

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.110 General Prohibition; Applications. The department proposes to amend section (2).

PURPOSE: This amendment allows Asiatic clams taken from impoundments that are not waters of the state to be bought, sold, possessed, transported and exhibited without permit.

(2) Except for federally-designated endangered species and species listed in 3 CSR 10-9.240, the following may be bought, sold, pos-

essed, transported and exhibited without permit: **Asiatic clams (*Corbicula species*) taken from impoundments that are not waters of the state;** bison; amphibians, reptiles, and mammals not native to Missouri; and those birds (except ring-necked and Korean pheasants and gray partridge) not native to the continental United States.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-4.110(5), (6) and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed June 1, 2001.

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

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

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

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

PROPOSED RULE

3 CSR 10-12.109 Closed Hours

PURPOSE: This rule establishes closed hours for uses other than fishing and other conservation-related recreation at several areas managed in cooperation with other public entities.

(1) Closed Hours. The following areas are closed to public use from 10:00 p.m. to 4:00 a.m. daily; however, hunting, fishing, trapping, dog training, camping, launching boats and landing boats are permitted at any time on areas where these activities are authorized, except as further restricted in this chapter.

- (A) Bowling Green (West City Lake)
- (B) Empire District Electric Company (Ozark Beach Recreation Area)
- (C) Department of Mental Health (Marshall Habilitation Center Lake)
- (D) Green City Lake
- (E) Higbee (City Waterworks Lake)
- (F) Kirksville (Hazel Creek Lake)
- (G) Lancaster (New City Lake, Paul Bloch Memorial Pond)
- (H) LaPlata City Lake
- (I) Memphis (Lake Showme)
- (J) Milan (Elmwood Lake)
- (K) Monroe City (Route J Reservoir)
- (L) Rockaway Beach Access
- (M) Springfield City Utilities (Fellows Lake, Lake Springfield, Tailwaters Access)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 1, 2001.

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

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

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

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 233—State Committee of Marital and Family Therapists
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 233-1.040 Fees. The state committee is proposing to delete subsections (1)(C), (1)(F), (1)(G) and (1)(K), and renumber the remaining sections accordingly.

PURPOSE: Since the division has contracted with an examination service that administers the national test, the state committee is deleting the fee for examination and recommending the applicant send the fee directly to the examination service. The replacement wall-hanging fee is being deleted since the state committee is not printing wall-hanging certificates due to their expense. The state committee is also deleting the research and copying fees pursuant to section 610.026, which states fees for researching and copying records shall not exceed the actual cost of document search and duplication.

(1) The following fees are established by the Division of Professional Registration and are payable in the form of a cashier's check, personal check or money order:

<i>[(C) Examination \$205.00]</i>	
<i>[(D)] (C) Annual License Renewal Fee</i>	\$175.00
and in addition—	
1. One day to 60 (1–60) days late (an additional)	\$75.00
2. Sixty-one (61) days to two (2) years late (an additional)	\$175.00
<i>[(E)] (D) Endorsement to Another Jurisdiction</i>	\$ 10.00
<i>[(F) Replacement wall-hanging]</i>	\$ 15.00
<i>[(G) Copy cost (per page)]</i>	.50/
<i>[(H)] (E) Educational Review</i>	\$ 50.00
<i>[(I)] (F) Insufficient Funds Check Fee Charge</i>	\$ 50.00
<i>[(J)] (G) Change Supervision Fee</i>	\$ 50.00
<i>[(K) Research Fee per hour]</i>	\$ 35.00/

AUTHORITY: sections 337.712[.1 and 4, and 337.712.1(10)] and 337.727, RSMo [Supp. 1997] 2000. Original rule filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed May 22, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Committee of Marital and Family Therapists, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 233—State Committee of Marital and Family Therapists
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 233-2.010 Educational Requirements. The state committee is proposing to add new language in subsections (3)(D), (4)(F), (5)(F) and (7)(B).

PURPOSE: This amendment establishes a deadline for submitting applications based upon when graduate training began. This amendment also mandates a practicum in marital and family therapy consisting of at least 500 hours of direct client contact.

(3) For graduate training beginning prior to January 1, 1981, an applicant shall have completed the following:

(D) An applicant shall meet all of the educational requirements and shall apply for supervision or licensure by August 31, 2007.

(4) For graduate training beginning after January 1, 1981 and before August 31, 2000, applicants shall have completed the following:

(F) An applicant shall meet all of the educational requirements for licensure and shall apply for licensure or supervision by August 31, 2007.

(5) For graduate training beginning after August 31, 2000, the applicant shall have completed the following:

(F) Six (6) semester hours or ten (10) quarter hours of practicum in marital and family therapy, including at least five hundred (500) hours of client contact.

(7) A course shall be counted once in granting credit for a core area and shall be an in-depth study solely devoted to a particular core area. No core area credit shall be given for courses which contain only a component or some aspects of a core area. The core areas are defined as follows:

(B) The Practice of Marriage and Family Therapy—Courses in this area cover the historical development, theoretical foundations, contemporary conceptual directions, and critical philosophical issues of marriage and family therapy and applied marriage and family therapy practice. Within the context of systems theory and marriage and family therapy, courses will cover assessment, evaluation and treatment of dysfunctional relationship patterns and mental disorders consistent with the scope of practice as defined in section 337.700(7) RSMo, *Cum. Supp. 1997*. Major marriage and family therapy assessment methods and instruments shall be covered;

AUTHORITY: sections 337.715 and 337.727[.1(5), (6), and (10)] RSMo Supp. 1997], RSMo 2000. Original rule filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed May 22, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Committee of Marital and Family Therapists, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**
**Division 2333—State Committee of Marital and Family
Therapists**
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 233-2.020 Supervised Marital and Family Work Experience. The state committee is proposing to amend sections (1), (4) and (5), add new language in section (8), renumber the remaining sections accordingly, add new language in paragraphs (8)(C)3. and (8)(C)4., amend section (13), and add new language in subsection (13)(C) and delete the forms that follow this rule from the *Code of State Regulations*.

PURPOSE: This amendment corresponds with the amendments to the educational requirements in 4 CSR 233-2.010, subsections (3)(D) and (4)(F).

(1) The phrase supervised clinical experience as used in section 337.715.1(2), RSMo [Cum. Supp. 1997] shall mean post degree training in the practice of marital and family therapy as defined in section 337.700(7), RSMo [Cum. Supp. 1997] beginning after the satisfactory completion of the educational requirements set forth in 4 CSR 233-2.010 and obtained under the supervision of an acceptable supervisor as defined in 4 CSR 233-2.021.

(4) Applicants for supervised experience in marital and family therapy whose graduate training began prior to January 1, 1981, shall complete all educational requirements as defined in 4 CSR 233-2.010(3) **and shall apply for supervision by August 31, 2007.**

(5) Applicants for supervised experience in marital and family therapy whose graduate training began after January 1, 1981, and before August 31, 2000, shall complete all educational requirements as defined in 4 CSR 233-2.010(4) **and shall apply for supervision by August 31, 2007.**

(8) A supervisor shall be licensed as marital and family therapist, professional counselor, psychologist, clinical social worker, or psychiatrist in Missouri for supervised experience in this state to be considered for licensure.

[(8)] (9) The characteristics of acceptable supervision shall include in no more than sixty (60) calendar months:

(A) [At least] A minimum of three thousand (3,000) hours of supervised experience in marital and family therapy [obtained in no fewer than twenty-four (24) and no more than sixty (60) calendar months]; and

(B) [At least] A minimum fifteen hundred (1,500) hours of the three thousand (3,000) hours of supervised experience in marital and family therapy shall be direct client contact[;].

For the purpose of these rules, direct client contact shall be defined as face-to-face interaction between the client and therapist in the same room; and

(C) A minimum of twenty-four (24) calendar months of supervised experience. The S-MFT must obtain at least fifteen (15) hours of supervised experience within a calendar month in order for the experience to be considered by the state committee and must be in compliance with 4 CSR 233-2.020(1), (2), (4) or (5) or (6), (7) and (8); and

[(C)] (D) A minimum of two (2) hours every two (2) weeks of individual face-to-face supervision with the registered supervisor.

1. At least half of the supervision shall be individual face-to-face supervision which may consist of no more than (2) two S-MFTs meeting with the registered supervisor.

2. The remaining supervision may be group supervision. For the purpose of this rule, group supervision may consist of at least three (3) and no more than six (6) S-MFTs.

3. The S-MFT must complete a minimum of two hundred (200) hours of supervision, at least half of which one hundred (100) hours must be in individual face-to-face supervision.

[(3.)] 4. The use of electronic communication is not acceptable for meeting supervision requirements of this rule unless the communication is verbally and visually interactive between the supervisor and S-MFT; and

[(D)] (E) The services provided by an S-MFT shall be performed under the registered supervisor's full order, control, oversight and guidance. The S-MFT shall remain under the supervision until licensed as a marital and family therapist.

1. An S-MFT shall not engage in independent, private practice and shall not offer therapy from any office that is not affiliated with a mental health group, practice, mental health agency, mental health clinic, school or hospital.

2. An S-MFT shall not engage in marketing or advertising services without including the name and license number of the registered supervisor.

3. An S-MFT shall not bill clients for therapeutic services. Billing and remuneration for marital and family therapy provided by the S-MFT shall be facilitated by the organization employing or affiliated with the S-MFT or the registered supervisor.

