Special Area 3 over the 17 years of well records noted in the Well Information Management System database.

Number of Wells and Well Construction Parameters 1987 through 2004:

Legal Location	Range of Total Well Depth	Range of Well Casing Length	Number of Domestic Wells as of 12/31/2004
Sec 2 Twn 44N Rge 3W	405' to 445'	100' to 162'	6
Sec 1 Twn 44N Rge 3W	405' to 426'	103' to 200'	3

Calculation of Special Area 3 wells to be constructed based on historic well construction rates:

Total Number of Wells in Special Area 3	Estimated Special Area 3 Percentage	Years of Record	Percentage of New Single Family Wells	Estimated Number of Special Area 3 Wells Per Year
(a)	(b)	(c)	(d)	
9	100	17	100	0.53
a*b/c*d=:				
9*1.00/17*1.00=0.53				

2. The estimated number of new domestic wells to be drilled in the Special Area 3 contaminated zone is about 5 (See Assumption 1). Additional wells may be installed in Special Area 3 outside of contaminated zones. The estimated number of wells constructed outside of the contaminated zone is 15.
3. The average cost of a shallow well (prior to proposed amendment) is from \$3,000 to \$5000 and an average of \$4000 per well is assumed.
4. The average cost of an aquifer-protecting deep well (after the proposed amendment is effective) is \$20,000. An incremental well cost of \$16,000 is calculated per well. The aggregate incremental cost for all contaminated-zone wells equals 5 wells times \$16,000 per well or \$80,000.
5. The incremental cost of well construction outside of the contaminated zone but within Special Area 3 should be about \$1,350 per well, assuming a 400 foot deep well with 200 feet of well casing with full-length grout. This figure includes \$500 additional cost per well for water sampling and analysis plus an incremental cost for full-length grout at \$5 per foot for 170 feet. Assuming 15 wells will be constructed per year, the aggregate incremental cost for these wells is \$20,250.

IV. ASSUMPTIONS

1. Due to economic and population expansion in this area, new wells are presumed to be constructed at the rate of 20 wells per year rather than the rate of 0.53 wells per year as determined from well records.
2. Actual time duration of new well construction is expected to be approximately 5 years after which public water is likely to be available. Additional well construction is not expected after the availability of public water.
3. The rule is assumed to be in effect in perpetuity or until impacted groundwater is remediated. The annualized cost does not take into account inflationary factors or other financial impacts, which are unknown in perpetuity.
4. The new rule is expected to be effective Jan 1, 2006. The cost for the first full fiscal year is assumed to be the same as other years.
5. This cost assumes that all new wells in an impact area will be completed as single family wells. Some property owners may be supplied with water by tankage or cisterns; others will use multi-family wells. Large subdivisions may supply water to residences.
6. This cost assumes there will be no new or sudden changes in technology, which would influence cost. Current technology can allow a substantial decrease in cost should multiple service connections be used to supply more than one family per well.
7. The estimate of drilling cost is assumed to be the average prevailing well construction rate at the date of drafting the amendment.
8. The costs assume that the areal extent of impact is accurate and will not substantially increase or decrease.
9. The cost does not take into account the interest saving available from using State Revolving Fund low-interest loans, state grants, and potential EPA loans or grants. Remuneration by the potential responsible party is possible.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—[Division of Geology and Land Survey]
Geological Survey and Resource Assessment Division
Chapter 5—Heat Pump Construction Code

PROPOSED AMENDMENT

10 CSR 23-5.050 Construction Standards for Closed-Loop Heat Pump Wells. The division is amending sections (6) and (8) and adding section (12).

PURPOSE: This amendment requires more stringent well drilling standards be utilized in areas where groundwater is contaminated with perchloroethylene (PCE) or its degradation products in the New Haven, Franklin County, vicinity. It also changes the name of the division.

(6) Hole Depth. Closed-loop heat pump wells must not be deeper than two hundred feet (200'). A variance must be obtained in advance, from the division, to drill a heat pump well deeper than two hundred feet (200'). A heat pump well drilled in Area C (see 10 CSR 23-3.100(3)) that is less than two hundred feet (200') deep and cuts the Northview Formation must have a thirty-foot (30') grout plug set starting at ten feet (10') below the bottom of the Northview Formation. A map will be provided by the division showing the depth the grout plug must start. Follow the grouting requirement set out in 10 CSR 23-5.050(8) for grouting the interval above the Northview Formation. **A heat pump well drilled in Special Area 3 shall not be deeper than one hundred fifty feet (150'). At any heat pump well being drilled, per division guidance, in which perchloroethylene (PCE) and/or trichloroethylene (TCE) is encountered in a pure-product phase (also known as dense non-aqueous phase liquid or DNAPL), drilling shall cease and the division shall be notified immediately. The division will determine further action.**

(8) Grouting Depth of Vertical Heat Pump Wells. Grouting the annulus of a heat pump well is very important and must be completed immediately after the well is drilled due to cave-in potential in the uncased hole. Full-length grout is recommended and may be required (see section (5)) to prevent surface contamination from entering the drinking water aquifer through the borehole. The grout required for heat pump wells greater than two hundred feet (200') in depth must be determined by the division in advance. A variance from will be issued setting the grouting requirements. If the heat pump borehole is not grouted full-length, hole size requirements stated in section (5) must be followed and nonslurry bentonite plugs must be placed into the borehole. A plug (first plug) must be placed about forty feet (40') above the total depth of the borehole. This plug must be composed of bentonite chips or pellets utilizing at least one (1) bag forty feet (40') above the total depth of the borehole. This plug must be composed of bentonite chips or pellets utilizing at least one (1) bag of bentonite resulting in at least a five foot (5') plug. Every forty feet (40') of borehole that exists above the first plug must have a plug set as described in this section. A near surface plug consisting of bentonite granules or powder must be set from a point ten feet (10') below the bottom of the trench, that connects the closed-loop to the heat pump machine, to the base of the trench. All bentonite plugs must be hydrated immediately after emplacement if they are in the unsaturated zone. All clean fill material placed between the bentonite plugs must be chlorinated. **Heat pump wells in the Special Area 3 must be grouted full-length with thermal grout, placed from the bottom of the borehole up to the base of the trench.**

(12) Heat Pump Wells in Special Area 3. Portions of Franklin County within and south of the city of New Haven are listed as Special Area 3 (Figures 7B and 7C, 10 CSR 23-3.100(7)) due to the contamination of portions of the aquifer by one (1) or more of the following chemicals of concern: tetrachloroethylene (PCE),

trichloroethylene (TCE), PCE degradation products and TCE degradation products or other contaminants of the National Public Drinking Water Regulations (NPDWR). In this area it is necessary to utilize more stringent construction standards for new heat pump wells that are drilled into the aquifer. In Special Area 3 a qualified and properly trained individual shall collect all groundwater samples for analysis of chemicals of concern.

(A) The division shall be consulted before constructing a new heat pump well in Special Area 3. The division will provide specific guidance on heat pump well drilling protocol and construction specifications on a case-by-case basis. The division must provide written approval for all new heat pump wells prior to construction.

(B) All drilling-derived fluids and solid materials shall be contained and sampled before disposal in an appropriate location based on analytical results.

(C) At any heat pump well being drilled, per division guidance, in which PCE and/or TCE is encountered in a pure-product phase (also known as Dense Non-Aqueous Phase Liquid or DNAPL), drilling shall cease and the division shall be notified immediately. The division will determine further action.

AUTHORITY: sections 256.606 and 256.626, RSMo 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Dec. 16, 2002, effective June 30, 2003. Emergency amendment filed March 21, 2005, effective April 1, 2005, expired Sept. 27, 2005. Amended: Filed Sept. 27, 2005.

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 cost private entities twenty-four thousand dollars (\$24,000) annually in the aggregate.

