

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

**Division 100—Missouri Commission for the Deaf
Chapter 200—Board for Certification of Interpreters**

PROPOSED RESCISSION

5 CSR 100-200.170 Requisite Skill Levels. This rule outlined the necessary minimum skill level of interpreters for various interpreting situations.

PURPOSE: This rule is being rescinded and readopted in order to clarify its content and standardize language usage throughout Chapter 200.

AUTHORITY: sections 209.292(5) and 209.295(5) and (8), RSMo 1994. Original rule filed Nov. 27, 1996, effective July 30, 1997. Amended: Filed April 17, 1998, effective Nov. 30, 1998. Rescinded: Filed July 26, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Commission for the Deaf, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

**Division 100—Missouri Commission for the Deaf
Chapter 200—Board for Certification of Interpreters**

PROPOSED RULE

5 CSR 100-200.170 Skill Level Standards

PURPOSE: This rule provides standards concerning the certification levels appropriate for interpreters to practice in various interpreting settings.

(1) Interpreters should accept, refuse or withdraw from assignments based upon their experience, capability and certification level.

(2) Interpreters should prove their certification level upon request of any consumer by showing their certification documentation.

(3) These standards are developed to protect the health, welfare and safety of consumers. These standards are not intended to be all-inclusive regarding potential interpreting assignments. The standards show both consumers and interpreters the skill levels that are appropriate for interpreting in various settings. Should questionable areas of practice arise, contact the Missouri Commission for the Deaf.

(4) For the purpose of this rule, all MICS certifications obtained through performance evaluation are referred to as follows:

- (A) Comprehensive Certification = Com
- (B) Advanced Certification = Adv
- (C) Intermediate Certification = Int
- (D) Apprentice Certification = App

- (E) Novice Certification = Nov
- (F) Restricted Certification in Education = RCED

(5) Effective July 1, 2003, the standards set forth in sections (6) through (13) are established for the use and guidance of interpreters in Missouri. Interpreters practicing interpreting in the settings specified below should hold one of the certifications listed as appropriate for interpreting in those settings

- | (6) Legal Setting | Appropriate Certifications |
|--|-----------------------------------|
| (A) Criminal (Felony) | Com |
| 1. Arraignment | |
| 2. Post bond | |
| 3. Pre-Trial release | |
| 4. Attorney conference | |
| 5. Judicial proceedings | |
| 6. Courtroom | |
| 7. Deposition | |
| 8. Testimony | |
| 9. Grand jury | |
| 10. Jury duty | |
| (B) Criminal (Misdemeanor) | Com/Adv |
| 1. Arraignment | |
| 2. Post bond | |
| 3. Pre-Trial release | |
| 4. Attorney conference | |
| 5. Judicial proceedings | |
| 6. Courtroom | |
| 7. Deposition | |
| 8. Testimony | |
| 9. Grand jury | |
| 10. Jury duty | |
| (C) Civil (Major) | Com/Adv |
| 1. Attorney conference | |
| 2. Civil court proceedings | |
| 3. Lawsuit | |
| 4. Contested divorce | |
| 5. Peace bond/restraining order | |
| 6. Contested wills and trusts | |
| 7. Bankruptcy | |
| (D) Civil (Minor) | Com/Adv |
| 1. Traffic court | |
| 2. Small claims court | |
| 3. Attorney conference | |
| 4. Civil court proceedings | |
| 5. Uncontested divorce | |
| 6. Wills and trusts | |
| (E) Juvenile Court and Family Court | Com |
| 1. Child abuse/welfare | |
| 2. Child adoption | |
| 3. Child custody | |
| 4. Termination of parental rights | |
| 5. Crimes by children under age 17 | |
| (F) Legal Consultation/Advice | Com/Adv |
| 1. Any consultation given by an attorney | |
| (G) Law Enforcement | Com |
| 1. Arrest and process | |
| 2. Post bond | |
| 3. Confession | |
| 4. Interrogation | |
| 5. Investigation | |
| 6. Witness interview | |
| 7. Crisis intervention | |
| (H) Law Enforcement Education Programs | Com/Adv/Int |
| 1. Any program that promotes safety, protection, and prevention by the federal, state, county, or local law enforcement agencies | |

- 2. Investigation
- 3. Testimony
- 4. Hearing
- 5. Appeal
- 6. Audit

(B) Social ServicesCom/Adv

- 1. Any Division of Youth Services activities
- 2. Any Division of Family Services activities

(C) Public MeetingCom/Adv/Int

- 1. Agency/board/commission/council meeting
- 2. Legislative assembly
- 3. Individuals meeting with public official

(D) Benefits/ServicesCom/Adv/
Int/App

- 1. Food stamps
- 2. Drivers' license testing
- 3. Voter registration
- 4. Welfare
- 5. Social Security
- 6. Unemployment benefits
- 7. Medicare/medicaid
- 8. Any type of governmental benefits or services

(E) Recreational/education programsCom/Adv/
Int/App/Nov

- 1. Federal and state parks
- 2. Missouri history
- 3. Conservation
- 4. National resources
- 5. Energy saver
- 6. Environment
- 7. Natural disaster awareness
- 8. Public awareness
- 9. Recreational activities
- 10. Any programs or activities offered by public entities that increase the public's awareness in government, safety, health, economic, appreciation, protection, etc.

(13) **Entertainment Setting**

Appropriate Certifications

(A) Performing Arts (Unrehearsed)Com/Adv/
Int/App

- 1. Theaters
- 2. Concerts
- 3. Comedy shows
- 4. Magic shows
- 5. Any type of stage performances

(B) Performing Arts (Rehearsed)Com/Adv/
Int/App/Nov

- 1. Theaters
- 2. Concerts
- 3. Comedy shows
- 4. Magic shows
- 5. Any type of stage performances

(C) Social ActivitiesCom/Adv/Int/
App/Nov

- 1. Festivals
- 2. Fairs
- 3. Sport leagues
- 4. Sight-seeing tours
- 5. Rodeos
- 6. Circus
- 7. Recitals
- 8. Carnivals
- 9. Amusement parks
- 10. Camps
- 11. Any type of activities for entertainment purposes only

AUTHORITY: sections 209.292(5), and 209.292(8), RSMo 2000. Original rule filed Nov. 27, 1996, effective July 30, 1997. Amended: Filed April 17, 1998, effective Nov. 30, 1998. Rescinded and readopted: Filed July 26, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Commission for the Deaf, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 100—Missouri Commission for the Deaf
Chapter 200—Board for Certification of Interpreters**

PROPOSED RESCISSION

5 CSR 100-200.175 Mentorship. This rule outlined how an interpreter might participate in an area above their skill level on the basis of a mentor/mentee relationship.

PURPOSE: This rule is being rescinded because it has no direct relationship to certification of interpreters.

AUTHORITY: sections 209.292(5) and 209.295(5) and (8), RSMo 1994. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded: Filed July 26, 2001.

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

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**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
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Chapter 200—Board for Certification of Interpreters**

PROPOSED RESCISSION

5 CSR 100-200.180 Grievance Procedure. This rule outlined the grievance procedure for complaints against the evaluation process or decisions made by the Board for Certification of Interpreters.

PURPOSE: This rule is being rescinded and readopted in order to clarify its content and standardize language usage throughout Chapter 200.

AUTHORITY: section 209.295(8), RSMo 1994. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded: Filed July 26, 2001.

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

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

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**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 100—Missouri Commission for the Deaf
Chapter 200—Board for Certification of Interpreters**

PROPOSED RULE

5 CSR 100-200.180 Grievance Procedure and Appeal Rights

PURPOSE: This rule outlines the grievance procedure and appeal rights for formal complaints against the Missouri certification process.

(1) Applicants for certification may file a grievance against the Missouri certification process by filing a complaint in writing with the Board for Certification of Interpreters (BCI) at the office of the Missouri Commission for the Deaf (MCD) within thirty (30) days after the coordinator of the Missouri Interpreter Certification System (MICS) mails notice to the applicant of the applicant's certification evaluation results or of the denial of a certification to the applicant.

(A) All complaints must contain a detailed explanation of the reason(s) for the complaint, the full name, address, and telephone number of the person making the complaint, a statement of what action the complainant is requesting to be taken by the BCI and/or the MCD, and the written signature of the person making the complaint.

(B) Complaints may be filed by mail, by facsimile transmission followed by hard copy within ten (10) days of the transmission, or by other delivery to the MCD office.

(C) All complaints will be acknowledged in writing by the MICS coordinator within ten (10) days after being received.

(2) All complaints shall first be reviewed and evaluated by the BCI.

(A) At the direction of the BCI, or on his/her own initiative, the MICS coordinator shall contact the complainant and request any further information that is deemed necessary by either the coordinator or the BCI. The MICS coordinator or the BCI may also conduct an independent investigation of the issues raised in the complaint.

(B) The BCI shall evaluate the complaint and make a determination based on the facts of the situation.

(C) The person filing the complaint shall be notified in writing of the BCI's determination.