4. A therapist shall use one (1) of the following terms while under supervision for licensure: S-MFT, or supervised marital and family therapist.

5. The registered supervisor shall read and cosign all written reports, to include their license number, including treatment plans and progress notes prepared by the S-MFT. If the setting prohibits the cosigning of reports, it shall be the responsibility of the S-MFT to document that written reports, to include treatment plans and progress notes, have been reviewed by the registered supervisor.

[(9)] (10) The supervisor and applicant shall be employed by or affiliated by contract with the same professional setting and the professional setting shall not include private practice in which the S-MFT operates, manages or has an ownership interest in the private practice.

[(10)] (11) During the period of supervised experience in marital and family therapy, the S-MFT shall inform the client that the S-MFT is under supervision for licensure, along with the name and address and license number of the registered supervisor.

[(11)] (12) Within two (2) months of completing supervision as defined in this rule, the S-MFT shall submit an application for licensure. Any S-MFT who does not apply for licensure within that period of time shall be prohibited from providing services pursuant to section 337.700(7), RSMo [Cum. Supp. 1997].

[(12)] (13) For individuals applying for supervised experience in marital and family therapy on the basis of a doctoral or specialist's degree, additional supervised experience in marital and family therapy [shall involve a minimum of fifteen-hundred (1,500) hours in no less than one (1) year and no more than two (2) years.] shall include in no more than twenty-four (24) calendar months:

(A) At least fifteen hundred (1,500) hours of supervised experience in marital and family therapy; and

[(A)] (B) At least seven-hundred fifty (750) hours of supervised experience in marital and family therapy shall be direct client contact in which the applicant for supervision shall engage in the practice of marital and family therapy as defined in section 337.700(7), RSMo [Cum. Supp. 1997]; and

[(B) Supervision shall be in compliance with 4 CSR 233-2.020(8)(C)1.-3., (8)(D)1.-5. and 9.-11.]

(C) A minimum of twelve (12) calendar months of supervised experience. The S-MFT must obtain at least fifteen (15) hours of supervised experience within a calendar month in order for the experience to be considered by the state committee and must be in compliance with 4 CSR 233-2.020(10), (11), and (12); and

(D) The committee may grant credit for up to twelve (12) months and fifteen hundred (1,500) hours of supervised clinical experience as part of the specialist's or doctoral program. In order to complete the requirement, the applicant shall obtain supervised experience in marital and family therapy pursuant to 4 CSR 233-2.020(13)(A) and (B).

[[13]] (14) Applicants with supervised experience in marital and family therapy completed before August 28, 1995, may submit supervised experience in marital and family therapy for review and approval on a form pursuant to 4 CSR 233-2.020. Verification of supervision shall include an attestation form signed by the supervisor.

(A) If a supervisor is deceased or cannot be located by the applicant, the applicant shall provide documentation verifying supervised hours and time providing marital and family therapy.

AUTHORITY: sections 337.715 and 337.727.1(4), (6), and (10)] RSMo [Supp. 1997] 2000. Original rule filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed May 22, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Committee of Marital and Family Therapists, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 233—State Committee of Marital and Family Therapists

Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 233-2.021 Registered Supervisors and Supervisory Responsibilities. The state committee is proposing to add new language in subsections (1)(D) and (1)(E), amend sections (2)–(3), and add new language in subsections (2)(A) and (3)(E), and delete the forms that follow this rule from the *Code of State Regulations*.

PURPOSE: This amendment allows supervision from other states to be reviewed to determine an applicant's eligibility for licensure.

(1) In order to provide supervision for a supervised marital and family therapist (S-MFT), a registered supervisor shall document the following:

(B) Five (5) years clinical experience in providing marital and family therapy as defined in section 337.700(7), RSMo [Cum. Supp. 1997]; and

(C) Currently licensed in Missouri as a marital and family therapist, professional counselor, psychologist, clinical social worker, or psychiatrist./.; and

(D) Applicants for licensure or supervision may submit current or past postgraduate supervised experience from another state for consideration by the state committee. The supervisor must be licensed during the time of supervision in the state where supervised experience occurred as a marital and family therapist, professional counselor, psychologist, clinical social worker, or psychiatrist; and

(E) A supervisor from another state shall document credentials pursuant to 4 CSR 233-2.021(1)(A), (B), and (D).

(2) A registered supervisor in Missouri completing a graduate degree before January 1, 1990, shall comply with 4 CSR 233-2.021(1)(A)–(C) and shall document training and experience in marital and family therapy and in supervisory activities involving marital and family therapy with a resume or vitae detailing course work, work shops, supervision-of-supervision and supervisory experience in marital and family therapy supervision.

(A) A supervisor from another state completing a graduate degree before January 1, 1990, shall document training and experience in marital and family therapy and in supervisory activities involving marital and family therapy with a resume or vitae detailing course work, work shops, supervision-of-supervision and supervisory experience in marital and family therapy supervision.

(3) A registered supervisor in Missouri completing a graduate degree after January 1, 1990, shall comply with 4 CSR 233-2.021(1)(A)–(C) and shall document the following:

(D) The supervisor of an S-MFT shall have completed the educational requirements defined in 4 CSR 233-2.010(3) or (4)/.; and

(E) A supervisor from another state completing a graduate degree after January 1, 1990, shall comply with 4 CSR 233-2.021(1)(A)–(C) along with documenting the following:

1. A three (3) semester hour or five (5) quarter hour graduate course in marriage and family therapy supervision or a comparably organized and integrated series of workshops and supervised studies of marital and family therapy supervision; and

2. Documentation of at least thirty (30) hours of supervision-of-supervision and/or in the process of receiving supervision-of-supervision; and

3. The supervisor of an S-MFT shall have completed 4 CSR 233-2.021(3)(A) prior to completing thirty (30) hours of supervision-of-supervision; and

4. The supervisor of an S-MFT shall have completed the educational requirements defined in 4 CSR 233-2.010(3) or (4).

AUTHORITY: sections 337.715 and 337.727.1(4), (6), and (10)] RSMo [Cum. Supp. 1997] 2000. Original rule filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed May 22, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Committee of Marital and Family Therapists, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 233—State Committee of Marital and Family
Therapists**

Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 233-2.040 Examination Requirements. The state committee is proposing to delete sections (2)–(5) and add new language in sections (2) and (3).

PURPOSE: This amendment provides the state committee's address and telephone number for an applicant to request the forms necessary to apply for licensure by examination. This amendment also deletes the fee for examination and requires the applicant to send the fee directly to the examination service the division has contracted with to administer the national test.

[(2) An applicant for licensure by examination shall submit the applicable non-refundable fees as defined in 4 CSR 233-1.040(1)(A) and (C).

(3) If the applicant fails to appear for the examination without submitting a written notice to the state committee at least one (1) week prior to the examination, the examination fee shall be subject to forfeiture.

(4) A candidate approved to take an examination shall take one (1) of the next three (3) examinations administered from the date of initial approval. If the candidate has not taken the examination by the end of the period herein prescribed—

(A) The initial approval to take the examination shall become invalid; and

(B) In order to be considered for subsequent examination, the applicant shall file with the division a complete new application including the non-refundable application fee.

(5) Any applicant failing to pass the examination shall notify the division of the intent to take the examination again and shall pay the appropriate non-refundable examination fee at least thirty (30) days prior to the scheduled examination.

(A) After paying the examination fee, an applicant may take the test within eighteen (18) months from the date of the failed exam without filing a new application and presenting evidence of additional education and experience.]

(2) An applicant for licensure by examination shall submit a request to take the examination on a form provided by the Missouri Division of Professional Registration or the state committee and may be obtained by writing the division or state committee at PO Box 1335, Jefferson City, MO 65102 or by calling (573) 751-0870. The TDD number is (800) 735-2966.

(3) The applicant shall submit the required examination fee to the examination service responsible for administering the examination.

AUTHORITY: section 337.727.1(1), (3), (6) and (10), RSMo [Supp. 1997] 2000. Original rule filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed May 22, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Committee of Marital and Family Therapists, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

Division 240—Public Service Commission

Chapter 21—Electric Service Territorial Agreements

PROPOSED AMENDMENT

4 CSR 240-21.010 Schedule of Fees. The commission is amending the Purpose, sections (1) and (2) and adding sections (3)–(5).

PURPOSE: The proposed amendment to the rule increases the fees for filing and resolution of territorial agreements and territorial disputes as well as providing for fees in annexation cases.

PURPOSE: This rule [sets] establishes a schedule of fees for commission review of proposed territorial agreements, petitions for commission designation of [between] electric service [suppliers] areas, and annexation-related applications.

(1)[An application for c] Commission review of an application for a proposed territorial agreement [between electric service suppliers], a petition for commission designation of electric service areas, or an application for resolution of an annexation-related dispute, shall be accompanied by an initial filing fee [of two hundred fifty dollars (\$250)] in the amount of five hundred dollars (\$500).

(2) In addition to the filing fee, the fee for commission review of an opposed application for approval of a proposed territorial agreement between electric service [suppliers] providers is set at [twenty-five dollars (\$25) per hour of hearing plus] six hundred eighty-five dollars (\$685) per hour of hearing time, subject to a minimum charge for hearing time of six hundred eighty-five dollars (\$685). There is an additional charge of three dollars and fifty cents (\$3.50) per page of transcript. These fees are in addition to the fees authorized by section 386.300, RSMo.