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10 Department of Natural Resources

Division: 23 Geological Survey and Resource Assessment Division

Chapter: 5 Heat Pump Construction Code

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 23-5.050 – Construction Standards for Closed-Loop Heat Pump Wells

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:
2	Private Landowners	\$20,000
5	Private Landowners	\$3750
		Total Aggregate Cost of Compliance is about \$24,000 per year

III. WORKSHEET

1. Closed-loop heat pump wells have not been constructed in Special Area 3.
2. Currently, heat pump wells may be installed to a depth of 200 feet below ground surface. New heat pump wells in Special Area 3 will be limited to a depth of 150 feet since the maximum depth of impact is about 140 feet to 150 feet below grade. A 150-foot well-depth limit will prevent migration of impact to greater depth.
3. Cost for fluid and cuttings disposal, soil and groundwater sampling and analyses, and disposal of material is assumed to be approximately \$10,000 per well. The cost will be borne for the 2 wells expected to be constructed per year in the contaminated zone of Special Area 3.
4. Cost increase for heat pump wells outside of contaminated zone of Special Area 3 is assumed to be approximately \$500 per well for sampling and analyses and \$250 per well for thermal grout incremental cost. Total incremental cost for 5 wells is \$3750 per year

IV. ASSUMPTIONS

1. Due to economic and population expansion in this area, new closed-loop heat pump wells are presumed to be constructed at the rate of 2 wells per year in the contaminated zone and 5 wells per year in Special Area 3 outside of the contaminated zone.
2. Fluids and cuttings containerization, analytical testing and disposal will be the major incremental cost for heat pump wells in contaminated zones.

3. The average cost increase for a heat pump well within Special Area 3 outside of the contamination zone will be due to using full-length thermal grout instead of alternating layers of pea gravel and bentonite.
4. Cost of thermal grout should be mostly offset with time saving for the professional installer.
5. The rule is assumed to be in effect in perpetuity or until impacted groundwater is remediated. The annualized cost does not take into account inflationary factors or other financial impacts, which are unknown in perpetuity.
6. The new rule is expected to be effective Jan 1, 2006. The cost for the first full fiscal year is assumed to be the same as other years.
7. This cost assumes there will be no new or sudden changes in technology, which would influence cost. Current technology can allow a substantial decrease in cost should alternative heat pump systems be installed, especially for locations within the contaminated zone of Special Area 3.
8. The estimate of drilling cost is assumed to be the average prevailing heat pump well construction rate at the date of drafting the amendment.
9. This cost assumes that the areal extent of impact is accurate and will not substantially increase or decrease.
10. This cost does not take into account the interest saving available from using State Revolving Fund low-interest loans, state grants, and potential EPA loans or grants. Remuneration by the potential responsible party is possible.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.010 Applicability

PURPOSE: This rule defines the active and abandoned dry cleaning facilities that are subject to the requirements of this chapter. This rule is designed specifically to protect the quality of groundwater in the state as well as to protect human health and the overall quality of the environment. This rule is promulgated on the authority of sections 260.900 to 260.960, RSMo.

NOTE: This rule does not describe an environmental condition or standard, therefore, a Regulatory Impact Report was not completed for this rule.

(1) These rules, 10 CSR 25-17.010 through 10 CSR 25-17.170, apply to the owner or operator of any active facility or owner or operator of any abandoned facility, on which a dry cleaning facility is or was located, as the term is defined in 10 CSR 25-17.020. This includes coin-operated facilities. The term dry cleaning facility includes all contiguous land, structures and other appurtenances and improvements on the land used in connection with the dry cleaning facility.

(2) Dry cleaning facilities located in prisons, governmental entities, hotels, motels, and industrial laundry facilities are excluded from this rule. Facilities that use non-chlorinated solvents are exempt from these rules.

AUTHORITY: sections 260.900 and 260.905, RSMo 2000. Original rule filed Oct. 3, 2005.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.020 Definitions

PURPOSE: This rule defines specific terms used in this chapter.

NOTE: This rule does not describe an environmental condition or standard, therefore, a Regulatory Impact Report was not completed for this rule.

(1) Definitions.

(A) Definitions beginning with the letter A.

1. "Abandoned dry cleaning facility" means any real property premises or individual leasehold space in which a dry cleaning facility formerly operated.

2. "Active dry cleaning facility" means any real property premises or individual leasehold space in which a dry cleaning facility currently operates.

(B) Definitions beginning with the letter B. *Reserved*

(C) Definitions beginning with the letter C.

1. "Chlorinated dry cleaning solvent" means any dry cleaning solvent which contains a compound which has a molecular structure containing the element chlorine.

2. "Claim" means a written demand for money or services from the Dry-Cleaning Environmental Response Trust (DERT) Fund for cleanup at a dry cleaning facility.

3. "Commission" means the Hazardous Waste Management Commission created in section 260.365, RSMo.

4. "Corrective action" means those activities described in section 260.925.1, RSMo;

5. "Corrective action plan" means a plan approved by the director to perform corrective action at a dry cleaning facility.

(D) Definitions beginning with the letter D.

1. "Department" unless otherwise stated, means the Missouri Department of Natural Resources.

2. "DERT Fund" means the Dry-Cleaning Environmental Response Trust (DERT) Fund.

3. "Director" means the director of the Missouri Department of Natural Resources.

4. "DNAPL" means dense non-aqueous phased liquid. DNAPLs are chemicals that exist in a denser-than-water, immiscible phase when released to the environment. They include, but are not limited to, halogenated organic solvents such as tetrachloroethylene (PCE), trichloroethylene (TCE) and 1,1,1-trichloroethane (TCA), substituted aromatics, phthalates, polychlorinated biphenyls (PCB) mixtures, coal and process tars, and some pesticides.

5. "Dry cleaning facility" means a commercial establishment that operates, or has operated in the past in whole or in part for the purpose of cleaning garments or other fabrics on-site utilizing a process that involves any use of dry cleaning solvents. Drycleaning facility includes all contiguous land, structures and other appurtenances and improvements on the land used in connection with a dry cleaning facility but does not include prisons, governmental entities, hotels, motels or industrial laundries. Dry cleaning facility does include coin-operated dry cleaning facilities.

6. "Dry cleaning solvent" means any and all non-aqueous solvents used or to be used in the cleaning of garments and other fabrics at a dry cleaning facility and includes but is not limited to perchloroethylene, also known as tetrachloroethylene, chlorinated solvents, and the products into which such solvents degrade.

7. "Dry cleaning unit" means a machine or device which utilizes dry cleaning solvents to clean garments and other fabrics and includes any associated piping and ancillary equipment and any containment system.

8. "Dry cleaning waste" means waste which is generated at a dry cleaning facility during the cleaning of garments and contains dry cleaning solvents. Some or all of this waste may also be hazardous waste.

(E) Definitions beginning with the letter E.

1. "Environmental response surcharge" means either the annual dry cleaning facility registration surcharge or the dry cleaning solvent surcharge.

2. "Existing contamination" means the discovery of contamination in the soil, groundwater, surface and drinking waters in excess of the applicable state cleanup levels. It also includes the presence of DNAPL/free product or vapors in soils, basements, sewer and utility lines and nearby surface and drinking waters.

(F) Definitions beginning with the letter F.

1. "Facility closure" means an active dry cleaning facility that has ceased operations for sixty (60) continuous days.

2. "Free product" means a dry cleaning solvent that is present as a non-aqueous phase liquid (for example, pools of regulated substances at the surface or perched in the subsurface on top of an impermeable rock stratum or on top of groundwater).

3. "Fund" means the Dry-Cleaning Environmental Response Trust Fund created in section 260.920, RSMo.

(G) Definitions beginning with the letter G. *Reserved*

(H) Definitions beginning with the letter H. *Reserved*

(I) Definitions beginning with the letter I.

1. "Industrial laundry facility" means dry cleaners solely engaged in supplying laundered or dry-cleaned work uniforms, wiping towels, dust control items etc. to industrial and commercial users.

(J) Definitions beginning with the letter J. *Reserved*

(K) Definitions beginning with the letter K. *Reserved*

(L) Definitions beginning with the letter L. *Reserved*

(M) Definitions beginning with the letter M.

1. "Multi-source site" means a site that contains contaminants from more than one source or operation (e.g., a dry cleaner in combination with a service station or auto part facility).

(N) Definitions beginning with the letter N. *Reserved*

(O) Definitions beginning with the letter O.

1. "Operator" means any person who is or has been responsible for the operation of dry cleaning operations at a dry cleaning facility.

2. "Owner" means any person who owns the real property where a dry cleaning facility is or has operated.

(P) Definitions beginning with the letter P.

1. "Participant" means the owner or operator of an active or abandoned dry cleaning facility.

2. "Person" means an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, association or limited liability company. Person does not include any governmental organization.

3. "Prioritization" means to arrange in order of importance for expenditures from the DERT Fund.

(Q) Definitions beginning with the letter Q. *Reserved*

(R) Definitions beginning with the letter R.