(D) Such notification shall inform the person filing the complaint of their right to appeal that decision to the MCD.

(3) Within thirty (30) days after the BCI mails notice of its determination to the person filing the complaint, the complainant may

appeal the BCI's decision by filing a written request for review with the MCD.

(A) Any such appeal must contain a detailed explanation of the reason(s) for the appeal, the full name, address, and telephone number of the person making the appeal, a statement of what action the complainant is requesting to be taken by the MCD, and the written signature of the person making the appeal.

(B) Any such appeal may be filed by mail, by facsimile transmission followed by hard copy within ten (10) days of the transmission, or by other delivery to the MCD office.

(4) The MCD shall hold a hearing pursuant to the administrative procedures set forth in Chapter 536, RSMo, as such are adopted by section 621.135, RSMo.

(A) After a hearing, the MCD shall evaluate the appeal and make a determination based on the facts of the situation.

(B) The person filing the appeal shall be notified in writing of the MCD's determination.

(5) The complainant may file an appeal of the MCD's decision pursuant to section 536.100, RSMo, as such is adopted by section 621.135, RSMo. The MCD's notification to the complainant of its decision shall inform the complainant of his/her right to appeal that decision pursuant to section 536.100, RSMo.

(6) Information regarding formal complaints and appeals will be kept confidential by all members of the BCI, MCD, and staff of the MCD, insofar as confidentiality is required and allowed by law.

AUTHORITY: sections 209.292(13), 209.295(8), 209.314 and 209.317, RSMo 2000. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded and readopted: Filed July 26, 2001.

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

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

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PROPOSED RESCISSION

5 CSR 100-200.200 Enforcement. This rule established a grace period for compliance.

PURPOSE: This rule is being rescinded because the Missouri Commission for the Deaf has no statutory authority for enforcement of interpreting standards.

AUTHORITY: section 209.295(8), RSMo 1994. Original rule filed June 29, 1996, effective Jan. 30, 1997. Amended: Filed May 14, 1997, effective Dec. 30, 1997. Rescinded: Filed July 26, 2001.

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

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Division 100—Missouri Commission for the Deaf
Chapter 200—Board for Certification of Interpreters**

PROPOSED RESCISSION

5 CSR 100-200.210 Reinstatement. This rule established requirements for reinstatement of a permit or certification.

PURPOSE: This rule is being rescinded and readopted in order to clarify its content and standardize language usage throughout Chapter 200.

AUTHORITY: section 209.295(8), RSMo 1994. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded: Filed July 26, 2001.

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**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 100—Missouri Commission for the Deaf
Chapter 200—Board for Certification of Interpreters**

PROPOSED RULE

5 CSR 100-200.210 Reinstatement

PURPOSE: This rule establishes requirements for reinstatement in the Missouri Interpreter Certification System of certifications that have been suspended, revoked, or lapsed for failure to renew.

(1) The holder of a certification issued pursuant to sections 209.285 through 209.318, RSMo, whose certification has been either suspended or revoked, or which has lapsed for failure to renew because of noncompliance with the certification maintenance requirements detailed in 5 CSR 100-200.130, may apply for reinstatement of his/her certification.

(2) All applicants for reinstatement must complete the necessary application form and pay the required fee(s) in order to be considered for reinstatement.

(3) The Board for Certification of Interpreters (BCI) will automatically reinstate the certification of any interpreter whose certification was not renewed for failure to comply with certification maintenance requirements upon evidence to the BCI of the following:

(A) Completion of one and two-tenths (1.2) Missouri Interpreter Certification System continuing education units for every applicable year as set forth in 5 CSR 100-200.130; and

(B) Payment of all required fees and penalties, which have not been paid previously, for any periods during which the applicant practiced interpreting in Missouri while the applicant's certificate was suspended, revoked or not renewed.

(4) Upon application, the certification of a person whose certification has been suspended shall be reinstated in full upon expiration of the suspension period and payment of the reinstatement fee.

(5) A person whose certification has been revoked must wait no less than one (1) year from the date of revocation before they can apply for reinstatement.

(6) In all instances where a certification has been revoked, the BCI will evaluate the application for reinstatement and decide according to the facts of the situation.

(7) Any applicant for reinstatement will be notified in writing of the reinstatement decision.

AUTHORITY: section 209.295(2) and (8), RSMo 2000. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded and readopted: Filed July 26, 2001.

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

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

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

PROPOSED AMENDMENT

12 CSR 10-24.030 Hearings. The director proposes to amend sections (1), (6) and (9).

PURPOSE: This amendment reflects procedure changes in hearing requests and subpoenaing witnesses.

(1) Individuals shall make a written request for a review of the director's determination. **At the time of such request the individual must indicate whether the request is for an in-person hearing. If an in-person hearing is not requested the individual will be scheduled for a telephone hearing and will waive any further opportunity for in-person hearing.** The request must actually be filed with the department on or before the effective date of the suspension or revocation. The effective date shall be fifteen (15) days after the date of issuance of the notice of suspension if the notice is hand delivered or eighteen (18) days from the date of mailing if

the notice of suspension is mailed from the department. If any request for a hearing is delivered by United States mail postage prepaid after the effective date of suspension or revocation, the date of the United States postmark stamped on the envelope shall be deemed to be the date of filing. The request shall be sent to: Missouri Department of Revenue, [Drivers License Bureau] **Driver and Vehicle Services Bureau**, P[.]O[.] Box 3700, Jefferson City, MO 65105-3700. If the effective date falls on a Saturday, Sunday or legal holiday in this state, the request for hearing shall be considered timely if it is filed on the next succeeding day which is not a Saturday, Sunday or a legal holiday as specified in 12 CSR 10-24.340.

(6) *[Hearings will be scheduled and conducted by telephone unless a request for an in-person hearing is made. Any request for an in-person hearing must be postmarked to the Department of Revenue no later than seven (7) days, not including weekends or holidays, from the date notice of telephonic hearing is mailed. If the hearing is in person, it shall be held in the county in which the arrest occurred.]* **Based upon the type of hearing requested by the individual in the written request for review the director will schedule a hearing.** The party arrested/stopped may be represented by an attorney during any telephonic or in-person hearing. Notice of the hearing, place, date and time shall be sent to the party arrested/stopped and to the attorney of record, if known, at the time of notice. Suspension or revocation shall be stayed until a final order is issued following the hearing. The hearing will be conducted by department examiners who are licensed to practice law in Missouri.

(9) At the hearing the party may present any facts which show the party was not driving a motor vehicle while the alcohol concentration in the person's blood exceeded the limits provided in section 302.505, RSMo. A party may subpoena witnesses **in accordance with the procedures of section 536.077, RSMo. A party may subpoena witnesses**, including the law enforcement officer or blood alcohol concentration analyzer to attend the hearing or participate in a telephonic hearing, by requesting a subpoena from the Department of Revenue *[prior to the hearing.]* **at least five (5) working days prior to the hearing. If a witness fails to appear or participate in the hearing, after proper service of the subpoena, the Department of Revenue will continue the hearing to enforce the subpoena including enforcement action as provided in section 536.077, RSMo. In the case of death or total incapacitation of the witness, where enforcement action is not feasible, the department may consider written testimony of the witness prepared at or near the time of the incident in lieu of the actual appearance of such witness and the party may make any objection or argument to such written testimony of the witness.**

AUTHORITY: section 302.530, RSMo [Supp. 1997] 2000. Original rule filed Feb. 3, 1984, effective May 11, 1984. For intervening history, please consult the Code of State Regulations. Amended: Filed July 25, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments

must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED RULE

12 CSR 10-110.600 Electrical Energy

PURPOSE: Section 144.030.2(12), RSMo exempts from tax certain purchases of electrical energy used in primary or secondary manufacturing, processing, compounding, mining or producing a product, or used in material recovery processing. This rule explains when this exemption applies and how a taxpayer may claim the exemption at the time of purchase of the electrical energy.

(1) In general, electrical energy used in facilities owned or leased by the taxpayer in the actual primary manufacturing, processing, compounding, mining or producing of a product is exempt from tax if the cost of the electrical energy used exceeds ten percent (10%) of the total cost of the primary manufacturing, processing, compounding, mining or producing, exclusive of the cost of electrical energy so used. Electrical energy used in facilities owned or leased by the taxpayer in the actual secondary manufacturing, processing, compounding, mining or producing of a product is exempt from tax if the cost of the electrical energy used exceeds ten percent (10%) of the total cost of the secondary manufacturing, processing, compounding, mining or producing, exclusive of the cost of electrical energy so used. Electrical energy used in a material recovery processing plant owned or leased by the taxpayer is exempt from tax if the total cost of electric energy used in such processing exceeds ten percent (10%) of the total cost of the processing, exclusive of the cost of electrical energy so used. Electrical energy used in facilities owned or leased by the taxpayer in manufacturing, processing, compounding, mining or producing a product or in a material recovery processing plant is exempt if the raw materials used in such processing contain at least twenty-five percent (25%) recovered materials.