(3) The parties shall be responsible for payment of any unpaid fees on and after the effective date of the commission's report and order relating to the electric territorial agreement, designation of service areas, or annexation-related application. The executive director shall send an itemized billing statement to the applicants on or after the effective date of the commission's report and order. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case.

(4) An application for commission review of proposed amendment(s) to an existing territorial agreement between electric service providers shall not be subject to the fee of five hundred dollars (\$500) specified in section (1) of this rule. However, the applicants shall be responsible for the payment of a fee which reflects necessary hearing time (including the minimum hearing time charge) and the transcript costs as specified in section (2) of this rule.

(5) On July 1 of each year, the filing fee and the fee per hour of evidentiary hearing time will be modified to match any percentage change in the Consumer Price Index for the twelve (12)-month period ending December 31 of the preceding year.

AUTHORITY: sections 394.312 and 386.800, RSMo [Cum. Supp. 1990] 2000. Original rule filed Oct. 3, 1989, effective Jan. 1, 1990. Amended: Filed June 1, 2001.

PUBLIC COST: This proposed amendment will cost municipal electric utilities approximately \$6,800 in the aggregate. This amount assumes a ten-year life of the rule, and an increasing consumer price index yearly average. A detailed fiscal note, which estimates the cost of compliance with the rule, has been filed with the secretary of state.

PRIVATE COST: This proposed amendment will cost electric utility companies approximately \$14,750 in the aggregate and will cost electric utility cooperatives approximately \$17,000. These amounts assume a ten-year life of the rule, and an increasing consumer price index yearly average. A detailed fiscal note, which estimates the cost of compliance with the rule, has been filed with the secretary of state.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. Comments should refer to Case No. EX-2001-450, and be filed with an original and nine copies. A public hearing is scheduled for August 7, 2001, at 10:00 a.m., Room 305 in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 4-DEPARTMENT OF ECONOMIC DEVELOPMENT

Division: 240-Public Service Commission

Chapter: 21-Electric Service Territorial Agreements

Type of Rulemaking: proposed amendment

Rule Number and Name: 4 CSR 240-21.010 Schedule of Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Municipal Electric Utilities	\$6,800.00

III. WORKSHEET

If the average hearing lasts approximately one hour, and by rule the parties cannot be charged for less than one hour, the cost would be: \$500 initial filing fee, plus \$685 for one hour of hearing, for a total of \$1,185. This \$1,185 would then be divided among the parties. Assuming the Commission would split the fees equally between the two parties, the cost would be \$592.50 per party (municipal electric utilities). The rule was last updated in 1991. Further, assuming the Commission waited another ten years to update the proposed rule and taking into account that thirteen municipalities were parties to these cases in twelve years—averaging approximately one party per year—then over the next ten years ten municipalities would incur \$592.50 for an aggregate cost of 5,925.00.

The fees charged will likely increase because they are now tied to the Consumer Price Index under the proposed rule amendment. Following the increasing trend in the Index, the estimated cost of compliance per party increases by nearly 2.8% per year, which increases the total cost to approximately \$6,800 for municipal electric utilities over the life of the rule.

IV. ASSUMPTIONS

The Missouri Public Service Commission keeps records of entities coming before the Commission for approval of territorial agreements and annexations. There have been 35 cases requesting approval of a territorial agreement or disputes involving an annexation brought before the Commission since 1989. One of these cases had more than two parties to the case. None of the cases had more than one municipal electric utility as a party. Thirteen of the thirty-five cases in the past twelve years involved a municipal electric utility. Currently, there are eighty-nine (89) municipal electric utilities operating in the state of Missouri.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4-DEPARTMENT OF ECONOMIC DEVELOPMENT

Division: 240-Public Service Commission

Chapter: 21-Electric Service Territorial Agreements

Type of Rulemaking: proposed amendment

Rule Number and Name: 4 CSR 240-21.010 Schedule of Fees

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
6	Electric Utility Companies	\$14,750.00
25	Electric Utility Cooperatives	\$17,000.00

III. WORKSHEET

If the average hearing lasts approximately one hour, and by rule the parties cannot be charged for less than one hour, the cost would be: \$500 initial filing fee, plus \$685 for one hour of hearing, for a total of \$1,185. This \$1,185 would then be divided among the parties. Assuming the Commission would split the fees equally between the two parties, the cost would be \$592.50 per party (regulated electric utility companies). The rule was last updated in 1991. Further, assuming that the Commission waited another ten years to update the proposed rule, and that six (6) electric utility companies were parties to these cases twenty-six (26) times in the past twelve years—averaging 2.17 a year—then over the next ten years, twenty-one (21) times an electric utility company would incur \$592.50. This results in an aggregate cost of \$12,442.50 over the life of the rule for an electric utility. Using the same analysis, with thirty (30) cases involving electric cooperatives in the past twelve years (with one case involving two cooperatives)—an average of approximately 2.5 a year—then over the next ten years, twenty-five (25) electric cooperatives would incur \$592.50. This results in an aggregate cost of \$14,812.50.

The fees charged will likely increase because they are now tied to the Consumer Price Index under the proposed rule amendment. Following the increasing trend in the index, the estimated cost of compliance per party increases by nearly 2.8% per year, which increases the total cost to approximately \$14,750 for companies and \$17,000 for cooperatives over the life of the rule.

IV. ASSUMPTIONS

The Missouri Public Service Commission keeps records of entities coming before the Commission for approval of territorial agreements and annexations. There have been 35 cases requesting approval of a territorial agreement or disputes involving an annexation brought before the Commission since 1989. One of these cases had two cooperatives as parties to the case. None of the cases had more than one electric utility company as a party. Twenty-five of the thirty-five cases in the past twelve years involved an electric utility company while thirty of the cases involved electric utility cooperatives. Currently, there are six (6) regulated electric utility companies operating in the state of Missouri and forty (40) electric cooperatives.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 51—Water Service Territorial Agreements**

PROPOSED AMENDMENT

4 CSR 240-51.010 Schedule of Fees. The commission is amending the Purpose and sections (1)–(4) and adding section (5).

PURPOSE: The proposed amendment to the rule increases the fees for filing and resolution of territorial agreements and territorial disputes.

PURPOSE: This rule establishes a schedule of fees for commission review of proposed territorial agreements and petitions for commission designation of water service areas between water service providers.

(1) *[An] Commission review of an application for [commission review of] a proposed territorial agreement or a petition for commission designation of water service areas between water service providers shall be accompanied by an initial filing fee [for staff review of the agreements] in the amount of [four] five hundred dollars [(\$400)] (\$500).*

(2) In addition to the filing fee, the fee for commission review of an application for approval of a proposed territorial agreement between water service providers or a review of a petition for commission designation of water service areas is set at *[one hundred dollars (\$100)] six hundred eighty-five dollars (\$685)* per hour of hearing time, subject to a minimum charge for hearing time of *[one hundred dollars (\$100)] six hundred eighty-five dollars (\$685)*. There is an additional charge of three dollars and fifty cents (\$3.50) per page of transcript. These fees are in addition to the fees authorized by section 386.300, RSMo.

(3) The *[applicants] parties* shall be responsible for payment of any *[remaining] unpaid* fees on and after the effective date of the commission's report and order relating to the water territorial agreement or designation of water service area. The executive *[secretary] director* shall send an itemized billing statement to the applicants on or after the effective date of the commission's report and order. *[All fees under this rule shall be prorated among the applicants in a manner such that each applicant shall be responsible for the payment of an equal dollar amount.] Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case.*

(4) An application for commission review of proposed amendment(s) to an existing territorial agreement between water service providers shall not be subject to the fee of *[four hundred dollars] five hundred dollars [(\$400)] (\$500)* specified in section (1) of this rule. However, the applicants shall be responsible for the payment of a fee which reflects necessary hearing time (including the minimum hearing time charge) and the transcript costs as specified in section (2) of this rule.

(5) **On July 1 of each year, the filing fee and the fee per hour of evidentiary hearing time will be modified to match any percentage change in the Consumer Price Index for the twelve (12)-month period ending December 31 of the preceding year.**

AUTHORITY: section 247.172, RSMo [Supp. 1991] 2000. Original rule filed July 16, 1993, effective Jan. 31, 1994. Amended: Filed June 1, 2001.

PUBLIC COST: This proposed amendment will cost municipally owned water utilities approximately \$3,350 in the aggregate and will cost public water supply districts approximately \$3,350. This amount assumes a ten-year life of the rule, and an increasing consumer price index yearly average. A detailed fiscal note, which estimates the cost of compliance with the rule, has been filed with the secretary of state.

PRIVATE COST: The cost of this proposed amendment to water utility companies is unknown as there has not yet been a water utility company as a party to a territorial agreement or annexation case before the commission and it is unknown whether they will be in the future. If a water utility company were to be a party to a case in the future they would then be affected by the proposed rule amendment and the effect would likely be over \$500. A detailed fiscal note, which estimates the cost of compliance with the rule, has been filed with the secretary of state.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. WX-2001-451, and be filed with an original and nine copies. A public hearing is scheduled for August 7, 2001, at 11:00 a.m., Room 305 in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 4-DEPARTMENT OF ECONOMIC DEVELOPMENT

Division: 240-Public Service Commission

Chapter: 51-Water Service Territorial Agreements

Type of Rulemaking: proposed amendment

Rule Number and Name: 4 CSR 240-51.010 Schedule of Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Public Water Supply Districts	\$3,350.00
Municipally Owned Water Utilities	\$3,350.00

III. WORKSHEET

If the average hearing lasts approximately one hour, and by rule the parties cannot be charged for less than one hour, the cost would be: \$500 initial filing fee, plus \$685 for one hour of hearing, for a total of \$1,185. This \$1,185 would then be divided among the parties. Assuming the Commission would split the fees equally between the two parties, the cost would be \$592.50 per party (municipal water utility or the public water supply district). The rule was last updated in 1993. Further, assuming the Commission waits another ten years to update the proposed rule, and that five municipal water utilities and/or public water supply districts were parties to these cases in ten years—averaging approximately one every two years—then over the next ten years, five municipalities would incur \$592.50. This results in an aggregate cost to each class of \$2,962.50 over the life of the rule.