1. "Release" means any spill, leak, emission, discharge, escape, leak or disposal of dry cleaning solvent from a dry cleaning facility into the soils or waters of the state;

(S) Definitions beginning with the letter S. *Reserved*

(T) Definitions beginning with the letter T. *Reserved*

(U) Definitions beginning with the letter U. *Reserved*

(V) Definitions beginning with the letter V. *Reserved*

(W) Definitions beginning with the letter W. *Reserved*

(X) Definitions beginning with the letter X. *Reserved*

(Y) Definitions beginning with the letter Y. *Reserved*

(Z) Definitions beginning with the letter Z. *Reserved*

AUTHORITY: sections 260.900 and 260.905, RSMo 2000. Original rule filed Oct. 3, 2005.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.030 Registration and Surcharges

PURPOSE: This rule explains the requirements of registration of active dry cleaning facilities and the requirements of the solvent providers.

NOTE: This rule does not describe an environmental condition or standard, therefore, a Regulatory Impact Report was not completed for this rule.

(1) Every active dry cleaning facility shall pay, in addition to any other environmental response surcharges, an annual dry cleaning facility registration surcharge in accordance with section 260.935, RSMo.

(A) The annual dry cleaner facility registration surcharge follows:

1. Five hundred dollars (\$500) for facilities which use no more than one hundred forty (140) gallons of chlorinated solvents per year;

2. One thousand dollars (\$1000) for facilities which use more than one hundred forty (140) gallons of chlorinated solvents and less than three hundred sixty (360) gallons of chlorinated per year; and

3. Fifteen hundred dollars (\$1500) for facilities which use at least three hundred sixty (360) gallons of chlorinated solvents per year.

(B) The annual dry cleaning facility registration surcharge is due on April 1 of each calendar year on a form provided by the department, on a reproduction of a form provided by the department, or a substitute version of a form approved by the department. The annual dry cleaning facility registration fee is determined based upon solvent use for the previous calendar year. Failure to keep registration current, may cause an active dry cleaning facility to be ineligible for the Dry-Cleaning Environmental Response Trust (DERT) Fund.

(C) If any person does not pay the annual dry cleaning facility registration surcharge in full within thirty (30) days from the date prescribed for such payment, the department shall impose and such person shall pay, in addition to the annual dry cleaning facility registration surcharge owed by such person, a penalty of fifteen percent

(15%) and interest upon the unpaid amount at the rate of ten percent (10%) per annum from the date prescribed for payment of the annual dry cleaning registration surcharge and penalties until such payment is actually made. Such penalty and interest shall be deposited in the DERT Fund.

(2) Every seller or provider of dry cleaning solvent for use in this state shall pay, in addition to any other environmental response surcharges, a dry cleaning solvent surcharge on the sale or provision of dry cleaning solvent in accordance with section 260.940, RSMo. The dry cleaning solvent surcharge required in this section shall be paid by the seller or provider on a quarterly basis and shall be paid to the department for the previous quarter. Quarterly reporting periods shall end on March 31, June 30, September 30, and December 31 of each calendar year. Quarterly reports and the accompanying surcharge payment shall be received by the department no later than thirty (30) days after the end of each reporting quarter.

(A) The amount of the dry cleaning solvent surcharge imposed by this section on each gallon of dry cleaning solvent shall be an amount equal to the product of the solvent factor for the dry cleaning solvent and the rate of eight dollars (\$8) per gallon.

1. The solvent factor for each dry cleaning solvent is as follows:

A. For perchloroethylene, the solvent factor is 1.00;

B. For 1,1,1-trichloroethane, the solvent factor is 1.00;

C. For other chlorinated dry cleaning solvents, the solvent factor is 1.00.

(B) In the case of a fraction of a gallon, the dry cleaning solvent surcharge imposed by this section shall be the same fraction of the fee imposed on a whole gallon.

(C) Dry cleaning solvent surcharge reporting will be done on a form provided by the department, on a reproduction of a form provided by the department, or a substitute version of a form approved by the department. This form shall include a list of facilities that the solvent provider has provided solvents to and the type of solvent and amount delivered to each.

(D) The dry cleaning solvent surcharge required in this section shall be paid to the department by the seller or provider of the dry cleaning solvent, regardless of the location of such seller or provider.

(E) If any person does not pay the dry cleaning solvent surcharge in full on the date prescribed for such payment, the department shall impose and such person shall pay, in addition to the dry cleaning solvent surcharge owed by such person, a penalty of fifteen percent (15%) and interest upon the unpaid amount at the rate of ten percent (10%) per annum from the date prescribed for payment of the dry cleaning solvent surcharge and penalties until such payment is actually made. Such penalty and interest shall be deposited in the DERT Fund.

(F) An operator of a dry cleaning facility shall not purchase or obtain solvent from a seller or provider who does not pay the dry cleaning solvent charge, as provided in this rule. Any operator of a dry cleaning facility who fails to obey the provisions of this rule shall be required to pay the dry cleaning solvent surcharge for any dry cleaning solvent purchased or obtained from a seller or provider who fails to pay the proper dry cleaning solvent surcharge as determined by the department. Any operator of a dry cleaning facility who fails to follow the provisions of this subsection shall also be charged a penalty of fifteen percent (15%) of the dry cleaning solvent surcharge owed. Any operator of a dry cleaning facility who fails to obey the provisions of this subsection shall also be subject to the interest provisions of subsection (2)(E) of this section. If a seller or provider of dry cleaning solvent charges the operator of a dry cleaning facility the dry cleaning solvent surcharge provided for in this section when the solvent is purchased or obtained by the operator and the operator can prove that the operator made full payment of the surcharge to the seller or provider but the seller or provider fails to pay the surcharge to the department as required by this section, then the operator shall not be liable pursuant to this subsection for interest, penalties or the seller's or provider's unpaid surcharge.

(G) A solvent supplier shall not provide dry cleaning solvents to an active dry cleaning facility that has not paid its annual dry cleaning facility registration surcharge.

(3) The department will provide a receipt to each person that pays the annual dry cleaning facility registration surcharge and the dry cleaning solvent surcharge.

(4) An owner or operator of a facility will inform the department of the opening of a new dry cleaning facility on a form provided by the department within thirty (30) days of the start of operations.

(5) An owner or operator of an active dry cleaning facility will notify the department of a change in ownership of the facility on a form provided by the department within thirty (30) days after the change of ownership occurs.

AUTHORITY: sections 260.905, 260.935 and 260.940, RSMo 2000. Original rule filed Oct. 3, 2005.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.040 Reporting and Record Keeping

PURPOSE: This rule explains how the owner and operator of an active dry cleaning facility shall keep records demonstrating compliance with the requirements of this chapter. These records shall be furnished to the department on request. The rule establishes the reporting requirements to the General Assembly and the governor's office.

NOTE: This rule does not describe an environmental condition or standard, therefore, a Regulatory Impact Report was not completed for this rule.

(1) Owners and operators of an active dry cleaning facility shall cooperate fully with inspections, monitoring and testing conducted by the department, as well as requests for document submission, testing and monitoring by the department, in regards to a claim for the Dry-Cleaning Environmental Response Trust (DERT) Fund.

(2) Participants will provide copies of records or reports, within five (5) calendar working days upon receipt of a written request for such records, in regards to a claim for the DERT Fund. A written request shall be made by certified mail to the mailing address.

(3) The department will provide the General Assembly and the governor an annual report on the items listed in section 260.955, RSMo on July 1 of each calendar year.

AUTHORITY: sections 260.905 and 260.955, RSMo 2000. Original rule filed Oct. 3, 2005.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions one thousand seven hundred ninety-three dollars (\$1,793) annually in the aggregate of the estimated duration of the rule.

PRIVATE COST: This proposed rule is estimated to cost private entities five thousand fifty-eight dollars (\$5,058) annually in the aggregate of the estimated duration of the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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
PUBLIC ENTITY COST**

I. RULE NUMBERTitle: Department of Natural ResourcesDivision: Hazardous Waste Management CommissionChapter: Drycleaning Environmental Response Trust FundType of Rulemaking: Proposed RuleRule Number and Name: 10 CSR 25-17.040 Reporting and Record keeping**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Number affected	Item	Estimated Cost of Compliance in the Aggregate ¹
Missouri Department of Natural Resources	281 privately-owned facilities	Record keeping	\$ 1,793
		Total public entity administrative cost	\$ 1,793

¹ This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

- Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees. Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for purposes of this fiscal note:

Environmental Specialist IV hourly rate	=	\$ 40.89
Geologist II hourly rate	=	\$ 37.98
Environmental Specialist III hourly rate	=	\$ 36.00
Management Analysis Specialist I hourly rate	=	\$ 33.98
Administrative Office Support Assistant		\$ 25.52

- Based on the sites which are registered with the Missouri Department of Natural Resources, there are 375 active dry cleaning facilities in Missouri. These are all privately owned businesses. Governmental entities are excluded from this rule, therefore, the fiscal note includes only the costs associated with staff time to review and response time related to this rule.