(2) Definition of Terms.

(A) Compounding—Producing a product by combining two (2) or more ingredients or parts.

(B) Fabrication—See 12 CSR 10-111.010(2)(C).

(C) Manufacturing—See 12 CSR 10-111.010(2)(E).

(D) Material recovery processing plant—A facility that converts recovered materials into a new product or into a different form that is used in producing a new product. It includes facilities or equipment used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but does not include motor vehicles used on highways.

(E) Mining—See 12 CSR 10-111.010(2)(F).

(F) Primary—Manufacturing, processing, compounding, mining or producing that results in the first marketable product.

(G) Processing—Any mode of treatment, act or series of acts performed upon materials to transform and reduce them into an article with a use, identity and market value different from the use, identity and market value of the materials, and includes treatment necessary to maintain or preserve such processing by the producer at the production facility.

(H) Producing—See 12 CSR 10-111.010(2)(H).

(I) Product—An item with a new identity, use and market value produced by the taxpayer's efforts which is intended at the time of the production activity to be sold ultimately for final use or consumption. A product may be tangible personal property or a

service, if the property or service is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state.

(J) Production activity—Manufacturing, processing, compounding, mining, producing or fabricating.

(K) Recovered materials—Materials that have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing.

(L) Secondary—Further processing or fabricating of a marketable product that results in another marketable product.

(M) Total cost—All allocated costs incurred in producing the product, including all elements of production cost in accordance with generally accepted accounting principles.

(3) Basic Application of Exemption.

(A) A taxpayer may claim this exemption at the time of purchase of the electrical energy by presenting the seller with a direct pay certificate issued by the department. In order to obtain a direct pay certificate, the taxpayer must submit annually an electrical energy direct pay authorization application. The application must demonstrate, by the use of the previous calendar year's data, a probable entitlement to the electrical energy exemption for the coming year. The taxpayer must file and remit the appropriate tax on energy purchases that do not qualify for this exemption on its sales tax return.

(B) Every transformation of materials does not constitute a separate production activity. In order to be a separate production activity, the activity must create a new marketable product. If a taxpayer produces only one (1) marketable product, there can only be primary production activity. All production costs must be included in calculating the total cost of production. Secondary production activity can only exist when an already marketable product produced by the taxpayer undergoes subsequent production activity that produces a second marketable product. When there is secondary production activity, the production costs attributable to the primary production activity are not included in the total cost of production of the secondary production activity.

(4) Examples.

(A) A manufacturing firm produces extruded sheet plastic. The automated production line is a closed system connected together by use of vacuum feed-pipe. When an order is received, the computer controlled production line first blends the necessary raw materials. After blending, the mix is conveyed through vacuum pipe to be dried, and then to the extruder, where the mix is heated to melt-down and rolled into sheets by the extruder rollers. These sheets are the end product. The cost of raw materials is 95% of the total cost of producing the end product. The cost of electrical energy is 99% of the cost of drying and extruding the blended raw materials. The plastic sheet is the only marketable product produced by this continuous, indivisible operation. None of the electrical energy is exempt because it does not exceed 10% of the total cost of producing the end product.

(B) A manufacturer produces glass bottles to be used as packaging. The manufacturer combines raw materials, including recycled glass, which is then melted under extreme heat. The molten glass is then formed into bottles, which are the manufacturer's only product. The electrical energy costs exceed 10% of the total cost of production; therefore the manufacturer qualifies for the exemption. If the manufacturer's raw materials include at least 25% recycled material, the manufacturer may avoid the time and cost involved in the calculations necessary to support the exemption under the 10% threshold and claim the exemption based on its use of recycled materials.

(C) A business contracts with manufacturers of frozen food products to receive fresh or partially frozen food products, reduce the temperature to zero degrees or below, and release the fully

frozen food product back to the manufacturer for distribution. The frozen food products that the business produces have a new and different identity from the fresh or partially frozen products that it receives. Frozen foods have a longer shelf life and a broader distribution system than refrigerated foods. The business qualifies for the exemption if the electricity used in the freezing process exceeds 10% of the cost of producing the fully frozen food products from the fresh or partially frozen food products. The business does not have to include the cost of its customer's production of the fresh or partially frozen products because the fresh or partially frozen food is a separate marketable product from the frozen food.

(D) A frozen food manufacturer uses \$100,000 of electricity in manufacturing its products. The manufacturer also uses \$150,000 of electricity in its on-premises, refrigerated warehouse to maintain its products at the necessary temperature prior to shipping. Total cost of producing the products, excluding electricity, is \$2,000,000. The combined electricity cost of \$250,000 exceeds 10% of the \$2,000,000 cost of production. The manufacturer qualifies for the exemption because processing includes any treatment by the producer at the production facility that is necessary to maintain the product.

(E) A paper manufacturer uses recycled paper to produce rolls of newsprint. The newsprint includes more than 25% recovered paper and qualifies for the electrical energy exemption. The newsprint is subsequently cut into sheets for sale to a book printer. The cost of electricity to cut the sheets does not exceed 10% of the total cost of producing the cut sheets. The electrical energy used to produce the final product is exempt because the manufacturer uses at least 25% recovered materials.

AUTHORITY: section 144.270, RSMo 2000. Original rule filed July 25, 2001.

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

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

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

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

PROPOSED RULE

12 CSR 10-110.955 Sales and Purchases—Exempt Organizations

PURPOSE: Sections 144.030.1, 144.030.2(6), 144.030.2(17), 144.030.2(19), 144.030.2(20), 144.030.2(21), 144.030.2(22), 144.030.2(27), 144.030.2(36) and 144.062, RSMo exempt certain types of organizations from tax on certain transactions. This rule clarifies which transactions are exempt for each type of organization.

(1) In general, some organizations are exempt from tax on all or certain sales and purchases, while other organizations are only exempt on all or certain purchases. An exemption from federal income tax does not necessarily exempt an organization from state sales or use tax.

(2) Definition of Terms.

(A) Exempt organization—one (1) of the following types of organizations:

1. United States government or agency;
2. Political subdivisions of the state of Missouri;
3. Rural water districts;
4. Religious organizations and institutions;
5. Charitable organizations and institutions;
6. Public elementary and secondary schools;
7. Not-for-profit civic, social, service or fraternal organizations;
8. Eleemosynary, penal institutions and industries of the state of Missouri;
9. Public and private not-for-profit post-secondary educational institutions;
10. State of Missouri relief agencies;
11. Benevolent, scientific and educational agricultural associations;
12. Nonprofit summer theater organizations;
13. Missouri state fair and county agricultural and mechanical societies;
14. Private not-for-profit elementary and secondary schools;
15. Interstate compact agencies.

(B) Charitable—to benefit the common good and welfare of the people of a community while relieving government of a financial burden that it would otherwise be required to meet.

(C) Civic—concerned with and related to the citizenry at large and benefiting the community it serves on an unrestricted basis.

(D) Direct sales—sales of tangible personal property or taxable services to an organization for use in its exempt functions and activities or sales by an organization where the net proceeds from such sales are for its charitable purpose.

(E) Direct costs—costs directly incurred in making direct sales. Direct costs do not include indirect costs such as overhead costs.

(F) Educational—to provide with knowledge or training.

(G) Net proceeds—the proceeds remaining from direct sales after deducting direct costs.

(H) Exemption letter—a document issued by the Department of Revenue recognizing an organization's exemption from sales or purchases or both.

(3) Basic Application of Rule.

(A) All sales of tangible personal property or taxable services to the United States government or its agencies and all sales of tangible personal property used exclusively in the manufacturing, processing, modification or assembling of products that are sold to the United States government or its agencies are exempt from tax. See 12 CSR 10-112.300.

(B) All sales of tangible personal property or taxable services to the state of Missouri or its political subdivisions are exempt from tax. Sales by the state of Missouri and its political subdivisions, other than school districts, are subject to tax, unless otherwise exempt. Amounts paid in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a political subdivision are exempt from tax, if all the proceeds benefit the political subdivision. Sales to other states and their political subdivisions are not exempt from tax.

(C) All sales of tangible personal property to Missouri rural water districts are exempt from tax. Sales by such organizations are subject to tax, unless otherwise exempt.

(D) All sales made to or by any religious and charitable organizations and institutions in their religious, charitable or educational functions and activities are exempt from tax. All sales by the same type of organizations and institutions of other states are exempt from tax providing such organizations and institutions are exempt from a similar tax in their own states.

(E) All direct sales made to or by Missouri not-for-profit civic, social, service or fraternal organizations, including qualified fraternal organizations exempt under *Internal Revenue Code* Section 501(c)(8) and (10), solely in their civic or charitable functions and activities are exempt from tax providing the net proceeds are designated for civic or charitable functions and activities. Sales to or by not-for-profit civic, social, service or fraternal organizations of other states are exempt from tax if such organizations are exempt from a similar tax in their own states and otherwise qualify for the exemption in Missouri.