The fees charged will likely increase because they are now tied to the Consumer Price Index under the proposed rule amendment. Following the increasing trend in the Index, the estimated cost of compliance per party increases by nearly 2.8% per year, which increases the total cost to approximately \$3,350 for both public water supply districts and municipally owned water utilities over the life of the rule.

IV. ASSUMPTIONS

The Missouri Public Service Commission keeps records of entities coming before the Commission for approval of territorial agreements and annexations. There have been 5 cases requesting approval of a territorial agreement brought before the Commission since 1991. Each of the five cases involved one Public Water Supply District and one Municipally Owned Water Utility. Currently, there are approximately two hundred and forty two (242) Public Water Supply Districts and five hundred and seventy four (574) Municipally Owned Water Utilities operating in the state of Missouri.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4-DEPARTMENT OF ECONOMIC DEVELOPMENT

Division: 240-Public Service Commission

Chapter: 51-Water Service Territorial Agreements

Type of Rulemaking: proposed amendment

Rule Number and Name: 4 CSR 240-51.010 Schedule of Fees

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:
0	Water Utility Companies	Unknown

III. WORKSHEET

IV. ASSUMPTIONS

The Missouri Public Service Commission keeps records of entities coming before the Commission for approval of territorial agreements and annexations. There have been five (5) cases requesting approval of a territorial agreement brought before the Commission since 1991. None of the five cases involved a water utility company. Currently, there are approximately seventy (70) water utility companies operating in the state of Missouri. It is unknown how often a particular water utility company would be a party to a territorial agreement, if ever. Also, it is unknown how many utilities would be party to any case and it is unknown how the Commission would distribute the fees for initial filing and evidentiary hearing costs. If a water utility company were to be a party to a case in the future they would then be affected by the proposed rule amendment and the effect would likely be over \$500, but as there has not yet been a water utility company as a party to a territorial agreement or annexation case before the Commission, the cost to these companies over the life of the rule is unknown.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION**

[Division 30—Division of School Services]

*Division 50—Division of [Instruction] School
Improvement*

Chapter 345—Missouri School Improvement Program

PROPOSED AMENDMENT

5 CSR [30] 50-345.020 Policies on Waiver of Regulations. The State Board of Education is proposing to amend the rule number, purpose and sections (1), (3), (4), (5) and (6).

PURPOSE: This rule is being amended to make the language consistent with the amended Missouri School Improvement Program Standards and Indicators and to make other changes for clarification. Also, due to the reorganization of the department, this rule has been reassigned.

PURPOSE: This rule establishes the criteria and procedures for annually identifying school district and/or school building eligibility for waivers in compliance with sections 161.210, 163.031.5(3), 160.545 and 160.518, RSMo. The student performance data will be reviewed, and the commissioner will notify districts if they are eligible for a waiver. Districts may respond to this notification by either accepting or rejecting such waiver. This rule contains four (4) types of department-wide waivers of regulations which may be granted to school districts. Regulations identified in the Missouri School Improvement Program (MSIP) Waiver Plan will be waived in each of the four (4) categories of waivers; however, the criteria for qualifying varies with each waiver. In all cases, the performance indicators will be evaluated on data in the same manner as in regular MSIP reviews. [(i.e., data from 1999-2000 would be used as the most current for districts being reviewed in 2000-2001.)]

(1) Missouri School Improvement Program (MSIP) On-Site Review.

(A) Districts will qualify for a waiver of the next scheduled MSIP review if they meet the following:

1. The district has appropriately tested two percent (2%) or fewer of its students on the Missouri Assessment Program Alternate (MAP-A) in each grade tested with the Missouri Assessment Program (MAP) as certified by the Division of Special Education by October 15;

*[1.] 2. The district, based upon department generated Annual Performance Reports (APR), meets the performance indicators at the accredited level (including at least two (2) of the measurements in Standard [16.1] 9.1.1 and at least three (3) of the measurements in Standard [16.3] 9.4 for K-12 districts; or for K-8 districts, [four (4) of five (5)] five (5) of six (6) performance measurements[,] including two (2) from [16.1] 9.1.1 and [two (2)] three (3) from [16.2 and 17.1*3] 9.2, 10.1, and 11.1 combined and having no dropouts) for three (3) of the last four (4) years, including the last year's APR, based upon the annual Performance Scoring Guide. (In order for districts to have adequate time to prepare for the MSIP review, the decision on eligibility for waivers must be made by December of the second preceding year; therefore, the determination would be based upon the calls made during their last review and the succeeding three (3) APRs);*

[2.] 3. Districts having twenty (20) or more students in any identified [ethnic] racial minority must demonstrate improvement in the minority population's achievement which is equal to or greater than the achievement of the non-minority population on the [Missouri Assessment Program (MAP)] MAP. The following process will be used to judge this condition:

A. First, the three (3) MSIP grade spans will be examined to determine whether any grade span has twenty (20) or more students in any identified minority in each grade tested in that span for both the preceding and second preceding year;

B. Second, grade spans meeting the above condition will be examined to determine how many times the identified [ethnic] racial minority group equals or exceeds the improvement of the non-minority population on each test when comparing results from the second preceding to the preceding year [on both the upper two (2) levels (Proficient and Advanced combined) and the bottom two (2) levels (Step I and Progressing combined)] using the MAP Performance Index (MPI) Approach or the Three Percent (3%) Improvement Approach for each test in that grade span; and

C. Third, at least sixty-two percent (62%) positive comparisons between the two (2) groups are required to be acceptable;

[3.] 4. The district agrees to administer the MSIP Advance Questionnaire; and

[4.] 5. The district completes an annual MSIP Waiver Plan which confirms the district's adherence to the specific laws and rules referred to in the checklist.

[(C) If the district meets the performance indicators at a level that would qualify for "Distinction" the year of their scheduled review, DESE will conduct a desk audit of the Resource Report. If the district meets all of the resource standards, a team will conduct an on-site visit which will focus on the district's documentation of its compliance with the items on the Waiver Plan.]

[(D)] (C) The MSIP waiver is an annual waiver and may be renewed for five (5) consecutive years if—

1. The district continues to meet the "Accredited" level on the performance indicators;

2. **The district [C]**complies with all the items on the MSIP Waiver Plan; and

3. **The district [V]**verifies that it has reviewed its Comprehensive School Improvement Plan (CSIP) and submits any revisions to DESE.

[(E)] (D) If a district fails to meet the above criteria in subsection (1)(C), the district will be notified [by December 1] that a review is scheduled for the [following] year following the next full school year [(i.e. If, based upon 1999–2000 data, a district is no longer qualified for an MSIP waiver, DESE will notify the district by December 1, 2000, that it is now scheduled for an MSIP review during the 2001-2002 school year)]. No other waiver can be used during that time period.

(3) A+ High School.

(A) The designation as an A+ high school is granted for one (1) year in compliance with the A+ rule and section 160.545, RSMo. A high school will qualify for a waiver of the MSIP On-Site Review if—

1. The school has appropriately tested two percent (2%) or fewer of its students on the MAP-A in each grade tested with the MAP as certified by the Division of Special Education by October 15;

[1. It] 2. The school is currently designated as A+;

[2. Agrees] 3. The school agrees to administer the MSIP Advance Questionnaire; and

[3. Completes] 4. The school completes an annual A+ Waiver Plan which confirms the district's adherence to the specific laws and rules referred to in that plan.

(4) Exemplary School.

(A) A school building that meets the following student performance criteria will be designated as Exemplary in compliance with section 160.518, RSMo, and will be granted waivers when the school meets the following:

1. The school has appropriately tested two percent (2%) or fewer of its students on the MAP-A in each grade tested with the MAP as certified by the Division of Special Education by October 15;

[1.] 2. The school [has at least fifty percent (50%) of its students in the Proficient and Advanced levels, combined, on the MAP and Reading Performance Indicators and has no more than twenty percent (20%) of its students in the Step 1 and Progressing levels of the MAP, combined] met “High” using the MSIP Scoring Guidelines on the MPI Approach or Three Percent (3%) Improvement Approach;

[2.] 3. Schools having twenty (20) or more students in any identified [ethnic] racial minority must demonstrate improvement in the minority population’s achievement which is equal to or greater than the achievement of the non-minority population on the MAP. The following process will be used to judge this condition:

A. First, the three (3) MSIP grade spans will be examined to determine whether any grade span has twenty (20) or more students in any identified minority in each grade tested in that span for both the preceding and second preceding year;

B. Second, grade spans meeting the above condition will be examined to determine how many times the identified [ethnic] racial minority group equals or exceeds the improvement of the non-minority population on each test when comparing results from the second preceding to the preceding year [on both the upper two (2) levels (Proficient and Advanced combined) and the bottom two (2) levels (Step 1 and Progressing combined)] using the MPI Approach or the Three Percent (3%) Improvement Approach for each test in that grade span; and

C. Third, at least sixty-two percent (62%) positive comparisons between the two (2) groups are required to be acceptable;

[3.] 4. The school meets all other MSIP Performance Indicators;

[4.] 5. The school completes an annual MSIP Waiver Plan which confirms the district’s adherence to the specific laws and rules referred to in the plan for all buildings within the district; and

[5.] 6. The school agrees to administer the MSIP Advance Questionnaire.