3. Recordkeeping. Department of Natural Resources administration costs. It is assumed that the Department of Natural Resources will incur costs necessary to administer this portion of the rule. These costs include the cost of the services of an Administrative Office Support Assistant responsible for receiving, reviewing and processing the registration forms/reports received from the privately-owned active dry cleaning facilities. It is expected to take 0.25 hours per registration form/report to review and process this reported information.

Administrative Office Support Assistant salary = \$ 25.52 per hour

\$ 25.52 x 0.25 hours = \$ 6.38 to review one registration form/report

\$ 6.38 x 281 forms/reports reviewed by department = \$ 1,793

Estimated annual cost to the department to review and process registration forms/reports = \$ 1,793

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. The universe of affected entities is based on the information provided by the Missouri Department of Natural Site Management and Reporting System database of current active dry cleaning facilities as of December 2004. It is assumed that the information provided represents a fair and accurate universe of active dry cleaning facilities proposed by this rule.
3. The division of entities into classifications is based on the premise that the costs required by this rule apply equally to all entities within each classification, except that the MISSOURI Department of Natural Resources will incur costs associated with administering the rule as well as costs associated with facility compliance.
4. Fiscal year 2005 dollars are used to estimate the costs.
5. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
6. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
7. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
8. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBERTitle: Department of Natural ResourcesDivision: Hazardous Waste Management CommissionChapter: Drycleaning Environmental Response Trust FundType of Rulemaking: Proposed RuleRule Number and Name: 10 CSR 25-17.040 Reporting and Record keeping**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: *	Item	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities ²
213	Small private owners	Record keeping	\$ 5,058
53	Medium private owners		
15	Large private owners		
		Total compliance cost in the aggregate for private entities	\$ 5,058

¹ For the purpose of this rule types are classified as small, medium or large dry cleaning facilities based on the amount of solvents used in a calendar year.

² This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

- Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees. Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for purposes of this fiscal note:

Environmental Specialist IV hourly rate	=	\$ 40.89
Geologist II hourly rate	=	\$ 37.98
Environmental Specialist III hourly rate	=	\$ 36.00
Management Analysis Specialist I hourly rate	=	\$ 33.98
Administrative Office Support Assistant	=	\$ 25.52

2. Based on the sites that are registered with the Missouri Department of Natural Resources, there are 281 active dry cleaning facilities in Missouri. These are all privately-owned businesses.
3. **Record keeping.** Owners and operators of active dry cleaning facilities should maintain a list and estimated quantity of solvents on hand at the facility and the quantity of solvents purchased during the calendar year and whom the solvents were purchased from. Private entity costs for purposes of this fiscal note include the costs incurred by the private entity to comply with the requirements of the rule.

Private entity compliance costs: The cost for an owner or operator of an active dry cleaning facility to complete a records request is estimated at an average of .5 hours per year. It is assumed that the record keeping will be performed by an individual equivalent to an Environmental Specialist III, with an appropriate hourly rate.

Environmental Specialist III hourly rate = \$ 36.00 per hour

\$ 36.00 x .5 hours = \$18.00 per year estimated cost for record keeping per entity

Estimated cost x 213 (small facilities) = \$ 3834

Estimated cost x 53 (medium facilities) = \$ 954

Estimated cost x 15 (large facilities) = \$ 270

Total cost of compliance for private entities = \$5,058

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. The universe of affected entities is based on the information provided by the Missouri Department of Natural Site Management and Reporting System database of current active dry cleaning facilities as of December 2004. It is assumed that the information provided represents a fair and accurate universe of active dry cleaning facilities proposed by this rule.
3. The division of entities into classifications is based on the premise that the costs required by this rule apply equally to all entities within each classification, except that the Missouri Department of Natural Resources will incur costs associated with administering the rule as well as costs associated with facility compliance.
4. Fiscal year 2005 dollars are used to estimate the costs.
5. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
6. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
7. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
8. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.050 Reporting of Releases and Existing Contamination

PURPOSE: This rule describes the steps for reporting and initial abatement of the spilling, leaking, emitting, discharging, escaping, leaching, or disposing of dry cleaning solvents onto the ground surface or into groundwater, surface water, or subsurface soil and the reporting of existing contamination at dry cleaner sites.

NOTE: This rule describes an environmental condition or standard, therefore, a Regulatory Impact Report was completed for this rule.

(1) Owners or operators of an active dry cleaning facility shall report to the department as soon as practical after discovery of a release of chlorinated dry cleaning solvents from spills or leaks that result in a release to the environment that equals or exceeds its reportable quantity under Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302.4) at the site or in the surrounding area. The reportable quantity for dry cleaning solvents not listed in Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302.4) is one hundred (100) pounds. The National Response Center phone number is (800) 424-8802 and the department's Environmental Emergency Response phone number for reporting releases is (573) 634-2436.

(2) Owners or operators of an active or abandoned dry cleaning facility shall report to the department as soon as practical after discovery of existing contamination of chlorinated dry cleaning solvents that is discovered in soils, groundwater, vapors, surface water, etc., that exceeds the department's cleanup guidelines.

(3) The department may require owners and operators to submit a report to the department summarizing the steps taken to clean up the release, within thirty (30) days after a reportable quantity release confirmation.

(4) If directed to do so by the department, owners or operators of an active or abandoned dry cleaning facility shall be required to follow the application procedures to the Dry-Cleaning Environmental Response Trust (DERT) Fund in accordance with 10 CSR 25-17.090 and conduct site characterization and corrective action in accordance with 10 CSR 25-17.080.

(5) The department may respond and conduct emergency response procedures to mitigate any emergency release to protect human health and the environment that if in the opinion of the department, the owner or operator has not satisfactorily responded to at an active or abandoned facility. The department may initiate procedures to recover the costs of these actions from the owner or operator.

(6) Failure to comply with 10 CSR 25-17.050 and failure to pay cost recovery as outlined in 10 CSR 25-17.050(5), may cause a dry cleaning facility to be ineligible for the DERT Fund.

AUTHORITY: sections 260.905 and 260.910, RSMo 2000. Original rule filed Oct. 3, 2005.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions seven hundred forty-seven dollars to

three thousand forty-two dollars (\$747 to \$3,042) annually in the aggregate of the estimated duration of the rule.

PRIVATE COST: This proposed rule is estimated to cost private entities seven hundred forty-seven dollars to three thousand forty-two dollars (\$747 to \$3,042) annually in the aggregate of the estimated duration of the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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
PUBLIC ENTITY COST

I. RULE NUMBER

Title: Department of Natural Resources

Division: Hazardous Waste Management Commission

Chapter: Drycleaning Environmental Response Trust Fund

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 25-17.050 Reporting of Releases and Existing Contamination

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Number likely to be affected ¹	Item	Itemized Cost ^{2,3}
Missouri Department of Natural Resources	38	Release Reporting	\$ 342
	45 to 300	Existing Contamination Reporting	\$ 405 to \$ 2,700
		Total administrative cost in the aggregate for public entities	\$ 747 to \$ 3,042

¹All privately-owned active or abandoned dry cleaning facilities that use or used solvents to clean garments are potentially affected by this rule. As of November 2003, the Missouri Department of Natural Resources has approximately 281 privately-owned dry cleaning facilities registered in the Hazardous Waste Program Fees and Taxes database. Of this entire universe, it is assumed for the purpose of this fiscal note that only 38 privately-owned active dry cleaner facilities will have a reportable release within a year of the effective date of this rule. It is also assumed for the purpose of this fiscal note that only 45 to 300 privately-owned active or abandoned dry cleaner facilities may discover existing contamination. Public entities are excluded from this rule, therefore, the fiscal note includes only the costs associated with staff time to review and response time related to this rule.

²This fiscal note reflects estimated costs at active and abandoned dry cleaning sites that voluntarily apply to the DERT Fund.