(F) All sales made to or by public elementary and secondary schools in their educational functions and activities are exempt from tax. School districts are also exempt from all sales by or to the district. All sales to or by public elementary and secondary schools of other states are exempt from tax providing such public elementary and secondary schools are exempt from a similar tax in their own states.

(G) All sales to eleemosynary, penal institutions and industries of the state of Missouri are exempt from tax. Sales by such organizations are subject to tax, unless otherwise exempt.

(H) All sales to public and private not-for-profit post-secondary education institutions are exempt from tax. Sales by such organizations are subject to tax, unless otherwise exempt. Sales made to or by public and private not-for-profit post-secondary education institutions of other states are exempt from tax if such organizations are exempt from a similar tax in their own states.

(I) All sales to state of Missouri relief agencies are exempt from tax. Sales by such organizations are subject to tax, unless otherwise exempt.

(J) All ticket sales by benevolent, scientific and educational agricultural associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals are exempt from tax. All ticket sales by the same type of associations of other states are exempt from tax providing such associations are exempt from a similar tax in their own states.

(K) All ticket sales by nonprofit summer theater organizations exempt from federal income tax under the provisions of the *Internal Revenue Code* are exempt from tax. All ticket sales by the same type of organizations of other states are exempt from tax providing such organizations are exempt from a similar tax in their own states.

(L) All admission charges and entry fees to the Missouri state fair and any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo are exempt from tax.

(M) All sales to private not-for-profit elementary and secondary schools are exempt from tax. All sales to private not-for-profit elementary and secondary schools of other states are exempt from tax if such organizations are exempt from a similar tax in their own states.

(N) All sales to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo ("Bi-State Development Agency") and sections 238.010 to 238.100, RSMo ("Kansas City Area Transportation Authority") in the exercise of the functions and activities of such agencies as provided by compact are exempt from tax.

(O) All sales of tangible personal property and materials, for the purpose of constructing, repairing or remodeling facilities that are related to the organization's exempt functions and activities, to a contractor or other entity purchasing for an exempt organization pursuant to the requirements of section 144.062, RSMo are exempt from tax. To be exempt, the qualified organization must obtain an authorized exemption certificate from the director of revenue and provide a copy of it to all contractors, subcontractors or other entities to provide a copy to sellers when purchasing tangible personal property or materials for such facilities.

(4) Examples.

(A) A nonprofit, fraternal benefit organization supports several local youth activities. An Exemption Letter for the organization was obtained from the Department of Revenue. The organization operates a lounge that is open to the public. A substantial amount of its revenue is derived from beverage sales in its lounge. All revenue from the lounge is deposited into the organization's general account and is not separately accounted for. All operational expenses, as well as costs of the local youth activities, are paid from the general account. Although the organization has an Exemption Letter, all beverage sales are subject to tax as the net proceeds from beverage sales are not separately accounted for and used solely for the organization's civic activity of supporting local youth activities.

(B) A nonprofit fraternal benefit organization will hold a chili feed to buy public park playground equipment. All net proceeds of the direct sales of chili will go to the purchase of the playground equipment. The organization may purchase the chili ingredients and serving equipment exempt from tax and should not charge a sales tax on the chili sales.

(C) A nonprofit charitable organization operates a gift shop located within a nonprofit hospital. The hospital serves both paying and indigent patients. All profits remaining after paying for expenses of the gift shop go to benefit the hospital. Customers of the gift shop are primarily the hospital's patients and visitors and not the general public. All sales to and by the organization are exempt from tax because its sales are limited to hospital patients and visitors and all profits are for the charitable purpose of the hospital, to provide medical care for all who may seek its services.

(D) A Missouri contractor purchases materials and supplies in Missouri to perform a construction contract in a neighboring state for a public secondary school. The purchases are exempt providing the public secondary school in the other state is exempt from a similar tax in its own state.

(E) A Missouri contractor purchases materials and supplies in Missouri to perform a construction contract for a Missouri school district. Prior to making its purchases, the contractor obtains an authorized exemption certificate from the district. The contractor's purchases are exempt from tax because it obtained a copy of the authorized exemption certificate prior to making its purchases.

(F) A Missouri charitable organization is authorized and operates a Missouri fee office for the Department of Revenue. The profits of the organization are used to purchase clothing and books for indigent families. Purchases of equipment and supplies for operating its fee office are not exempt from tax as these purchases are not for its charitable purpose. Purchases of clothing and books for indigent families are exempt from tax as these purchases are for its charitable purpose.

AUTHORITY: section 144.270, RSMo 2000. Original rule filed July 31, 2001.

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

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

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

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 10—Fees
PROPOSED RULE**

13 CSR 30-10.010 Annual Fee

PURPOSE: The purpose of this rule is to define how the Division of Child Support Enforcement will collect an annual processing fee against persons on a non-IV-D case who receive support payments that are processed by the Family Support Payment Center.

(1) Definitions. For the purposes of this rule, the following definitions are applicable:

(A) Division means the Division of Child Support Enforcement;

(B) Payment Center means Family Support Payment Center;

(C) TANF means Temporary Assistance for Needy Families;

(D) Case means a family, as used in section 454.425, RSMo 2000, associated with a particular support order(s). A case includes a collection of people, generally, a custodian, and dependent(s) associated with a specific noncustodial parent;

(E) IV-D means part IV-D of the Social Security Act;

(F) Support means any financial support, which is due for the support or maintenance of a child or the custodian of a child or a spouse or ex-spouse based upon a judicial or administrative order;

(G) Non-IV-D case is a case as defined above which is not currently receiving TANF, Medicaid, foster care or child support services pursuant to section 454.400(14), RSMo 2000.

(2) Annual Fees. The division will collect an annual processing fee of ten dollars (\$10) on each order associated with a non-IV-D case in which payments are being received by and processed through the Payment Center for all or any part of a calendar year. If an order is associated to more than one (1) case, all cases must be non-IV-D cases.

(A) The person obligated to pay support will receive credit against such person's support obligation for the entire payment received by the Payment Center. The fee will be collected from the person entitled to receive support.

(B) Prior to disbursement to the person entitled to receive support, the fee will be collected from the first support payment processed by the Payment Center for each calendar year. If the first support payment processed by the Payment Center does not satisfy the annual fee, the balance remains due and will be collected from subsequent support payments received for that year until the entire fee is satisfied. If the fee is not satisfied by the end of a calendar year, the fee for that year will not accrue into the next calendar year.

(C) An annual fee will be charged in a former TANF or Medicaid case if all arrearages owed to the state have been paid and child support services pursuant to section 454.400(14), RSMo 2000, are not currently being provided.

AUTHORITY: section 454.400.2(5), RSMo 2000. Original rule filed July 17, 2001.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions thirty-five thousand dollars (\$35,000) in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities one hundred forty-one thousand dollars (\$141,000) per year.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Child Support Enforcement, Gary Bailey, Director, Division of Child Support Enforcement, 3418 Knipp Drive, Suite F, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 13 Department of Social Services

Division: 30 – Child Support Enforcement

Chapter: 10-010 Annual Fee

Type of Rulemaking: Proposed Rule

Rule Number and Name: 13 CSR 30-10.010 Annual Fee

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate		
	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004
Division of Child Support Enforcement			
Total fees collected	\$141,000	\$141,000	\$141,000
Required changes to Missouri Automated Child Support System to meet business needs	(\$35,000)	N/A	N/A
IV-D program revenue generated	\$106,000	\$141,000	\$141,000

III. WORKSHEET**Annual Fees**

Projected Eligible Orders Per Year	Fees Collected Annually	Fiscal Year 2002 (Six Months)	Fiscal Year 2003 (Full Year)	Fiscal Year 2004 (Full Year)
14,100	\$141,000	\$141,000	\$141,000	\$141,000

IV. ASSUMPTIONS

- Annual fees are collected at the order level.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 13 Department of Social Services

Division: 30 – Child Support Enforcement

Chapter: 10-010 Annual Fee

Type of Rulemaking: Proposed Rule

Rule Number and Name: 13 CSR 30-10.010 Annual Fee

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 compliance with the rule by the affected entities
14,100	Custodial Parents	\$141,000

III. WORKSHEET

Annual Fees

Projected Eligible Orders Per Year	Fees Collected Annually
14,100	\$141,000

IV. ASSUMPTIONS

1. Annual fees are collected at the order level.
2. Estimate in the aggregate is presented as the annual total for all custodial parents affected. The life of the rule is without end.

Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 10—Reporting of Motor Vehicle Stops by Law
Enforcement Agencies

PROPOSED RESCISSION

15 CSR 60-10.020 Report to Attorney General by Law Enforcement Agencies. Section 590.650, RSMo, required law enforcement agencies to compile and report certain information to the Attorney General. This rule provided instructions regarding the information to be reported pursuant to section 590.650, RSMo.

PURPOSE: This rule is being rescinded because various text changes were numerous and the Office of the Attorney General believes that it is more efficient to rescind the rule than to amend it. A new rule to replace this rescinded rule is being filed simultaneously.