(B) The building’s exemplary designation will be valid until June 30 of the year in which the building is determined to not meet items in paragraphs (4)(A)1.-[4.] 5.

(5) Application. A district which meets the performance criteria for any of the four (4) waivers will be so notified by the commissioner. The district must either accept or decline the waiver [by December 1] within four (4) weeks after notification of the second preceding year prior to the year the district is scheduled for an MSIP review except that a district qualifying for an A+ waiver must accept or decline the waiver by October 1 of the year of the scheduled MSIP review [(i.e. a waiver application for a scheduled 2001–2002 MSIP review must be filed by December 1, 1999)].

(6) Missouri School Improvement Program Waiver Plan.

(A) School districts which meet certain student performance expectations may qualify for certain waivers related to the MSIP. The plan which is outlined below identifies the areas of MSIP which are eligible to be waived for qualifying districts.

1. All MSIP Resource Standards and Indicators will be waived except the following:

A. The state high school graduation requirements (MSIP 1.3);

B. Regular instruction in *United States and Missouri Constitutions*, as well as American History and Institutions, must be provided, and all students must pass at least a half unit of credit course in the institutions, branches, and functions of federal, state and local governments and in the electoral process, as required by section 170.011, RSMo (MSIP 1.3); and

C. All administrators and teachers must be certificated to teach in Missouri schools. “Appropriately certificated for their assignments” is waived under this provision, unless funding sources require specific certification[.] (MSIP 5.1).

2. All MSIP Process Standards and Indicators will be waived except the following:

A. Districts must have cross-referenced all curricular areas to the Show-Me Standards (MSIP [6.1A] 6.1.1);

B. The district reports dropouts from school to the Missouri Literacy Hot Line (MSIP [8.1] 8.3.5);

C. The district meets state and federal requirements for special education for students with disabilities, economically disadvantaged students, migratory children, students whose native or home language is other than English and homeless youth (MSIP [8.1B, C, D, E, F] 6.3.6 and 7.1);

D. The district complies with all the regulations of the state and federal categorical programs in which the district participates (MSIP [8.3 and 8.7] 7.3 and 7.7);

E. The district distributes a student code of conduct and provides a protected, orderly environment (MSIP [9.1C] 6.6.1);

F. Professional development programs and services are provided as required by sections 168.400 and 160.530, RSMo (MSIP [12.1A] 6.7);

G. Board of [E]ducation members must be trained as prescribed by section 162.203, RSMo (MSIP [13.2B] 8.3.4);

H. The district complies with the salary compliance requirements of section 165.016, RSMo and with the minimum salary requirements as defined in section 163.172, RSMo[.] (MSIP [13.2.B, 13.3C] 8.4.3). Does not apply to “hold harmless” districts;

I. The [district implements effective and efficient fiscal management systems that ensure accountability of district funds,] community, through the board of education, provides sufficient financial resources and the district is not identified as a “financially stressed district” (MSIP [13.4A, B] 8.5);

J. The district annually reviews its Comprehensive School Improvement Plan and updates it if necessary (MSIP [13.1C] 8.2);

K. The district provides a safe physical environment for students (MSIP [14.2] 8.10);

L. The district implements effective and efficient fiscal management systems that ensure accountability of district funds (MSIP [13.4A, B] 8.6);

M. Cumulative health records, including immunizations as required by state law, are maintained and regularly updated for all students (MSIP [15.1] 8.11); and

N. The district complies with all laws related to the transportation of students (MSIP [15.3] 8.13).

3. No MSIP Performance Standards will be waived.

AUTHORITY: sections 160.518, [and] 160.545, [RSMo 1994, and] 161.092, 161.210 and 163.031.5(3), RSMo [Supp. 1998.] 2000. Original rule filed Sept. 30, 1999, effective March 30, 2000. Amended: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, Carl Sitze, Director, School Improvement and Accreditation, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 5—Administration
Chapter 1—Adaptive Telephone Equipment Program**

PROPOSED RESCISSION

8 CSR 5-1.010 Adaptive Telephone Equipment Program. This rule established the standards and procedures for the provision of state-funded adaptive telephone equipment to eligible subscribers. This rule implemented sections 209.251, RSMo through 209.259, RSMo.

PURPOSE: This rule is being rescinded because sections 209.251, RSMo through 209.259, RSMo have been amended. The current statewide equipment distribution program is expanded and program eligibility requirements are changed. The administration of the program was transferred to the Missouri Assistive Technology Advisory Council which has authority to promulgate rules necessary to implement and administer the program.

AUTHORITY: section 286.060, RSMo Supp. 1998. Emergency rule filed Jan. 28, 1999, effective March 1, 1999, expired Aug. 28, 1999. Original rule filed Jan. 28, 1999, effective July 30, 1999. Rescinded: Filed May 24, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Labor and Industrial Relations, Attn: Robert A. Crouch, Jr. PO Box 59, Jefferson City, MO 65104-0059. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED AMENDMENT

10 CSR 10-6.110 Submission of Emission Data, Emission Fees and Process Information. The commission proposes to amend subsection (5)(A). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan.

PURPOSE: This amendment will establish emission fees for Missouri facilities as required annually. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is section 643.079 of the Missouri state statutes.

(5) Emission Fees.

(A) Any air contaminant source required to obtain a permit under sections 643.010–643.190, RSMo, except sources that produce charcoal from wood, shall pay an annual emission fee, regardless of their EIQ reporting frequency, of *[twenty-five dollars and seventy cents (\$25.70)]* **twenty-eight dollars (\$28)** per ton of regulated air pollutant emitted during calendar year *[2000]* **2001** in accordance with the conditions specified in sub-

section (5)(B) of this rule. Sources which are required to file reports once every five (5) years may use the information in their most recent EIQ to determine their annual emission fee.

AUTHORITY: section 643.050, RSMo [Supp. 1999] 2000. Original rule filed June 13, 1984, effective Nov. 12, 1984. Amended: Filed April 2, 1987, effective Aug. 27, 1987. Amended: Filed May 14, 1993, effective Jan. 31, 1994. Amended: Filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed May 15, 1995, effective Dec. 30, 1995. Amended: Filed May 15, 1997, effective Dec. 30, 1997. Amended: Filed May 12, 1998, effective Dec. 30, 1998. Amended: Filed May 14, 1999, effective Dec. 30, 1999. Amended: Filed April 6, 2000, effective Nov. 30, 2000. Amended: Filed June 1, 2001.

PUBLIC COST: This proposed amendment will cost \$7,248,259 in FY 2002 and \$12,101,977 in FY 2003. For the years after FY 2003, the total annualized aggregate cost is \$12,101,977 for the life of the rule. The public entity costs are not substantially more than previous cost projections and are provided as background for current cost projections. Note attached fiscal note for assumptions that apply.

PRIVATE COST: This proposed amendment will have a total annualized aggregate cost of \$21,351,435 for the life of the rule. Note attached fiscal note for assumptions that apply.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., August 3, 2001. The public hearing will be held at the Governor Office Building, Ballroom #450, 200 Madison Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., August 10, 2001. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 6 - Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process Information

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Natural Resources /Air Pollution Control Program	\$ 9,458,436
Misc. Public Entities (listed below)	\$ 2,643,541
Totals	\$12,101,977

*Cost estimates are reported as annualized aggregates.

III. WORKSHEET

Missouri Department of Natural Resources /Air Pollution Control Program (APCP) Costs

APCP Costs	FY2002**	FY2003	Annualized Aggregate
Salaries	\$ 1,855,783	\$ 3,827,084	\$ 3,827,084
Fringe Benefits	\$ 631,253	\$ 1,301,755	\$ 1,301,755
Operating Expenses	\$ 683,835	\$ 1,368,623	\$ 1,368,623
Grants to Local Air Agencies	\$ 976,000	\$ 2,002,000	\$ 2,002,000
Refunds	\$ 13,116	\$ 26,232	\$ 26,232
Department Overhead	\$ 455,327	\$ 932,742	\$ 932,742
Totals	\$ 4,615,314	\$ 9,458,436	\$ 9,458,436

Local Air Agencies (Kansas City, Springfield, St. Louis City, St. Louis County) Costs

Salaries, fringes, operating, and overhead	\$ 976,000	\$ 2,002,000	\$ 2,002,000
Less Grant from MDNR	(\$ 976,000)	(\$ 2,002,000)	(\$ 2,002,000)
Totals	\$ 0	\$ 0	\$ 0

**See Assumption #1 on page 2 of this Fiscal Note.

Public Entity Costs

Source Description	Number of Facilities
Gas & Electric	44
Sanitary Services	30
Hospitals	25
Rehabilitation Centers	3
Schools	10
Correctional Facility	2
National Security	5