³This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

1. Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees. Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for

purposes of this fiscal note:

Environmental Specialist IV hourly rate	--	\$ 40.89
Geologist II hourly rate	=	\$ 37.98
Environmental Specialist III hourly rate	--	\$ 36.00
Management Analysis Specialist I hourly rate	--	\$ 33.98
Administrative Office Support Assistant	=	\$ 25.52

2. The universe of affected entities is based upon the experience of staff of the Missouri Department of Natural Resources. Entities affected are active dry cleaning facilities having a reportable release or suspected release to the environment and active or abandoned dry cleaning facilities discovering existing contamination above department cleanup levels. Department staff assume that spills at active dry cleaning facilities will increase slightly due to the requirement in this rule to report releases or suspected releases and that existing contamination at active or abandoned dry cleaning facilities will increase slightly due to the requirement in this rule to report existing contamination. It is assumed that this information provides a fair and accurate estimate of the universe of active and abandoned dry cleaning facilities subject to the requirements of this rule.
3. **Reporting releases and suspected releases.** All releases greater than the reportable quantities for the solvent used that are not immediately contained and cleaned up are required to be reported to the department's Environmental Emergency Response line. It is assumed that all releases may be greater than the reportable quantity, and therefore required to be reported to the department. The total estimated cost attributed to the requirement to report releases or suspected releases is calculated based upon department records which indicate that the department may expect a reportable release from approximately 38 facilities per year. It is assumed that of these 38 facilities, 29 may be required to implement Initial Release Response Measures. Public entity costs for purposes of this fiscal note include the costs incurred by the Department of Natural Resources to administer this portion of the rule (administration costs)

Department of Natural Resources administration costs. It is assumed that the Department of Natural Resources will incur costs necessary to administer this portion of the rule. These costs include the cost of the services of an Environmental Specialist III responsible for receiving and documenting the phone call that notifies the department of the release or suspected release. It is expected to take 0.25 hours to receive and document the call. The department estimates that approximately 38 active dry cleaner sites may call the Environmental Emergency Response line, for a total of 38 calls received and processed.

Environmental Specialist III hourly rate – \$ 36.00 per hour

\$ 36.00 x .25 hour = \$ 9.00 per phone call

\$ 9.00 x 38 calls processed by department – \$ 342

Estimated annual cost to the department to process telephone calls reporting a release or suspected release from a privately-owned active dry cleaning facility = \$342.

Annual cost to administer the Initial Release Response Measures requirement = \$ 342

4. **Reporting existing contamination at dry cleaner sites.** All contamination in excess of the department's cleanup levels is required to be reported to the department's Environmental Emergency Response line. Public entity costs for purposes of this fiscal note include the costs incurred by the Department of Natural Resources to administer this portion of the rule (administration costs).

Department of Natural Resources administration costs. It is assumed that the Department of Natural Resources will incur costs necessary to administer this portion of the rule. These costs include the cost of the services of an Environmental Specialist III responsible for receiving and documenting the phone call that notifies the department of the release or suspected release. It is expected to take 0.25 hours to receive and document the call. The department estimates that approximately 60 to 400 dry cleaner sites may call the Environmental Emergency Response line, for a total of between 60 to 400 calls received and processed.

Environmental Specialist III hourly rate – \$ 36.00 per hour

\$ 36.00 x .25 hour = \$ 9.00 per phone call

\$ 9.00 x 45 calls process by department = \$ 405

\$ 9.00 x 300 calls processed by department – \$ 2,700

Estimated annual cost to the department to process telephone calls reporting a release or suspected release from a privately-owned active or abandoned dry cleaning facility = \$405 to \$2,700.

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. Fiscal year 2005 dollars are used to estimate the costs.
3. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
4. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
5. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
6. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBERTitle: Department of Natural ResourcesDivision: Hazardous Waste Management CommissionChapter: Drycleaning Environmental Response Trust FundType of Rulemaking: Proposed RuleRule Number and Name: 10 CSR 25-17.050 Reporting of Releases and Existing Contamination**II. SUMMARY OF FISCAL IMPACT**

Classification by types of the business entities which would likely be affected:	Number likely to be affected ¹	Item	Itemized Cost ²
Privately-owned active dry cleaning facilities having a release or suspected release of dry cleaning solvents to the environment.	38	Release Reporting	\$ 342
Privately-owned active and abandoned dry cleaning facilities discovering existing contamination.	45 to 300	Existing Contamination Reporting	\$ 405 to \$ 2,700
		Total compliance cost in the aggregate for private entities	\$ 747 to \$ 3,042

¹All privately-owned active or abandoned dry cleaning facilities that use or used solvents to clean garments are potentially affected by this rule. As of November 2003, the Missouri Department of Natural Resources has approximately 281 privately-owned dry cleaning facilities registered in the Hazardous Waste Program's Fees and Taxes databases. Of this entire universe, it is assumed for the purpose of this fiscal note that only 38 privately-owned active dry cleaner facilities will have a reportable release within a year of the effective date of this rule. It is also assumed for the purpose of this fiscal note that only 45 to 300 privately-owned active and abandoned dry cleaner facilities will discover existing contamination.

²This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

1. Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees.

Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for purposes of this fiscal note:

Environmental Specialist IV hourly rate	=	\$ 40.89
Geologist II hourly rate	=	\$ 37.98
Environmental Specialist III hourly rate	=	\$ 36.00
Management Analysis Specialist I hourly rate	=	\$ 33.98
Administrative Office Support Assistant	=	\$ 25.52

- The owner or operator of an active and the owner or operator of an abandoned dry cleaning facility shall be liable for the first twenty-five thousand dollars of corrective action costs incurred because of a release from an active or abandoned dry cleaning facility. **This 25,000 deductible amount is required by RSMo, Section 260.925. Although this deductible amount is required by the statute, it is being listed in the summary of fiscal impact section as a private entity cost.**
- The universe of affected entities is based upon the experience of staff of the Missouri Department of Natural Resources. Entities affected are active dry cleaning facilities having a reportable release or suspected release to the environment and active or abandoned dry cleaning facilities discovering existing contamination above department cleanup levels. Department staff assume that the reporting of spills at active dry cleaning facilities will increase slightly due to the requirement in this rule to report releases or suspected releases and that existing contamination at active or abandoned dry cleaning facilities will increase slightly due to the requirement in this rule to report existing contamination. It is assumed that this information provides a fair and accurate estimate of the universe of active and abandoned dry cleaning facilities subject to the requirements of this rule.
- Reporting releases and suspected releases.** All releases greater than the reportable quantities for the solvent used that are not immediately contained and cleaned up are required to be reported to the department's Environmental Emergency Response line. It is assumed that all releases may be greater than the reportable quantity, and therefore required to be reported to the department. The total estimated cost attributed to the requirement to report releases or suspected releases is calculated based upon department records which indicate that the department can expect a reportable release from approximately 38 facilities per year. Private entity costs for purposes of this fiscal note include the costs incurred by the affected private entity to comply with the requirements of the rule. The administration costs of the department to process and document the phone call are counted in the public entity fiscal note for the same rule.

Private entity compliance costs. The cost for a regulated private entity to report a release to the Missouri Department of Natural Resource's Environmental Emergency Response line is estimated at an average of 0.25 hours per phone call. It is assumed that the phone call will be placed by an individual equivalent to an Environmental Specialist III, with an appropriate hourly rate.

Environmental Specialist III hourly rate = \$ 36.00 per hour

$\$ 36.00 \times 0.25 = \$ 9.00$ estimated cost to report one release to the department's Environmental Emergency Response line

$\$ 9.00 \times 38$ number of reportable releases from regulated private entities = \$ 342

Total cost of compliance for private entities = \$ 342

- Reporting existing contamination at dry cleaner sites.** All contamination in excess of the department's cleanup levels is required to be reported to the department's Environmental Emergency Response line. Private entity costs for purposes of this fiscal note include the costs incurred by the affected private entity to comply with the requirements of the rule. The administration costs of the department to process and document the phone call are counted in the public entity fiscal note for the same rule.

Private entity compliance costs. The cost for a regulated private entity to report existing contamination to the Missouri Department of Natural Resource's Environmental Emergency Response line is estimated at an average of 0.25 hours per phone call. It is assumed that the phone call will be placed by an individual equivalent to an Environmental Specialist III, with an appropriate hourly rate.