AUTHORITY: section 590.650, RSMo 2000. Emergency rule filed Aug. 21, 2000, effective Aug. 31, 2000, expired Feb. 23, 2001. Original rule filed Aug. 21, 2000, effective March 30, 2001. Rescinded: Filed July 31, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of the Attorney General, PO Box 899, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 10—Reporting of Motor Vehicle Stops by Law
Enforcement Agencies

PROPOSED RULE

15 CSR 60-10.020 Report to Attorney General by Law Enforcement Agencies

PURPOSE: Section 590.650, RSMo, requires law enforcement agencies to compile and report certain information to the Attorney General. This rule provides instructions regarding the information to be reported pursuant to section 590.650, RSMo.

(1) On or before March 1 of each year, law enforcement agencies shall compile the information collected pursuant to section 590.650.2, RSMo, and enumerated in this rule, and such other information as the Attorney General may require, into a report to the Attorney General. The information contained in the report shall be for the preceding calendar year.

(2) The first reporting period during which law enforcement agencies are required to compile and report the information required by section 590.650.2, RSMo, and enumerated in this rule, and such other information as the Attorney General may require, shall begin on August 28, 2000, and end on December 31, 2000.

(3) Beginning on January 1, 2001, and thereafter, the reporting period during which law enforcement agencies are required to

compile and report the information required by section 590.650.2, RSMo, and enumerated in this rule, and such other information as the Attorney General may require, shall begin on January 1 and end on December 31 of each year.

(4) Each law enforcement agency shall compile the following information in the manner described in section (5) of this rule for submission to the Attorney General. The information shall pertain to the total number of times peace officers employed by the law enforcement agency stopped drivers of motor vehicles for violations of any motor vehicle statutes or ordinances, and shall include:

(A) The age, gender and race or minority group of each individual stopped.

1. For the total number of stops made during the reporting period, indicate the races or minority groups of the drivers using one (1) of the following categories: White; Black/African-American; Hispanic/Latino; American Indian/Alaska Native; Asian; or Other/Unknown. For the purposes of reporting this information, the races or minority groups of the drivers shall be based upon the peace officers' visual observations.

2. For the total number of stops made during the reporting period, indicate the number of male drivers stopped and female drivers stopped.

3. For the total number of stops made during the reporting period, indicate the ages of the drivers stopped;

(B) The total number of traffic violations alleged to have been committed that led to the stops.

1. For the total number of stops made during the reporting period, indicate the number of stops resulting from moving violations, equipment violations or license violations. A stop may include more than one (1) alleged violation.

2. For moving violations, indicate the nature of the violation: speed; lane violation; following too close; commercial vehicle enforcement (CVE); fail to signal; or other;

(C) The total number of searches conducted as a result of the stops.

1. For the total number of stops made during the reporting period, indicate the number of searches made, including the number of property searches, the number of driver searches, and the number of searches of both drivers and their property;

(D) The total number of searches conducted, including the number of consent searches, the probable cause for the searches and the durations of all searches.

1. For the total number of searches made during the reporting period, indicate whether the probable cause or authority for the searches included the following: consent; odor of illegal drugs or alcohol; plain view contraband; inventory search; incident to arrest; reasonable suspicion (weapon); or other. For any search, one (1) or more of these categories may apply.

2. For the total number of searches made during the reporting period, indicate the durations of the searches. The duration of search means the time needed to conduct any and all searches;

(E) The number of searches during which contraband was discovered, and the types of any contraband discovered during the searches;

1. For the total number of searches made during the reporting period, indicate the number of times contraband was discovered and, when contraband was discovered, indicate the types of contraband discovered using the following categories: illegal drugs or paraphernalia; currency; stolen property; weapon; or other;

(F) The total number of warnings and citations resulting from the stops.

1. For the total number of stops made during the reporting period, indicate the number of stops resulting in the following: warnings and citations;

(G) The total number of warnings and citations issued.

1. For the total number of stops made during the reporting period, indicate the violations charged or warnings given;

(H) The number of arrests made and the crimes alleged.

1. For the total number of arrests resulting from either the stops or any searches conducted as a result of the stops during the reporting period, indicate the types of crimes alleged using the following categories: outstanding warrant; drug violation; resisting arrest; offense against person; property offense; driving while intoxicated/blood alcohol content; or other. An arrest may include more than one (1) alleged crime;

(I) The locations of the stops.

1. For the total number of stops made during the reporting period, indicate the number of stops made at the following locations: interstate highway; U.S. highway; state highway; county road; city street; or other. For purposes of reporting this information, "location" means the location where the officer observed the alleged violation and signaled the driver to stop, not the location where the driver physically stopped the vehicle;

(J) Total number of vehicle stops made by that agency.

1. This number represents the total number of vehicles stopped by officers in the particular law enforcement agency for alleged motor vehicle violations, whether moving violations, equipment violations, or license violations. This total does not include motor vehicle stops made for reasons other than alleged motor vehicle violations; and

(K) The law enforcement agency jurisdiction in which each driver of a stopped vehicle resides.

1. For the total number of stops made during the reporting period, indicate whether the driver stopped is a resident of the law enforcement agency's jurisdiction.

(5) The information described in section (4) of this rule shall be compiled and broken down according to the races or minority groups of the drivers stopped.

(6) The law enforcement agency head, director, or administrator shall sign each agency report and shall indicate the agency name, agency Originating Agency Identifier (ORI) number, and the date the report was submitted to the Attorney General's Office.

(7) The report shall be submitted on forms furnished by or approved by the Attorney General.

AUTHORITY: section 590.650, RSMo 2000. Emergency rule filed Aug. 21, 2000, effective Aug. 31, 2000, expires Feb. 23, 2001. Original rule filed Aug. 21, 2000, effective March 30, 2001. Rescinded and readopted: Filed July 31, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Attorney General, PO Box 899, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 10—Reporting of Motor Vehicle Stops by
Law Enforcement Agencies**

PROPOSED RESCISSION

15 CSR 60-10.030 Reporting Forms. This rule provided forms used for the compilation and reporting of information on motor vehicle stops by law enforcement agencies.

PURPOSE: This rescission is being made to dis-incorporate the forms used by law enforcement agencies from the rule. The Office of the Attorney General believes it will be more efficient to remove the forms from the rule than to amend the rule every time a form change is necessary.

AUTHORITY: section 590.650, RSMo 2000. Emergency rule filed Aug. 21, 2000, effective Aug. 31, 2000, expires Feb. 23, 2001. Original rule filed Aug. 21, 2000, effective March 30, 2001. Rescinded: Filed July 31, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of the Attorney General, PO Box 899, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 10—Reporting of Motor Vehicle Stops by
Law Enforcement Agencies**

PROPOSED RULE

15 CSR 60-10.030 Reporting Forms

PURPOSE: This rule describes forms used for the compilation and reporting of information on motor vehicle stops by law enforcement agencies.

(1) Law enforcement agencies are required, pursuant to section 590.650, RSMo, and 15 CSR 60-10.020 to compile information about motor vehicle stops for submission to the Attorney General.

(2) No report from a law enforcement agency shall be deemed to be in compliance with section 590.650, RSMo, unless the report contains a compilation of the information enumerated in 15 CSR 60-10.020 and such other information as the Attorney General may require.

(3) No report from a law enforcement agency shall be deemed to be in compliance with section 590.650, RSMo, unless the report is signed by the law enforcement agency head, director, or administrator.

(4) The compiled information shall be broken down by races or minority groups of the drivers stopped.

(5) The report to the Attorney General shall be made on a form furnished by or approved by the Attorney General. The reporting form may, at the discretion of the Attorney General, be made available on the Internet.

(6) The Attorney General may create informal guidelines for compliance with the reporting form. The guidelines may, at the discretion of the Attorney General, be made available on the Internet.

AUTHORITY: section 590.650, RSMo 2000. Emergency rule filed Aug. 21, 2000, effective Aug. 31, 2000, expired Feb. 23, 2001.

Original rule filed Aug. 21, 2000, effective March 30, 2001. Rescinded and readopted: Filed July 31, 2001.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Attorney General, PO Box 899, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 40—Division of Maternal, Child and Family Health
Chapter 9—Universal Newborn Hearing Screening Program

PROPOSED RULE

19 CSR 40-9.010 Definitions

PURPOSE: This section defines the terms used in this chapter.