Post Office	2
Transportation	3
Other	5
Totals	129

Public Entity Costs	FY 2002	FY 2003	Annualized Aggregate
EIQ Fees	\$1,059,680	\$1,070,276	\$1,070,276
EIQ Preparation	\$ 124,582	\$ 124,582	\$ 124,582
Compliance Costs	\$1,448,683	\$1,448,683	\$1,448,683
Total Costs	\$2,632,945	\$2,643,541	\$2,643,541

Costs	FY2002	FY2003	Annualized Aggregate
Departmental Costs	\$ 4,615,314	\$ 9,458,436	\$ 9,458,436
Public Entity Costs	\$ 2,632,945	\$ 2,643,541	\$ 2,643,541
Total Costs	\$ 7,248,259	\$12,101,977	\$12,101,977

IV. ASSUMPTIONS

- Public entity costs are for the entire rule rather than just the amendment. The public entity costs are provided for informational purposes and to provide fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.
- All emission fees are assumed to be submitted during the last six (6) months of FY2002 (January 1, 2002-June 30, 2002). Department costs for FY2002 are for the last six (6) months of FY2002 (January 1, 2002-June 30, 2002).
- The cost to the facility of filling out the EIQ is held constant at the 1999 value of \$124,582 assuming that the cost of EIQ preparation occurs in the last half of FY 2002 (January 1, 2002-June 30, 2002).
- Cost and affected entity estimates are based on data presently entered in the tracking systems of the Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered. Fees for public entities are based on a proposed \$28.00 per ton of regulated air pollutant.
- The emission fees paid by public entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.
- The Phase I utility boilers began paying emission fees for emissions in the last six (6) months of Fiscal Year 2001 (January 1, 2001-June 30, 2001) for emissions in calendar year 2000. Thus an increase in emission fees will occur during this time. This increase will be approximately 30% or \$1.8 million statewide (public and private).
- State projections are based on the most current information regarding budget-appropriation levels. Increases or decreases in appropriations result from additions or deletions to the budget. Variations in operating expenses occur as a result of program budget decreases or increases by the legislature.
- The costs to prepare EIQ forms and for compliance are taken from information provided by facilities.
- The EIQ fees are assumed to increase by 1% from FY2002 to FY2003.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 6 - Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process Information

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:
2,302 Facilities (listed below)	Listed below	\$21,351,435

*Cost estimates are reported as annualized aggregates.

III. WORKSHEET

SIC Code	SIC Description	Number of Facilities
01	AGRICULTURAL PRODUCTION CROPS	0
02	AGRICULTURAL PRODUCTION LIVESTOCK AND ANIMAL SPECIALTIES	1
07	AGRICULTURAL SERVICES	57
10	METAL MINING	8
12	COAL MINING	5
14	MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	206
15	BUILDING CONSTRUCTION GENERAL CONTRACTORS AND OPERATIVE	1
16	HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION	0
17	CONSTRUCTION SPECIAL TRADE CONTRACTORS	2
20	FOOD AND KINDRED PRODUCTS	110
21	TOBACCO PRODUCTS	0
22	TEXTILE MILL PRODUCTS	2
23	APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS	0

SIC Code	SIC Description	Number of Facilities
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	54
25	FURNITURE AND FIXTURES	24
26	PAPER AND ALLIED PRODUCTS	24
27	PRINTING, PUBLISHING, AND ALLIED INDUSTRIES	66
28	CHEMICALS, BRIQUETS, PAINTS	146
29	PETROLEUM REFINING AND RELATED INDUSTRIES	157
30	RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	57
31	LEATHER AND LEATHER PRODUCTS	10
32	STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	205
33	PRIMARY METAL INDUSTRIES	43
34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION	87
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	40
36	ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS	38
37	TRANSPORTATION EQUIPMENT	45
38	MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS	5
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	11
40	RAILROAD TRANSPORTATION	1
41	LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER	1
42	MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	25
44	WATER TRANSPORTATION	3
45	TRANSPORTATION BY AIR	7
46	PIPELINES, EXCEPT NATURAL GAS	21
47	TRANSPORTATION SERVICES	2
48	COMMUNICATIONS	0
49	ELECTRIC, GAS, SANITARY SERVICES, AND LANDFILLS	124

SIC Code	SIC Description	Number of Facilities
50	WHOLESALE TRADE-DURABLE GOODS	13
51	WHOLESALE TRADE-NON-DURABLE GOODS	130
52	LUMBER/HARDWARE	1
54	FOOD STORES	13
55	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	2
57	HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES	0
59	MISCELLANEOUS RETAIL	1
60	BANK	1
63	INSURANCE CARRIERS	0
65	REAL ESTATE	1
70	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	1
72	PERSONAL SERVICES AND DRY CLEANERS	453
73	BUSINESS SERVICES	2
75	AUTOMOTIVE REPAIR, SERVICES, AND PARKING	5
76	MISCELLANEOUS REPAIR SERVICES	1
80	HEALTH SERVICES	66
82	EDUCATIONAL SERVICES	11
84	MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS	2
87	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED	2
91	EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	4
92	CORRECTIONS	1
95	ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	1
97	MILITARY	3

Private Entity Costs	FY2002	FY2003	Annualized Aggregate
EQ Fees	\$ 6,394,875	\$ 6,458,824	\$ 6,458,824
EQ Preparation	\$ 2,160,418	\$ 2,160,418	\$ 2,160,418
Compliance Costs	\$12,732,193	\$12,732,193	\$12,732,193
Total Costs	\$21,287,486	\$21,351,435	\$21,351,435

IV. ASSUMPTIONS

1. Private entity costs are for the entire rule rather than just the amendment. Private entity costs for this amendment exceed the previous amendment fiscal note since the emissions fee is proposed to increase from \$25.70 per ton of regulated air pollutant to \$28.00 per ton of regulated air pollutant. The costs in this fiscal note are to provide information and to provide fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.
2. All emission fees are assumed to be submitted during the last six (6) months of FY2002 (January 1, 2002-June 30, 2002).
3. The cost to the facility of filling out the EIQ is held constant at the 1999 value of \$2,160,418 assuming that the cost of EIQ preparation occurs in the last half of FY 2002 (January 1, 2002-June 30, 2002).
4. Cost and effected entity estimates are based on data presently entered in the tracking systems of the Air Pollution Control Program. This data is subject to change as additional information is continuously entered and as data is reviewed. Fees for private entities are based on a proposed \$28.00 per ton of regulated air pollutant.
5. The emission fees paid by private entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.
6. The Phase I utility boilers began paying emission fees for emissions in the last six (6) months of fiscal year 2001 (January 1, 2001-June 30, 2001) for emissions in calendar year 2000. Thus an increase in emission fees will occur during this time. This increase will be approximately 30% or \$1.8 million statewide (public and private).
7. The costs to prepare EIQ forms and for compliance are taken from information provided by facilities.
8. The EIQ fees are assumed to increase by 1% from FY2002 to FY2003.

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

PROPOSED RULE

12 CSR 10-24.465 Disqualification of Commercial Motor Vehicle Operators Due to Railroad-Highway Grade Crossing Violations

PURPOSE: This rule establishes that commercial motor vehicle (CMV) drivers who are convicted of violating federal, state, or local laws pertaining to railroad-highway grade crossings be disqualified from operating a CMV. This rule is pursuant to the Department of Transportation's rules as published in the Code of Federal Regulations (49 CFR parts 383 and 384).

(1) A driver who is convicted of operating a commercial motor vehicle (CMV) in violation of a federal, state, or local law or regulation pertaining to one (1) of the following six (6) offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in section (2) of this rule:

(A) Failing to slow down and check that the tracks are clear of an approaching train;

(B) Failing to stop before reaching the crossing, if the tracks are not clear;

(C) Failing to stop before driving onto the crossing;

(D) Failing to have sufficient space to drive completely through the crossing without stopping;

(E) Failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(F) Failing to negotiate a crossing because of insufficient under-carriage clearance.

(2) When convicted of a railroad crossing CMV violation, persons will be disqualified from operating a commercial motor vehicle as follows:

(A) First violation. A driver will be disqualified for sixty (60) days if the driver is convicted of a first railroad-highway grade crossing violation;

(B) Second violation. A driver will be disqualified for one hundred twenty (120) days if, during any three (3)-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents; or

(C) Third or subsequent violation. A driver will be disqualified for one (1) year if, during any three (3)-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

AUTHORITY: section 302.755, RSMo 2000. Original rule filed May 24, 2001.

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

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).
The division is amending section (8).

PURPOSE: The proposed amendment amends section (8). This amendment will lower the Federal Reimbursement Allowance (FRA) Assessment for SFY 2001 from 5.90% to 5.50%.