Environmental Specialist III hourly rate = \$ 36.00 per hour

\$ 36.00 x 0.25 = \$9.00 estimated cost to report one release to the department's Environmental Emergency Response line

\$ 9.00 x 45 sites with existing contamination = \$ 405

\$ 9.00 x 300 sites with existing contamination = \$ 2,700

Total compliance cost for private entities to report existing contamination = \$ 405 to \$ 2,700

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
3. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
4. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
5. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.060 Site Prioritization and Completion

PURPOSE: This rule describes the requirements for the prioritization of sites and for determining the completion of cleanup of sites.

NOTE: This rule describes an environmental condition or standard, therefore, a Regulatory Impact Report was completed for this rule.

(1) The department shall prioritize the order in which to use funds from the Dry-Cleaning Environmental Response Trust (DERT) Fund using standardized site assessment prioritization criteria. The criteria shall include but may not be limited to:

- (A) Risk to human health or the environment;
- (B) The present and future use of the affected property, ground-water, or surface water;
- (C) The effect that interim remedial measures have on the site;
- (D) The benefit of corrective action compared to the cost of corrective action; and
- (E) Other factors that the director deems relevant, which include but are not limited to:

1. Whether a public water supply well or one (1) or more domestic drinking water wells are contaminated or threatened with levels above state or federal drinking water limits, and no alternative source is readily available;

2. Whether a surface water intake is contaminated or threatened with levels above state or federal drinking water limits, and no alternative source is readily available; and

3. Whether a high probability exists for direct human exposure to contaminated media.

(2) The department shall determine whether the proposed level of corrective action is sufficient by using the following criteria, which include but are not limited to:

- (A) The characteristics of the contaminated dry cleaning facility;
- (B) Cleanup standards and procedures developed by the department in guidance documents or other state and federal regulations; and
- (C) Any other factors which the department considers relevant may be used in determining the level at which corrective action is deemed completed.

AUTHORITY: section 260.905, RSMo 2000. Original rule filed Oct. 3, 2005.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.070 Closure of Facilities

PURPOSE: This rule describes the requirements for the permanent closure of active dry cleaning facilities.

NOTE: This rule describes an environmental condition or standard, therefore, a Regulatory Impact Report was completed for this rule.

(1) An owner or operator of an active dry cleaner facility will notify the department sixty (60) days after facility closure on a form provided by the department.

(2) Each owner or operator of an active dry cleaner facility which has ceased operation for sixty (60) continuous days shall remove all dry cleaning solvents and dry cleaning wastes from the facility no later than ninety (90) days after the last day of operation.

(A) Each owner or operator shall properly dispose of all hazardous dry cleaning wastes. Dry cleaning wastes are subject to hazardous waste determination pursuant to 10 CSR 25-5.262(1). Hazardous dry cleaning wastes must be handled in compliance with the requirements of 10 CSR 25-4.261 and 10 CSR 25-5.262, et seq. This can include, but is not limited to, proper storage, management, and disposal of the waste.

(B) An owner or operator may request a written extension of the sixty (60)-day time limit. This written extension will include a brief description of the reason for the extension, list of the type and quantity of solvents stored on-site, and a plan for inspections of the facility.

(3) To ensure eligibility in the Dry-Cleaning Environmental Response Trust (DERT) Fund, the owner or operator of the closed facility should immediately measure for contamination in areas where a release of dry cleaner solvents is most likely to occur.

AUTHORITY: section 260.905, RSMo 2000. Original rule filed Oct. 3, 2005.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions two thousand sixteen dollars (\$2,016) annually in the aggregate of the estimated duration of the rule.

PRIVATE COST: This proposed rule is estimated to cost private entities one hundred twenty-six dollars to eighty-nine thousand six hundred dollars (\$126 to \$89,600) annually in the aggregate of the estimated duration of the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning

at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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 December 16, 2005. 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
 PUBLIC ENTITY COST

I. RULE NUMBER

Title: Department of Natural Resources
 Division: Hazardous Waste Management Commission
 Chapter: Drycleaning Environmental Response Trust Fund
 Type of Rulemaking: Proposed Rule
 Rule Number and Name: 10 CSR 25-17.070 Closure of Facilities

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Number likely to be affected ¹	Item	Itemized Cost ^{2,3}
Missouri Department of Natural Resources	14	Closure notice and site check plan and report review	\$ 2,016
		Total public entity administrative cost	\$ 2,016

¹All privately-owned active dry cleaning facilities that used solvents to clean garments are potentially affected by this rule. As of November 2003, the Missouri Department of Natural Resources has approximately 281 privately-owned dry cleaning facilities registered in the Hazardous Waste Program Fees and Taxes database. Of this entire universe, it is assumed for the purpose of this fiscal note that only 14 privately-owned active dry cleaner facilities will permanently close the facility and may measure for contamination. Public entities are excluded from this rule, therefore, the fiscal note includes only the costs associated with staff time to review and response time related to this rule.

²This fiscal note reflects estimated costs at active and abandoned dry cleaning sites that voluntarily apply to the DERT Fund.

³This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

1. Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees. Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for purposes of this fiscal note:

Environmental Specialist IV hourly rate	–	\$ 40.89
Geologist II hourly rate	–	\$ 37.98
Environmental Specialist III hourly rate	=	\$ 36.00
Management Analysis Specialist I hourly rate	–	\$ 33.98
Administrative Office Support Assistant	–	\$ 25.52

- Based upon the experience of department staff, it is assumed that 5% or 14 of the 281 privately-owned active dry cleaning facilities may conduct a site check to determine the extent of the release. Based on this assumption, the department assumes 14 privately-owned active and abandoned dry cleaning facilities may conduct a site check and submit a report to the department.
- Department of Natural Resources staff review costs. It is assumed that the Department of Natural Resources will incur costs necessary to administer this portion of the rule. These costs include the cost of the receipt of the closure notice and the review of site check plans and reports by an Environmental Specialist III. It is expected to take 4 hours to review and respond to these documents. The department estimates that approximately 14 privately-owned active and abandoned dry cleaning facilities should conduct a site check and submit a report to the department.

Environmental Specialist III hourly rate = \$ 36.00 per hour

\$ 36.00 x 4 hours = \$ 144

\$ 144 x 14 closure notices and site check plans and reports reviewed by department = \$ 2,016

Total estimated annual cost to the department to receive closure notices and review site check plans and reports received from privately-owned active dry cleaning facilities = \$ 2,016

IV. ASSUMPTIONS

- The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
- The universe of affected entities is based upon the experience of staff of the Missouri Department of Natural Resources. Entities affected are active and abandoned dry cleaning facilities that used solvents to clean garments and having a reportable release or suspected release to the environment. Department staff assume that spill reports at dry cleaning facilities will increase due to the requirement in this rule to report releases or suspected releases. It is assumed that this information provides a fair and accurate estimate of the universe of active and abandoned dry cleaner facilities subject to the requirements of this rule.
- Fiscal year 2005 dollars are used to estimate the costs.
- Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
- Estimates assume there will be no new or sudden changes in technology, which would influence costs.
- This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
- Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Department of Natural Resources

Division: Hazardous Waste Management Commission

Chapter: Drycleaning Environmental Response Trust Fund

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 25-17.070 Closure of Facilities

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Number likely to be affected ¹	Item	Itemized Cost ²³
Privately-owned dry cleaning facilities storing solvents for cleaning garments that close operations should measure for contamination	14	Closure notice preparation and submittal	\$ 126
	14	Site check	\$0 to \$89,600
		Total private entity compliance cost	\$ 126 to \$89,600

¹All privately-owned active dry cleaning facilities that used solvents to clean garments are potentially affected by this rule. As of November 2003, the Missouri Department of Natural Resources has approximately 281 privately-owned dry cleaning facilities registered in their databases. Of this entire universe, it is assumed for the purpose of this fiscal note that only 14 privately-owned active dry cleaner facilities may permanently close the facility and measure for contamination.

²This fiscal note reflects estimated costs at active and abandoned dry cleaning sites that voluntarily apply to the DERT Fund.