- (1) Acceptable refer rates means the department has determined the facility's percentage of newborns referred for rescreening or diagnostic evaluation is acceptable, based on factors including but not limited to type of equipment; methodology; population screened; and facility staff.
- (2) Audiologist is a person who is licensed in the state of Missouri according to Chapter 345, RSMo to provide audiological services.
- (3) Automated screening equipment is equipment used for newborn hearing screening which automatically provides a pass/refer outcome.
- (4) Automated pass/refer criteria is the interpretive criteria incorporated into hearing screening equipment that automatically provides a pass/refer outcome.
- (5) Birth admission is the hospitalization during which the newborn is delivered.
- (6) Diagnostic audiological assessment is the required audiometric testing used to determine the presence, type and severity of hearing loss.
- (7) Department is the Missouri Department of Health.
- (8) Department-designee is a person acting on behalf of the department in assessing, tracking and/or surveillance of hearing screening information.
- (9) Facility is a hospital or ambulatory surgical center licensed by the state of Missouri, Department of Health.
- (10) Food and Drug Administration (FDA)-approved equipment is hearing screening equipment that is designed specifically for use with newborns, and has met approved standards of operation set forth by the U.S. Food and Drug Administration.
- (11) Hearing loss is a dysfunction of the auditory system of any type or degree that is sufficient to interfere with the acquisition and development of speech and language skills.
- (12) Hearing screening is the completion of an objective, physiological test or battery of tests using recommended guidelines to identify newborns that need further audiological assessment.
- (13) Infant is any child at least thirty (30) days of age, and less than twelve (12) months of age.
- (14) Initial hearing screening is the first hearing screening performed on a newborn preferably prior to discharge from the facility where the birth occurred.
- (15) Lost to follow-up is a newborn who cannot be located through tracking, and who may not have completed the screening and/or referral process.
- (16) Missed is any newborn that did not have a hearing screening prior to discharge from the birthing facility.
- (17) Newborn is any child twenty-nine (29) days of age or less.
- (18) Non-audiologic personnel means any person that is not licensed as an audiologist in the state of Missouri according to Chapter 345, RSMo.
- (19) One-stage newborn hearing screening program is designed so that newborns who do not pass the initial hearing screening are referred for diagnostic audiological assessment.
- (20) Parent is a biological parent, stepparent, adoptive parent, legal guardian or other legal custodian of a newborn.
- (21) Pass is the result obtained by automated hearing screening equipment, with preset interpretive criteria based upon a specific scientific rationale, which requires no further screening or testing.
- (22) Primary care provider is a physician or person who professionally undertakes the pediatric care of the newborn, and is licensed in the state of Missouri as appropriate.
- (23) Program manager is the person designated as being responsible for the newborn hearing screening program at a facility.
- (24) Reasonable effort is demonstrated when the department has documentation of at least two (2) attempts to contact the newborn/infant's parent(s) by mail or phone, and at least one (1) attempt to contact the newborn/infant's primary care provider.
- (25) Refer is the result obtained by hearing screening equipment, with preset interpretive criteria based upon a specific scientific rationale, that requires further screening or confirmatory testing.
- (26) Referral is the process of sending a newborn that receives a "refer" screening result for additional audiological, educational, medical, or social assessment or evaluation.
- (27) Rescreening is a repeat hearing screening performed on a newborn or infant, typically in an outpatient setting and preferably within thirty (30) days of the initial hearing screening.
- (28) Third party payer is any person, corporation, trust, association, the state of Missouri, any governmental subdivision or agency or any other legal entity which pays directly or indirectly for health care services provided to another person or reimburses or pays a benefit to or on behalf of another person for health care

services in conformance to a contract, plan, employee benefit or member benefit.

(29) Tracking is the process of reviewing information concerning the newborn's hearing screening status, to ensure the hearing screening and referral process is completed in a timely manner.

(30) Two-stage newborn hearing screening program is designed so that newborns who do not pass the initial hearing screening are referred for a rescreening exam. If the newborn does not pass the rescreening exam, the newborn/infant is referred for diagnostic audiological assessment.

AUTHORITY: section 191.937, RSMo 2000. Original rule filed Aug. 1, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health; Division of Maternal, Child and Family Health; Glenda Miller, MPH, BSN, CS, Director; 930 Wildwood Drive; PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH
Division 40—Division of Maternal, Child and Family Health
Chapter 9—Universal Newborn Hearing Screening Program

PROPOSED RULE

19 CSR 40-9.020 Screening Methodologies and Procedures

PURPOSE: This rule establishes the screening methodologies and procedures that a facility, audiologist, and/or other person that performs hearing screenings outside of a facility must use to operate a newborn hearing screening program and/or perform diagnostic audiological assessments.

(1) Each facility shall designate a person responsible for carrying out the newborn hearing screening program at their facility, referred to as the program manager.

(2) By February 1, 2002, each facility shall notify the department, electronically or in writing, of the name, business address and telephone number of the program manager. Changes to the facility's program manager and/or changes in the business contact information shall be reported to the department within thirty (30) calendar days.

(3) Each facility operating a newborn hearing screening program shall establish written policies and procedures. These policies and procedures shall include, but are not limited to:

(A) The type of newborn hearing screening program (one or two stage) to be operated;

(B) The type of Food and Drug Administration (FDA)-approved hearing screening equipment being used, and screening methods, including the facility location(s) where the screenings will be completed;

(C) Specific duties for all persons participating in the newborn hearing screening program, including minimum training/experience requirements for persons performing the screenings;

(D) A written plan for initial training for all persons participating in the newborn hearing screening program;

(E) A method of evaluating and documenting the competency of each newborn hearing screener's performance upon completion of the initial training and at least annually thereafter;

(F) A plan for ensuring accuracy of newborn hearing screening results. The plan shall address the importance of attaining and maintaining acceptable referral rates;

(G) A plan to notify the parent(s) and primary care provider of the hearing screening results;

(H) Designation of facility personnel responsible for reporting newborn hearing screening results to the department;

(I) Distribution of the prescreening pamphlet to all families of newborns;

(J) Distribution of the audiologist resource guide;

(K) A method of referral for newborns who "missed" the birth admission hearing screening, or require rescreening and/or diagnostic audiological assessment; and

(L) Documentation of screenings refused by the family.

(4) A facility using non-audiologic personnel to perform the newborn hearing screening shall use FDA-approved screening equipment that provides automated pass/refer criteria.

(5) A facility shall provide to the department or department-designee, a copy of their written policies and procedures upon request.

(6) The facility shall provide each newborn's parent(s) with information about newborn hearing screening in English or other language or alternate method as appropriate. The department shall provide information to facilities in other languages upon request.

(7) A facility or person(s) performing hearing screenings outside a facility shall notify parent(s) and the primary care provider of the hearing screening results within seven (7) calendar days of the screening.

(8) Any facility that transfers a newborn for further acute care prior to the completion of newborn hearing screening shall assure the receiving facility is aware of the status of the newborn hearing screening. The newborn/infant may have the hearing screening performed by the receiving facility, or be referred back to the birth facility for the hearing screening.

(9) A facility or person that performs a hearing screening outside a facility, shall give the parent(s) of a newborn receiving unilateral or bilateral "refer" result(s), a list (developed by the department) of audiological services. Parent(s) shall be instructed to contact the primary care provider and any third party payers to determine the appropriate referral process prior to obtaining audiological services.

(10) Rescreening shall be performed by an audiologist, physician, and/or facility personnel trained in the newborn hearing screening program.

(11) Rescreening shall be completed within thirty (30) calendar days of the initial newborn hearing screening. Infants requiring continuous acute care following birth shall have their rescreening completed within thirty (30) calendar days of the acute care discharge.

(12) Diagnostic audiological assessments shall be performed by audiologists.

(13) Diagnostic audiological assessments shall be completed within thirty (30) calendar days of the rescreening, or initial screening if applicable. Infants requiring continuous acute care following birth shall have their diagnostic audiological assessment completed within three (3) months of the acute care discharge.

(14) The audiologist shall notify the parent(s) and primary care provider of the diagnostic audiological assessment results no later than seven (7) calendar days following the completion of the assessment.

(15) The department shall make reasonable efforts to assure that all newborns have a hearing screening by three (3) months of age (or within three (3) months of discharge from an acute facility for infants requiring continuous acute care following birth).

(16) The department shall make reasonable efforts to assure that all newborns with a confirmed hearing loss are referred to the appropriate point of contact for the Part C of the Individuals with Disabilities Education Act (IDEA) system of early intervention services (First Steps) by six (6) months of age (or within six (6) months of discharge from an acute care facility for infants requiring continuous acute care following birth).

AUTHORITY: section 191.937, RSMo 2000. Original rule filed Aug. 1, 2001.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated \$2,009,599 annually in the aggregate. See attached detailed Fiscal Note.