(8) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2001. The FRA assessment for State Fiscal Year 2001 shall be determined at the rate of [five and ninety hundredths percent (5.90%)] **five and fifty hundredths percent (5.50%)** of the hospital's net operating revenues and other operating revenues defined in paragraphs (1)(A)12., and 13., as determined from information reported in the hospital's 1997 base year cost report. **The State Fiscal Year (SFY) 2001 FRA Assessment shall be used as an estimate of the SFY 2002 FRA Assessment until such time as the regulation establishing the SFY 2002 FRA Assessment is effective.**

AUTHORITY: sections 208.201, [and] 208.453 [, RSMo 1994] and 208.455, RSMo [Supp. 1999] 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 8, 2001, effective June 18, 2001, expires Dec. 8, 2001. Amended: Filed June 8, 2001.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions \$29,200,000 in SFY 01. A fiscal note containing details of estimated cost of compliance is published with this proposed amendment.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate for SFY 2001.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

FISCAL NOTE
PUBLIC ENTITY COST**I. RULE NUMBER**

Title: _____ 13 -- Department of Social Services

Division: _____ 70 -- Division of Medical Services

Chapter: _____ 15 -- Hospital Program

Type of Rulemaking: _____ Proposed Amendment

Rule Number and Name: _____ CSR 70-15.110 Federal Reimbursement Allowance (FRA)

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services Division of Medical Services	State Fiscal Year 2001 - \$29,200,000

III. WORKSHEET

The estimated Annual Impact is based on the reduction in the FRA Assessment percentage from 5.90% to 5.50%. This .40% reduction in the FRA Assessment percentage will result in a reduced assessment of \$29,200,000.

IV. ASSUMPTIONS

The reduction in the FRA Assessment for SFY 2001 is based on net patient revenue and other operating revenue of \$7.3 billion multiplied by the .40% drop in FRA Assessment percentage.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.010 Who May Request. This rule set out who might request hearings upon matters under the Missouri Uniform Securities Act.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that more clearly defines who may request hearings.

AUTHORITY: sections 409.413 and 409.836, RSMo 1986. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987. Amended: Filed July 3, 1989, effective Sept. 28, 1989. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RULE

15 CSR 30-55.010 Who May Request

PURPOSE: This rule sets out who may request hearings upon matters under the Missouri Securities Act.

(1) Hearings Before Commissioner.

(A) Any person aggrieved by a summary postponement or suspension of a broker-dealer, agent, investment adviser, or investment adviser representative registration may request a hearing before the commissioner. Pursuant to section 409.412(a), RSMo the hearing shall be governed by Chapter 536, RSMo.

(B) Any person aggrieved by the denial, suspension or revocation of a securities registration, or the denial or revocation of exemptions from registration may request a hearing before the commissioner. Pursuant to section 409.412(a), RSMo the hearing shall be governed by Chapter 536, RSMo.

(C) Any person aggrieved by the denial, revocation, suspension, summary postponement or summary suspension of a commodity broker-dealer or sales representative registration under the Missouri Commodities Code, sections 409.800–409.863, RSMo may request a hearing before the commissioner. The hearing shall be governed by Chapter 536, RSMo.

(D) Any person aggrieved by an order issued by the commissioner pursuant to Chapter 409, RSMo, except those provided for

below, may request a hearing before the commissioner. The hearing shall be governed by Chapter 536, RSMo.

(2) Hearings Before the Administrative Hearing Commission.

(A) Any person aggrieved by denial of a broker-dealer, agent, investment adviser, or investment adviser representative registration by the commissioner may file a petition with the Administrative Hearing Commission in accordance with section 409.204(f), RSMo.

(B) In matters involving the revocation or suspension of the registration of broker-dealers, agents, investment advisers, or investment adviser representatives, the Securities Division shall initiate the matter by submitting to the commissioner a proposed complaint for filing before the Administrative Hearing Commission. The commissioner may then refer the matter to the Administrative Hearing Commission in accordance with section 409.204(f), RSMo.

AUTHORITY: sections 409.413 and 409.836, RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987. Amended: Filed July 3, 1989, effective Sept. 28, 1989. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.020 Instituting Hearing Before Commissioner. This rule described the form and content of the request or order for hearing, time for filing, number of copies to be filed and how notice will be served.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that more clearly describes the form and content of the request or order for hearing, number of copies to be filed, and how notice will be served.

AUTHORITY: sections 409.413 and 409.836, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings

PROPOSED RULE

15 CSR 30-55.020 Instituting Hearing Before the Commissioner

PURPOSE: This rule describes the form and content of the request for hearing, time for filing, number of copies to be filed, the order of hearing, and how notice will be served.

(1) Request for Hearing. A request for hearing shall be filed with the commissioner by any party or interested person aggrieved by any order or refusal to make an order under this chapter. Any request for hearing shall contain:

- (A) A brief statement of the facts;
- (B) A summary of factual and legal issues involved;
- (C) A request for relief;
- (D) Suggestions in support of relief sought including relevant statutes;
- (E) The name of the party requesting the hearing; and
- (F) The name of attorney representing the party, if any.

(2) Time for Filing. Any person entitled to request a hearing in any matter within the jurisdiction of the commissioner must do so within the statutory time limits, if any, applicable in those cases. If there is no time limit, filing should be within a reasonable period of time not to exceed thirty (30) days from the date of receipt of any notice of action or refusal to take action by the commissioner.

(3) Number of Copies to be Filed. Three (3) copies of a request for hearing or other related material shall be filed with the commissioner. One (1) copy shall be served by mail on any other party to the matter.

(4) Hearing Order. The commissioner may order a hearing on any matter within his/her jurisdiction under Chapter 409, RSMo. The commissioner may immediately set the matter for hearing, and may also schedule a prehearing conference. The hearing must be set within fifteen (15) days of filing a request for hearing. Subject to more restrictive statutory limitations, a proceeding under the provisions of these rules shall be set for a date not more than ninety (90) days from the date of request. The hearing order shall contain:

- (A) Caption and number of the case;
- (B) Name of party filing;
- (C) Time, place and date of a prehearing conference;
- (D) Time, place and date of the hearing;
- (E) If a petition was submitted by the Securities Division and the request for hearing has raised a dispute of facts or any affirmative defenses, the date an answer must be filed; and
- (F) Citation to rules promulgated by the commissioner regarding hearings.

(5) Notice to Parties. All parties and, in the discretion of the commissioner, other interested persons shall be notified promptly by the commissioner upon the filing of a request for hearing or related material filed. The commissioner shall provide notice by serv-

ing copies of all documents filed including the request for hearing and the hearing order.

AUTHORITY: sections 409.413 and 409.836, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings

PROPOSED RULE

15 CSR 30-55.025 General Prehearing Procedures

PURPOSE: This rule describes the general procedures for contested matters.

(1) Rules of Procedure. The hearings before the commissioner and Administrative Hearing Commission are governed by Chapter 536, RSMo. The commissioner and Administrative Hearing Commission may also be guided by the Missouri Rules of Civil Procedure.

(2) Place of Filing. If the matter is to be heard by the commissioner, all pleadings shall be filed with the commissioner. If the matter is to be heard by the Administrative Hearing Commission, all pleadings must be filed with the commission. The party filing pleadings or documents shall serve by mail or facsimile copies of all filed pleadings or documents on all parties.

(3) Continuances. The commissioner shall grant written requests for continuances upon good cause shown. A hearing shall be held no later than ninety (90) days after the request for hearing unless a later date is agreed to by all parties to the matter, or justice requires a continuance, and the commissioner by order continues the hearing.

AUTHORITY: sections 409.413 and 409.836, RSMo 2000. Original rule filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.030 Answers and Supplementary Pleadings. This rule described the form and content of the answer and supplementary pleadings and how they should be filed.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that more clearly describes the form and content of the answer and supplementary pleadings and how they shall be filed.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RULE

15 CSR 30-55.030 Answers and Supplementary Pleadings

PURPOSE: This rule describes the form and content of the answer and supplementary pleadings and how they shall be filed.

(1) Answers.

(A) Matters Prosecuted by Securities Division Before the Commissioner. In any proceeding in which the Securities Division has filed a petition with the commissioner, a party challenging the factual basis for an order shall file an answer to allegations made by the Securities Division in its petition. The answer shall be filed within thirty (30) days of receipt of the hearing order, unless the commissioner orders additional time. All answers shall be in writing and should admit those portions of the petition which respondent believes are true and deny those portions of the petition which respondent believes are not true. The answer shall contain a short and concise statement of those facts, which the respondent believes are true and relevant to the issues raised in the complaint. The respondent or legal counsel must sign the answer.

(B) Matters Prosecuted by Others Before the Commissioner. In those cases where an applicant has filed a petition and the Securities Division files an answer, the answer shall set forth the factual and legal basis for the action of the commissioner. Unless the answer specifically pleads that petitioner has failed to comply with 15 CSR 30-55.020, objections for failure to comply will be deemed as waived by the Securities Division. Absent a showing that the division has complied with the law and these rules, no complaint of an applicant shall be dismissed without a hearing on the merits.

(C) Matters Prosecuted by the Securities Division before the Administrative Hearing Commission. In any proceeding that the commissioner has referred to the Administrative Hearing Commission, the respondent shall file an answer within thirty (30) days after respondent receives a copy of the complaint. However, the failure to file an answer within the time provided in this rule will not prevent the Administrative Hearing Commission from holding a prehearing conference or a hearing at the time and place specified in the notice. Neither will the failure to file an answer divest the commissioner or Administrative Hearing Commission of jurisdiction to render a decision in the case.

(D) Matters Prosecuted by Others Before the Administrative Hearing Commission. In those cases where an applicant has filed a petition and the commissioner files an answer, the answer shall set forth the factual and legal basis for the action of the commissioner.

(2) Amendments and Supplementary Pleadings.

(A) A petition may be modified or amended without leave of the commissioner or Administrative Hearing Commission at any time preceding the filing of an answer or other responsive pleading by the respondent. After respondent has filed his/her responsive pleading, leave must be granted to amend or modify any petition.