³This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

1. Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for

estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees. Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for purposes of this fiscal note:

Environmental Specialist IV hourly rate	—	\$ 40.89
Geologist II hourly rate	=	\$ 37.98
Environmental Specialist III hourly rate	—	\$ 36.00
Management Analysis Specialist I hourly rate	=	\$ 33.98
Administrative Office Support Assistant	-	\$ 25.52

- Based upon the experience of department staff, it is assumed that 5% or 14 of the 281 privately-owned active dry cleaning facilities will notify the department of their facility closure and may conduct a site check to determine the extent of the release. Based on this assumption, the department assumes 14 privately-owned active and abandoned dry cleaning facilities will submit closure notices and may conduct a site check and submit a report to the department.
- Closure notice costs.** As noted in the assumption above, the department assumes that 14 of the 281 privately-owned active dry cleaning facilities will be preparing and submitting the closure notice form. Private entity costs for purposes of this fiscal note include the costs incurred by the private entity to comply with the requirements of the rule.

Private entity compliance costs: The cost for an owner or operator of an active dry cleaning facility to complete and submit the closure notice form as required in this rule is estimated at an average of .25 hours. It is assumed that the closure notice preparation and submittal will be performed by an individual equivalent to an Environmental Specialist III, with an appropriate hourly rate.

Environmental Specialist III hourly rate = \$ 36.00 per hour

\$ 36.00 x .25 hours = \$ 9.00 estimated cost for closure notice preparation and submittal

\$ 9.00 x 14 facilities = \$ 126

Total closure notice preparation and submittal cost for private entities = \$ 126

- Site check costs.** As noted in the assumption above, the department assumes that 14 of the 281 active privately-owned dry cleaner facilities should conduct a site check and submit a report. Based on research of cleanups of dry cleaning facilities conducted in other states, the estimated cost to complete a site check and prepare and submit a report is \$ 6,400, as follows:

Project manager	\$ 75 per hour x 8 hours	= \$ 600
Other labor	= 25 per hour x 8 hours	= \$ 200
Drilling equipment	= \$ 1,700 x 1 day	= \$ 1,700
Monitoring well installation	= \$ 500 x 1 well	= \$ 500
Sampling analysis	= \$ 600 per sample x 4 samples	= \$ 2,400
Final report	= \$ 1,000 per report x 1	= \$ 1,000

Total site check costs = \$ 6,400

\$ 6,400 x 0 privately-owned active and abandoned dry cleaner facilities = \$ 0

\$ 6,400 x 14 privately-owned active and abandoned dry cleaner facilities = \$ 89,600

Total private entity compliance cost for requirement to conduct a site check = \$ 0 to \$89,600

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. The universe of affected entities is based upon the experience of staff of the Missouri Department of Natural Resources. Entities affected are active and abandoned dry cleaning facilities that used solvents to clean garments and having a reportable release or suspected release to the environment. Department staff assume that spill reports at dry cleaning facilities will increase due to the requirement in this rule to report releases or suspected reporting of releases. It is assumed that this information provides a fair and accurate estimate of the universe of active and abandoned dry cleaner facilities subject to the requirements of this rule.
3. The department does not have previous cleanup costs documented for dry cleaning sites, therefore, our cost estimates are based on research of cleanups of dry cleaning facilities conducted in states bordering Missouri.
4. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
5. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
6. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
7. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 17—Dry-Cleaning Environmental Response
Trust Fund**

PROPOSED RULE

10 CSR 25-17.080 Site Characterization and Corrective Action

PURPOSE: This rule describes the steps for the assessment, investigation, and corrective action of contamination of dry cleaning solvents.

NOTE: This rule describes an environmental condition or standard, therefore, a Regulatory Impact Report was completed for this rule.

(1) Owners or operators shall conduct assessments, investigations, and corrective actions of contamination and shall do so in accordance with risk-based guidance developed by the department.

(2) When required by the department, owners or operators of active or abandoned dry cleaning facilities shall conduct investigations to determine if the active or abandoned dry cleaning facility is the source of off-site impacts. These impacts include, but are not limited to, the discovery of dry cleaning solvents, the presence of dense non-aqueous phased liquid (DNAPL)/free product or vapors in soils, basements, sewer and utility lines and nearby surface and drinking waters that have been observed by the department or brought to its attention by another party.

(3) The department will approve the work plan only after ensuring that implementation of the plan will adequately protect human health, safety and the environment.

(4) Upon approval of the corrective action plan, the owner or operator shall implement the plan including modifications to the plan made by the department. Owners and operators shall monitor, evaluate and report the results of implementing the plan in accordance with a schedule and in a format established by the department.

AUTHORITY: section 260.905, RSMo 2000. Original rule filed Oct. 3, 2005.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions fifty-nine thousand thirty dollars to three hundred fifteen thousand three hundred seventeen dollars (\$59,030 to \$315,317) in the aggregate of the estimated duration of the rule.

PRIVATE COST: This proposed rule is estimated to cost private entities \$4,680,000 to \$31,200,000 in the aggregate of the estimated duration of the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on December 9, 2005 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, 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 December 4, 2005. 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

December 16, 2005. 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
PUBLIC ENTITY COST

I. RULE NUMBER

Title: Department of Natural Resources

Division: Hazardous Waste Management Commission

Chapter: Drycleaning Environmental Response Trust Fund

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 25-17.080 Site Characterization and Corrective Action

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Number likely to be affected ¹	Item	Itemized Cost ²³
Missouri Department of Natural Resources	56 to 300	Site Characterization work plan and report review	\$ 32,794 to \$ 175,176
	45 to 240	Corrective Action Plan work plan and report review	\$ 26,236 to \$ 140,141
		Total public entity administrative cost	\$ 59,030 to \$ 315,317

¹All privately-owned active and abandoned dry cleaning facilities that used solvents to clean garments are potentially affected by this rule. As of November 2003, the Missouri Department of Natural Resources has approximately 285 privately-owned dry cleaning facilities registered in the Hazardous Waste Fees and Taxes database. There are 335 abandoned sites known to exist. Of this entire universe, it is assumed for the purpose of this fiscal note that only 56 to 300 privately-owned active and abandoned dry cleaner facilities will have a reportable release and subsequently may implement a Site Characterization Plan and Report. It is also assumed for the purpose of this fiscal note that only 45 to 240 privately-owned active and abandoned dry cleaner facilities may implement a Corrective Action Plan. Public entities are excluded from this rule, therefore, the fiscal note includes only the costs associated with staff time to review and response time related to this rule.

²**This fiscal note reflects estimated costs at active and abandoned dry cleaning sites that voluntarily apply to the DERT Fund.**

³This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

1. Personnel costs for merit employees are calculated using the Market Rate step of the fiscal year 2005 merit schedule produced by the Missouri Commission on Management and Productivity (COMAP). Monthly salaries are multiplied by 12 to obtain an annual cost. The annual cost is multiplied by a factor of 38.9% with the additional amount added to the annual salary to account for fringe benefits. \$6,617 is added for expense and equipment costs. This sum is then multiplied by 21.03% and the additional amount added to account for indirect costs. Hourly costs are found by dividing the adjusted annual costs by 2080, the number of hours for a Full-Time Equivalent (FTE). All adjustment

factors are based on current information confirmed by the hazardous waste program budget staff. Calculations for estimating the personnel costs of private entity employees are based on the same assumptions as for merit employees. Using this formula and the appropriate salaries, the following hourly rates are assumed to be the most accurate for purposes of this fiscal note:

Environmental Specialist IV hourly rate	=	\$ 40.89
Geologist II hourly rate	=	\$ 37.98
Environmental Specialist III hourly rate	=	\$ 36.00
Management Analysis Specialist I hourly rate	=	\$ 33.98
Administrative Office Support Assistant	=	\$ 25.52

2. Based upon the experience of department staff, it is assumed that 11% to 60% or 56 to 300 of the 500 privately-owned active and abandoned dry cleaning facilities will have a reportable release and subsequently may implement a Site Characterization Plan and Report.
3. Based upon the experience of department staff, it is assumed that 11% to 60% or 45 or 240 of the 400 privately-owned active and abandoned dry cleaning facilities who may conduct a site characterization to determine the extent of the release may also prepare and implement a Corrective Action Plan.
4. **Staff time for review of site characterization reports.** Based on task/time correlation, the department estimates it will take an environmental specialist III 12 hours to receive, analyze, and respond to the site characterization report submitted by private entities in compliance with this rule. The private entity compliance costs are counted in the private entity fiscal note.