PRIVATE COST: This proposed rule will cost private entities an estimated \$1,380,524 annually in the aggregate. See attached detailed Fiscal Note.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health; Division of Maternal, Child and Family Health; Glenda Miller, MPH, BSN, CS, Director; 930 Wildwood Drive; PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER 19 CSR 40-9.020

Title: Title 19 – Department of Health

Division: Division 40 – Division of Maternal, Child and Family Health

Chapter: Chapter 9 – Universal Newborn Hearing Screening Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 40-9.020 Screening Methodologies and Procedures

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Health	\$224,173 annually
Missouri Department of Social Services	\$1,785,426 annually
Total Public Entity Cost	\$2,009,599 annually

III. WORKSHEET

The estimate in the aggregate was calculated as follows:

Department of Health

Salaries:

50% of salary for one Health Program Representative III (1/2 of \$36,012)	\$18,006
50% of salary for one Health Program Representative I/II (1/2 of \$22,364)*	11,182
12.5% of salary for one Clerk Typist II (12.5% of \$18,756)	2,345
12.5% of salary for one Computer Info. Technologist III (12.5% of \$60,528)*	<u>7,566</u>
TOTAL SALARIES	\$39,099
FRINGE BENEFITS @28%	<u>10,948</u>
TOTAL ANNUAL SALARIES AND BENEFITS	\$50,047

Contractual:

Audiological Consultant	\$46,118
Service Coordination (two FTE contracted service coordinators)*	<u>108,000</u>
TOTAL ANNUAL CONTRACTUAL COST	\$154,118

Office Expenses:

Printing costs	\$18,590
Administrative supplies	<u>1,418</u>

TOTAL ANNUAL OFFICE EXPENSES	\$20,008
TOTAL ANNUAL DOH COST	\$224,173

*These salaries and contract expenses are fully funded for up to four years through a grant awarded by the Health Resources and Services Administration to the DOH.

Department of Social Services (DOSS)

Screening Costs

Birth admission screening	\$1,347,019
Rescreening costs	419,397
Diagnostic audiological assessment	<u>19,010</u>
TOTAL ANNUAL DOSS COST	\$1,785,426

IV. ASSUMPTIONS

It is assumed the Department of Health (DOH) will devote 2.5 full time employees (FTE's) to administer the Newborn Hearing Screening Program. Fifty percent of the employees' time will be spent working on the program dealing with this rule while the other fifty percent will be spent working on the rest of the program. One Health Program Representative III (HPR III) will function as coordinator for the program. Duties of the HPR III include: provide primary oversight of the audiological contract; supervision of the HPR I/II; primary reporter of information to the federal program authorities (Centers for Disease Control and Prevention and the Maternal and Child Health Bureau of the Health Resources and Services Administration); development of the surveillance and tracking system and the community and parent resource materials and reporting forms; and providing administrative support to facilities. A HPR I/II will work as the primary investigator for the surveillance and case management of the newborns reported in the web-base system. The Clerk Typist II will provide clerical assistance, including data entry. A Computer Information Technologist III will support ongoing maintenance of the application software and related documentation; assist with user training; provide additional programming as needed; and provide investigation and analysis of the web-based and case management system.

The DOH audiological contractor will train a select group of licensed audiologists to assist with training of facility staff. The audiology trainers are currently licensed audiologists practicing in Missouri, with expertise in performing newborn hearing screenings and diagnostic audiological assessments. The contractor will develop training plans for the audiology trainers and facility staff. In addition, the contractor will establish guidelines for facilities to utilize in achieving appropriate referral rates. The contractor will provide technical assistance and training for facilities during the first year. After the first year, the contractor will provide training and technical assistance based upon the performance of the facilities during the year, or at the request of the facility. In addition a HRSA grant provides for two FTE contracted service coordinators.

Other costs anticipated by DOH include printing and mailing costs for newborn hearing screening brochures and other family resource materials. The estimated cost for this

expense is \$18,590. Administrative supplies (general office supplies and reference/resource materials) for the program staff are estimated at \$1,418.

The Department of Social Services (DOSS) estimates that 52.5% of the 75,000 births in Missouri will be funded by the Missouri Medicaid program. DOSS reimburses \$34.21 per screening, which for 39,375 newborns (52.5% of 75,000 births) totals \$1,347,019. Rescreening is anticipated on 3938 newborns, which is 10% of newborns covered by the Missouri Medicaid program. It is assumed the audiologist will conduct the rescreening in an outpatient facility setting. There are two methods of testing available. Missouri Medicaid reimburses \$141.50 for the auditory brainstem response (ABR) method, and \$71.50 for the otoacoustic emission (OAE) method. Assuming half of the rescreenings will use the ABR method and the remainder will use the OAE method, the average cost for the diagnostic audiological assessment is \$106.50 per child, for a total rescreening cost of \$419,397 ($\106.50×3938). It is assumed 5% of these newborns (197) will be referred for diagnostic audiological assessment and be covered by Missouri Medicaid. Given the Medicaid reimbursement rate of \$96.50 per diagnostic audiological assessment, the total cost for audiological assessments is \$19,010. Therefore, the total estimated annual cost to DOSS is \$1,785,426 ($\$1,347,019 + 419,397 + 19,010$).

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER 19 CSR 40-9.020

Title: Title 19 – Department of Health

Division: Division 40 – Division of Maternal, Child and Family Health

Chapter: Chapter 9 – Universal Newborn Hearing Screening Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 40-9.020 Screening Methodologies and Procedures

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 type 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:
80	Hospital/Ambulatory Care Centers	\$1,302,108 Annually
299	Audiologists	\$78,416 Annually
Total Private Entity Cost		\$1,380,524 Annually

Notes: 1.) It is understood that physicians and primary care providers have a responsibility to assure all newborns who did not have hearing screening performed at the birth facility prior to discharge, or were delivered outside of a facility, receive a hearing screening. It is assumed the physicians and primary care providers will refer these newborns either to audiologists or to hospitals/ambulatory surgical centers for the newborn hearing screening.

2.) These costs are reflective of the annual personnel and equipment costs for facilities and audiologists. It is assumed the facilities and audiologists will be reimbursed at least an amount equivalent to the above costs, as reimbursement for this screening is mandatory according to the statute.

III. WORKSHEET

The estimate in the aggregate was calculated as follows:

- Determine average equipment cost for four newborn hearing screening units, associated hardware and accessories, and screening supplies:

Additional Hardware/Access	Natus ALGO	Biologic AuDX	Otodynamics IL088	SonaMed Clarity
Unit cost	\$17,500.00	\$3,995.00	\$6,500.00	\$25,000.00
Computer for screener/data management	\$1,500.00	\$1,500.00	\$1,500.00	Not applicable
Printer for Data Management	\$300.00	\$300.00	\$300.00	Not applicable
Screening supplies: (Based upon an average of 938 births per facility annually)	\$8,160.60 (\$8.70/baby)	\$938.00 (\$1.00/baby)	\$1,266.30 (\$1.35/baby)	\$1,876.00 (\$2.00/baby)
Calibration and/or warranty	\$93.80	\$75.04	Not applicable	Not applicable
Total Unit Cost	\$27,554.40	\$6,808.04	\$9,566.30	\$26,876.00

Based on information received from the National Center for Hearing Assessment and Management (NCHAM), the average cost for 4 models of newborn hearing screening equipment listed above is \$17,701.19. It is assumed 33.3% (27) birthing facilities will be required to make equipment purchases annually at a cost of \$477,932. The average cost for screening supplies is \$3.27 per newborn. Assuming each of the facilities will average 938 births per year, the supply total will be \$3,067 for each facility and an annual combined total for all facilities of \$245,381. The combined equipment and supply cost for all birthing facilities will be \$723,313 annually.

- Determine the personnel costs for the various staff needed to administer and operate a newborn hearing screening program at a birthing facility and personnel costs to perform diagnostic audiological assessments at private audiologist practices:

Type of Staff	Hourly Wage +	Time to Complete Task	Cost Per Newborn	Total Personnel Cost *
Program Manager	\$35.00	3 minutes	\$1.75	\$1,641.50
RN Screener	\$32.50	8 minutes	\$4.34	\$4,070.92
Clerical Staff	\$13.00	5 minutes	\$1.08	\$1,013.04
Audiologist **	\$40.63	8 minutes (rescreenings)	\$5.42	\$509.48
Total Personnel Costs per Facility				\$7,234.94 Annually
+ Hourly rate includes 28% allowed for benefits.				
*Cost per newborn based on an average of 938 births per facility for Program Manager, RN Screener, and Clerical Staff.				
**Cost per newborn based on an average of 94 (10%) rescreenings per facility for the audiologist.				

Audiological Assessments				
Type of Staff	Hourly Wage +	Time to Complete Task	Cost Per Newborn	Total Personnel Cost *
Clerical Staff	\$13.00	5 minutes	\$1.08	\$8.13

Audiologist	\$40.63	45 minutes (diagnostic audiological assessment)	\$30.48	\$229.51
Total Personnel Costs per Audiologist				\$237.64 Annually
+ Hourly rate includes 28% allowed for benefits.				
* Cost per newborn based on 2,250 total and 7.53 newborn assessments per licensed audiologist.				

IV. ASSUMPTIONS

Approximately 75,000 live births occur in 80 birthing facilities annually in Missouri, an average of 938 births per facility. The birthing facilities include publicly and privately funded hospitals and ambulatory care centers. We assume no hospital or ambulatory care center is totally publicly funded, therefore all birthing facilities are considered private entities. It is assumed 100% of newborns will be screened prior to discharge from the birthing facilities.