(B) Answers may be modified or amended without leave of the commissioner or Administrative Hearing Commission at any time up to five (5) days preceding the date on which the hearing in the case is actually held. After this time, all modifications or amendments to answers may be made only upon leave being granted by the commissioner or Administrative Hearing Commission.

(C) Any pleading, other than a complaint or an answer, may be filed in any case pending before the Administrative Hearing Commission.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.040 Notice of Hearing. This rule set out when notice of hearing would be given, the content of notice, time limits of the hearing notice and date and when continuances would be granted.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that simplifies the notice of hearing procedures.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings

PROPOSED RULE

15 CSR 30-55.040 Notice of Hearing

PURPOSE: This rule sets out the timing and content of the notice of hearing.

(1) Immediately upon setting a hearing, the commissioner or Administrative Hearing Commission shall serve notice by mail on all parties to the matter. Service of notice shall be made by mailing a copy of the hearing order required by 15 CSR 30-55.020(4) to all parties. If a party cannot be reached at the last known address, notice shall be given by publication pursuant to Missouri Rule of Civil Procedure 54.17.

(2) The commissioner may serve notice of the hearing on any person the commissioner determines should have notice of the hearing.

(3) If there is a large group whose rights would be affected by the proceeding, notice will be given to a sufficient number of class members as the commissioner determines will give adequate notice to the class.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings

PROPOSED RESCISSION

15 CSR 30-55.050 Prehearing Conferences. This rule described the setting and subject matter of the prehearing conference.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that more clearly describes the setting and subject matter of the prehearing conference.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings

PROPOSED RULE

15 CSR 30-55.050 Prehearing Conferences

PURPOSE: This rule describes the setting and subject matter of the prehearing conference.

(1) Setting.

(A) In proceedings before the commissioner all prehearing conferences shall be held within thirty (30) days of the hearing order issued by the commissioner, unless continued by the commissioner for good cause.

(B) In proceedings before the Administrative Hearing Commission any party or legal counsel, may petition the Administrative Hearing Commission to hold a prehearing conference at a time prior to the setting of a conference by order of the commission.

(C) The legal counsel who will actually handle the hearing shall be present at all prehearing conferences, unless excused by the commissioner or Administrative Hearing Commission. Parties to an action may appear in person with counsel at a prehearing conference.

(2) Subject Matter.

(A) Legal counsel for all parties shall attend the prehearing conference and be prepared to discuss the following items:

1. The simplification of the issues;
2. The necessity or desirability of amendments to the pleadings;
3. The possibility of obtaining admission of fact and of documents which will avoid unnecessary proof;
4. The limitation of the number of expert and character witnesses;
5. A discovery schedule, if necessary for the orderly administration of the proceeding;
6. The manner and conditions upon which depositions can be taken;
7. Schedule for disposition of any prehearing motions that have been filed;
8. The anticipated length of the hearing and the time and location of conducting the hearing; and
9. Other matters as may aid in the disposition of the action.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.070 Record of Hearing. This rule stated what might be included in the record of the hearing.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that requires the suitable recording of all proceedings and more clearly describes the contents of the record.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RULE

15 CSR 30-55.070 Record of Hearing Before the Commissioner

PURPOSE: This rule states what shall be included in the record of the hearing.

(1) Pursuant to section 536.070, RSMo, the commissioner will cause all proceedings to be suitably recorded either electronically or by court reporter.

(2) Upon the request and at the expense of any party to the proceeding, the commissioner will cause the hearing to be tran-

scribed. Any other party may obtain a copy of the transcript upon payment of the costs of preparation.

(3) The record for judicial review will contain:

(A) If requested and paid for by the requesting party, the transcript of any proceedings;

(B) All petitions, answers, motions, discovery pleadings, and other materials or documents filed by any party with or subsequent to the request for hearing;

(C) All documents and exhibits submitted as evidence;

(D) All matters officially noticed;

(E) Formal questions and offers of proof, objections and rulings; and

(F) All written decisions and orders of the commissioner including his/her findings of fact, conclusions of law, and final order.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.080 Discovery. This rule told the manner in which depositions and interrogatories may be taken.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that more clearly outlines the procedures for, and provides time limits on, discovery.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RULE

15 CSR 30-55.080 Discovery

PURPOSE: This rule outlines procedures for, and permits time limits on, discovery.

(1) Discovery Schedule. The commissioner or the Administrative Hearing Commission may issue orders setting reasonable time limits for completion of discovery and may shorten or lengthen the time parties have to file answers to discovery requests.

(2) Interrogatories. Any party may serve upon any other party written interrogatories, upon and under the same conditions, as in civil actions in the circuit court pursuant to Missouri Rules of Civil Procedure, Rule 57, except as limited by section 536.073, RSMo.

(3) Depositions. Any party may take and use depositions in the same manner, upon and under the same conditions, as in civil actions in the circuit court pursuant to Missouri Rules of Civil Procedure, Rule 57, except as limited by section 536.073, RSMo.

(4) Requests for Production of Documents and Things. Any party may serve upon any other party a request for documents and things, upon and under the same conditions, as in civil actions in the circuit court pursuant to Missouri Rules of Civil Procedure, Rule 58, except as limited by section 536.073, RSMo.

(5) Admission of Facts and of Genuineness of Documents. Any party may serve upon any other party a written request for the admission of facts or of the genuineness of documents, upon and under the same conditions, as in civil actions in the circuit court pursuant to Missouri Rules of Civil Procedure, Rule 59, except as limited by section 536.073, RSMo.

(6) Enforcement of Discovery: Sanctions. The commissioner or the Administrative Hearing Commission may enforce discovery or sanction parties, upon and under the same conditions, as in civil actions in the circuit court pursuant to Missouri Rules of Civil Procedure, Rule 61, except as limited by section 536.073, RSMo.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.090 Procedure and Evidence. This rule stated the procedures and rules of evidence to be followed at the hearing.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule that more clearly states the procedures and rules of evidence to be followed at the hearing.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RULE

15 CSR 30-55.090 Procedure at Hearing

PURPOSE: This rule states the procedures and rules of evidence to be followed at the hearing.

(1) Prehearing Motions. The commissioner or Administrative Hearing Commission may consider any motions to dismiss, motion to vacate, motions for summary judgment, or any other dispositive motions prior to commencement of the hearing on the merits.

(2) Evidence. The order in which the evidence will be presented is as follows:

(A) The Securities Division shall present its evidence first. The burden of proof in a hearing on the merits in matters relating to an order of the commissioner, or the failure of the commissioner to act, shall be on the Securities Division. The burden of proof for affirmative defenses, including exemptions and exceptions from definition, shall be upon the party claiming the affirmative defense;

(B) All witnesses may be cross-examined on any relevant issue even though that matter was not the subject of direct examination and may be impeached regardless of which party first called him/her to testify;

(C) Other parties shall then present their evidence;

(D) Each party has the right to rebut the evidence presented;

(E) The commissioner and Administrative Hearing Commission shall have the authority to administer oaths and affirmations, to rule on the admission or inclusion of evidence, and to take the necessary steps to insure a fair and orderly conduct of the hearing. S/he shall follow section 536.070, RSMo governing admission of evidence in administrative hearings; and

(F) The commissioner and Administrative Hearing Commission shall take official notice of all matters of which courts take judicial notice. Technical facts, not judicially cognizable may be officially noted if they are within his/her competence provided that the parties are notified and are given a chance to contest these facts or show that official notice would not be proper.

(3) Closing Arguments. All parties may make closing statements. The party with the burden of proof shall have the opportunity for rebuttal argument.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RESCISSION

15 CSR 30-55.110 Briefs. This rule stated when briefs may be filed and answered.

PURPOSE: The commissioner of securities is proposing to rescind this rule and readopt a new rule stating when motions and suggestions may be filed and answered, and more clearly explaining when briefs may be filed and answered.

AUTHORITY: section 409.413, RSMo 1986. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED RULE

15 CSR 30-55.110 Motions, Suggestions and Legal Briefs

PURPOSE: This rule states when motions, suggestions and legal briefs may be filed and answered.

(1) Motions and Suggestions. Each party shall be entitled to file motions and to present written suggestions, accompanied by oral argument if the party so chooses. Motions and written suggestions

may be filed at any time during the pendency of the proceeding. Opposing parties shall file any responsive pleadings within five (5) business days, unless the commissioner or Administrative Hearing Commission grants additional time.

(2) Briefs. At any time prior to submitting the case for consideration at the close of the hearing, a party may seek leave to file a brief. If leave is granted, a party shall have twenty (20) days after leave is granted to prepare and file its brief unless additional time is granted. The other parties will be given twenty (20) days to file responsive briefs. Three (3) copies of briefs must be filed with the commissioner or Administrative Hearing Commission. The filing party shall also mail all briefs filed to all other parties.

AUTHORITY: section 409.413, RSMo 2000. Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings**

PROPOSED AMENDMENT

15 CSR 30-55.220 Hearing Officers. The commissioner of securities is proposing to amend section (1).

PURPOSE: This amendment simplifies the provision for the appointment of hearing officers by the secretary of state.

(1) In all proceedings [initiated under a provision of the Missouri Uniform Securities Act which require that the commissioner make a final decision] before the commissioner initiated under provisions of Chapter 409, RSMo, the secretary of state or his/her designee may appoint a hearing officer to conduct the proceeding.

AUTHORITY: section 409.413, RSMo [1986] 2000. Original rule filed Aug. 3, 1992, effective April 8, 1993. Amended: Filed May 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.