Environmental Specialist III salary	-	\$ 36.00 per hour
\$ 36.00 x 12 hours	=	\$ 432.00 per report
\$ 432.00 x 56 site characterization reports submitted	=	\$ 24,192
\$ 432.00 x 300 site characterization reports submitted	=	\$ 129,600

Geologist II salary	-	\$ 37.98 per hour
\$ 37.98 x 4 hours	=	\$ 151.92 per report
\$ 151.92 x 56 site characterization reports submitted	=	\$ 8,508
\$ 151.92 x 300 site characterization reports submitted	=	\$ 45,576

\$ 24,192 to \$129,600 (Environmental Specialist III costs) + \$ 8,508 to \$ 45,576 (Geologist II costs) = \$ 32,794 to \$ 175,176.

Total cost to the department to receive, analyze, and respond to site characterization reports submitted in compliance with this rule = \$ 43,794 to \$ 233,568.

5. **Staff time for review of correction action plans.** Based on task/time correlation, the department estimates it will take an environmental specialist III 12 hours to receive, analyze, and respond to the corrective action plan and a geologist II four hours to review the corrective action plan, submitted by a private entity. The private entity compliance costs are counted in the private entity fiscal note.

Environmental Specialist III salary	=	\$ 36.00 per hour
\$ 36.00 x 12 hours	=	\$ 432.00
\$432.00 x 45 submittals	=	\$ 19,400
\$432.00 x 240 submittals	=	\$ 103,680

Geologist II salary	=	\$ 37.98 per hour
\$ 37.98 x 4 hours	=	\$ 151.92
\$ 151.92 x 45 submittals	=	\$ 6,836
\$ 151.92 x 240 submittals	=	\$ 36,461

\$19,400 to \$103,680 (Environmental Specialist III costs) - \$6,836 to \$36,461 (Geologist II costs) = \$ 26,236 to \$140,141.

Total cost to Missouri Department of Natural Resources to receive, review, analyze, and respond to corrective action plans submitted in compliance with this rule = \$35,035 to \$186,854.

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. The universe of affected entities is based upon the experience of staff of the Missouri Department of Natural Resources. Entities affected are active and abandoned dry cleaning facilities that used solvents to clean garments and having a reportable release or suspected release to the environment. Department staff assume that spill reports at dry cleaning facilities will increase. It is assumed that this information provides a fair and accurate estimate of the universe of active and abandoned dry cleaner facilities subject to the requirements of this rule.
3. Fiscal year 2005 dollars are used to estimate the costs.
4. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
5. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
6. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
7. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.
8. **A 25,000 deductible amount is required by RSMo, Section 260.925. Although this deductible amount is required by the statute, it is being listed in the summary of fiscal impact section as a private entity cost.**
9. Money expended for cleanups by the Drycleaning Environmental Response Trust Fund above the \$25,000 deductible is not being included in the public entity fiscal note since this is not a cost to the state. Money in the Drycleaning Environmental Response Trust Fund has been paid by the dry cleaner facilities through their annual registration fees and surcharges.
10. The Drycleaning Environmental Response Trust Fund is not liable for the payment of costs in excess of one million dollars at any one contaminated dry cleaning site, as stated in RSMo, Section 260.920.
11. Using the Drycleaning Environmental Response Trust Fund for remediation is voluntary, therefore, the number of sites that may enter the program are good faith estimates using the department's professional judgement.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBERTitle: Department of Natural ResourcesDivision: Hazardous Waste Management CommissionChapter: Drycleaning Environmental Response Trust FundType of Rulemaking: Proposed RuleRule Number and Name: 10 CSR 25-17.080 Site Characterization and Corrective Action**II. SUMMARY OF FISCAL IMPACT**

Classification by types of the business entities which would likely be affected:	Number of sites likely to be affected ¹	Item	Itemized Cost ²³	Cost to Owners (\$25,000 Deductible)
Privately-owned dry cleaning facilities storing solvents for cleaning garments and for former dry cleaning facilities that are abandoned that are suspected of releasing dry cleaning solvents to the environment may submit a site characterization report and corrective action be performed.	45 to 300	Site Characterization and Corrective Action Plan Implementation and Report	\$4,680,000 to \$31,200,000	
		Total private entity compliance cost	\$4,680,000 to \$31,200,000	45-300 sites \$1,125,000 to \$7,500,000

¹All privately-owned active and abandoned dry cleaning facilities that used solvents to clean garments are potentially affected by this rule. As of November 2003, the Missouri Department of Natural Resources has approximately 281 privately-owned dry cleaning facilities registered in the Hazardous Waste Program Fees and Taxes database. There are 335 abandoned sites known to exist. Of this entire universe, it is assumed for the purpose of this fiscal note that only 45 to 300 privately-owned active and abandoned dry cleaner facilities may have a reportable release and subsequently may implement a Site Characterization and Corrective Action Plan

²**This fiscal note reflects estimated costs at active and abandoned dry cleaning sites that voluntarily apply to the DERT Fund.**

³This fiscal note shows the costs of the rule action in the aggregate. The department's *Administrative Rulemakings Policy and Guidance Manual* interprets this to mean the costs over the entire lifetime of the rule action.

III. WORKSHEET

1. Based upon the experience of department staff, it is assumed that 9% to 60% or 45 to 300 of the 500 privately-owned active and abandoned dry cleaning facilities may conduct a site characterization and corrective action activities to determine the extent of the release and conduct cleanup.
2. The owner or operator of an active and the owner or operator of an abandoned dry cleaning facility shall be liable for the first twenty-five thousand dollars of corrective action costs incurred because of a release from an active or abandoned dry cleaning facility. **This 25,000 deductible amount is required by RSMo, Section 260.925. Although this deductible amount is required by the statute, it is being listed in the summary of fiscal impact section as a private entity cost.**
3. **Site characterization costs and corrective action costs.** As noted in the assumption above, the department assumes that 75 to 400 of the 500 active and abandoned former privately-owned dry cleaner facilities may conduct site characterization and corrective action activities and submit a report. Based on research of the reimbursement of cleanup costs of dry cleaning facilities conducted in Illinois by the Drycleaner Environmental Response Trust Fund, the average cost to complete a site characterization and corrective action plan and prepare and submit a report is \$104,000. The Illinois Environmental Protection Agency uses the Tiered Approach to Corrective Action Objectives (TACO). The TACO process is a risk based approach to remediation similar to the new Missouri Risk Based Corrective Action (MRBCA) guidance document which will be used for dry cleaning facility cleanups in Missouri.

45 to 300 privately owned active and abandoned dry cleaning facilities X \$104,000 = \$4,680,000 to \$31,200,000

Total private entity compliance cost for requirement to conduct site characterization and corrective action activities and reporting = \$ 4,680,000 to \$31,200,000

IV. ASSUMPTIONS

1. The total estimated cost is provided based on the number of active and abandoned facilities known to the department.
2. The universe of affected entities is based upon the experience of staff of the Missouri Department of Natural Resources. Entities affected are active and abandoned dry cleaning facilities that used solvents to clean garments and having a reportable release or suspected release to the environment. Department staff assume that spill reports at dry cleaning facilities will increase. It is assumed that this information provides a fair and accurate estimate of the universe of active and abandoned dry cleaner facilities subject to the requirements of this rule.
3. The department does not have previous cleanup costs documented for dry cleaning sites, therefore, our cost estimates are based on research of cleanups of dry cleaning facilities conducted in states bordering Missouri.
4. Estimates assume a constant regulatory context, which requires no reporting standards beyond those currently required or imposed by this rulemaking.
5. Estimates assume there will be no new or sudden changes in technology, which would influence costs.
6. This fiscal note is not in lieu of the requirements or a model for compliance with this rule. The examples used for cost calculations are good faith estimates and averages using the department's professional judgement.
7. Affected entities are assumed to be in compliance with all applicable environmental laws and regulations.
8. A 25,000 deductible amount is required by RSMo, Section 260.925. Although this deductible amount is required by the statute, it is being listed in the summary of fiscal impact section as a private entity cost.
9. Money expended for cleanups by the Drycleaning Environmental Response Trust Fund above the \$25,000 deductible is not being included in the public entity fiscal note since this is not a cost to the state. Money in the Drycleaning Environmental Response Trust Fund has been paid by the dry cleaner facilities through their annual registration fees and surcharges.
10. The Drycleaning Environmental Response Trust Fund is not liable for the payment of costs in excess of one million dollars at any one contaminated dry cleaning site, as stated in RSMo, Section 260.920.
11. Using the Drycleaning Environmental Response Trust Fund for remediation is voluntary, therefore, the number of sites that may enter the program are good faith estimates using the department's professional judgement.