For the purposes of this fiscal note, Missouri is expected to mirror the national average for referral rates and costs of operating a newborn hearing screening program. Cost estimates used in this fiscal note are based on data from the National Center for Hearing Assessment and Management (NCHAM). It is assumed 10% of all newborns born in Missouri, or 7500 (an average of 938 per facility), will require rescreening. In addition, 3% of the 7500 newborns (2,250) will require diagnostic audiological assessment (an average of 7.53 per licensed audiologist).

It is also assumed audiologists in private practice already have newborn hearing screening equipment, and will be paying warranty, repair and equipment update costs to maintain their equipment. Therefore, it is assumed the audiologists will not incur additional equipment costs.

Facility personnel costs include a program manager to coordinate all aspects of the facility's hearing screening program and other staff to perform the newborn hearing screenings, diagnostic audiological assessments, and various clerical functions. It is assumed most facilities will use existing supervisory nursing staff for the program manager position. The hourly rate for this position, \$35.00, was obtained from a survey of Missouri hospitals. We assume facilities will utilize newborn nursery nurses to perform the birth admission screening, at an hourly rate of \$32.50. According to NCHAM, facilities employing audiologists for rescreenings pay an hourly wage of \$40.63.

Based on time studies conducted using the previously mentioned hearing screening equipment, NCHAM estimates a coordinator spends three minutes per newborn performing various administrative tasks, and the newborn hearing screener spends eight minutes completing the procedure. Therefore, we assume a cost of \$1.75 per newborn for the program manager and \$4.34 for the RN screener per newborn to perform a hearing screen. The total annual program manager personnel cost is \$1,641.50 per facility. The total annual newborn RN screener cost is \$4070.92 per facility.

It is assumed each facility will utilize a clerk to perform office data entry, tracking, and billing functions for the initial screenings and rescreenings performed in the facility's outpatient department. NCHAM estimates each clerk would spend an average of 5 minutes completing tasks, with an average hourly wage of \$13.00, which equates to \$1.08 per newborn and a total annual personnel cost of \$1,013.04.

For the purposes of this fiscal note, it is assumed a licensed audiologist will perform hearing screenings or rescreenings in a facility outpatient setting. According to NCHAM, the average rescreening is done in eight minutes, at a cost of \$5.42 per newborn and an annual personnel cost to the facility of \$509.48.

The cumulative annual personnel cost for each facility would entail costs for the program manager, nurse screener, clerical staff, and audiologist of \$7,234.94 per facility. The combined total facility personnel costs are \$578,795 annually. Adding in the equipment/supply costs of \$723,313, the cumulative total for private facility equipment, supply and personnel costs is \$1,302,108 annually.

We assume the diagnostic audiological assessments will be performed by an audiologist in the private practice setting, in a non-sedative manner. According to NCHAM, the average diagnostic audiological assessment requires 45 minutes for completion, equating to a personnel cost to the audiologist of \$30.48 per newborn. A clerk would be needed to perform office data entry, tracking, and billing functions for the office. As previously mentioned, the clerk would be paid \$13.00 per hour and would require 5 minutes to complete the assigned tasks. The clerical personnel cost equates to \$1.08 per newborn. Given the number of licensed audiologists in Missouri, the average number of diagnostic audiological assessments performed per licensed audiologist is 7.53. The cumulative annual personnel cost to the audiologist in private practice would be \$237.64. Adding in supply costs of \$3.27 per newborn, for 7.53 newborns equals \$24.62 per audiologist. The total personnel and supply cost for each audiologist is \$262.26 annually. Therefore, the total annual cost for all 299 audiologists is \$78,416.

Adding the cumulative total for private facility equipment, supply and personnel costs of \$1,302,108 and the costs for audiological assessments of \$78,416 gives an annual total cost to private entities of \$1,380,524.

Title 19—DEPARTMENT OF HEALTH
Division 40—Division of Maternal, Child and Family Health
Chapter 9—Universal Newborn Hearing Screening Program

PROPOSED RULE

19 CSR 40-9.040 Information to be Reported to the Department of Health

PURPOSE: This rule establishes the information management, reporting and tracking system used by facilities, primary care providers, and audiologists to report newborn hearing screening data to the department. Timely reporting is necessary to assure the provision of early diagnostic and intervention services.

(1) Each facility, physician, or primary care provider shall report all newborn hearing screening results, including missed screenings, via either the department's web-based reporting system or manually on the department's newborn hearing reporting form. This newborn hearing reporting form shall be developed and made available by the department. The results shall be reported to the department within seven (7) calendar days of completion of the hearing screening.

(2) Each facility, or person designated to perform repeat hearing screenings, shall report information for tracking newborns who receive "refer" results or missed the birth admission hearing screening. The information shall be reported to the department via either the web-based reporting system or manually on the department's newborn hearing tracking form, within seven (7) calendar days of completion of the hearing screening.

(3) The facility or person designated to perform the missed hearing screening, the rescreening, and/or the diagnostic audiological assessment, shall notify the department if the scheduled appointment was not kept. This information shall be reported to the department via either the department's web-based reporting system or manually on the department's newborn hearing tracking form, within seven (7) calendar days of the date of discharge or scheduled appointment date.

(4) The audiologist shall report all diagnostic audiological assessment results to the department, via either the web-based reporting system or manually on the department's newborn hearing tracking form, within seven (7) calendar days of completion of the assessment.

(5) Each facility or primary care provider shall provide to the department, upon request, information from the newborn's medical record relevant to the newborn's hearing status.

(6) Each facility, physician, primary care provider, or audiologist shall document all parental refusals for newborn hearing screening, and report the refusal to the department via either the web-based reporting system or manually on the department's newborn hearing screening tracking form within seven (7) calendar days of refusal.

AUTHORITY: section 191.937, RSMo 2000. Original rule filed Aug. 1, 2001.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated seventy thousand fifty-five dollars (\$70,055) annually in the aggregate. See attached detailed Fiscal Note.

PRIVATE COST: This proposed rule will cost private entities an estimated one hundred ninety-three thousand six hundred fifty dol-

lars (\$193,650) annually in the aggregate. See attached detailed Fiscal Note.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health; Division of Maternal, Child and Family Health; Glenda Miller, MPH, BSN, CS, Director; 930 Wildwood Drive; PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER 19 CSR 40-9.040Title: Title 19 – Department of HealthDivision: Division 40 – Division of Maternal, Child and Family HealthChapter: Chapter 9 – Universal Newborn Hearing Screening ProgramType of Rule Making: Proposed RuleRule Number and Name: 19 CSR 40-9.040 Information to be Reported to the Department of Health**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Health	\$70,055 annually
Total Public Entity Cost	\$70,055 annually

III. WORKSHEET

The estimate in the aggregate was calculated as follows:

Department of HealthSalaries:

50% of salary for one Health Program Representative III (1/2 of \$36,012)	\$18,006
50% of salary for one Health Program Representative I/II (1/2 of \$22,364)*	11,182
12.5% of salary for one Clerk Typist II (12.5% of \$18,756)	2,345
12.5% of salary for one Computer Info. Technologist III (12.5% of \$60,528)*	<u>7,566</u>
TOTAL SALARIES	\$39,099
FRINGE BENEFITS @28%	<u>10,948</u>
 TOTAL ANNUAL SALARIES AND BENEFITS	 \$50,047

Office Expenses:

Printing costs	\$18,590
Administrative supplies	<u>1,418</u>
TOTAL ANNUAL OFFICE EXPENSES	\$20,008
TOTAL ANNUAL DOH COST	\$70,055

*These salaries are fully funded for up to four years through a grant awarded by the Health Resources and Services Administration to the Department of Health.

IV. ASSUMPTIONS

It is assumed the Department of Health (DOH) will devote 2.5 full time employees (FTE's) to administer the Newborn Hearing Screening Program. Fifty percent of the employees' time will be spent working on the program dealing with this rule while the other fifty percent will be spent working on the rest of the program. One Health Program Representative III (HPR III) will function as coordinator for the program. Duties of the HPR III include: provide primary oversight of the audiological contract; supervision of the HPR I/II; primary reporter of information to the federal program authorities (Centers for Disease Control and Prevention and the Maternal and Child Health Bureau of the Health Resources and Services Administration); development of the surveillance and tracking system and the community and parent resource materials and reporting forms; and providing administrative support to facilities. A HPR I/II will work as the primary investigator for the surveillance and case management of the newborns reported in the web-base system. The Clerk Typist II will provide clerical assistance, including data entry. A Computer Information Technologist III will support ongoing maintenance of the application software and related documentation; assist with user training; provide additional programming as needed; and provide investigation and analysis of the web-based and case management system. There are no costs to train facilities on using the web-based software and reporting forms.

Other costs anticipated by DOH include printing and mailing costs for newborn hearing screening reporting forms, brochures and other family resource materials. The estimated cost for this expense is \$18,590. The reporting software will be provided to facilities by the DOH free of cost. Administrative supplies (general office supplies and reference/resource materials) for the program staff are estimated at \$1,418.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER 19 CSR 40-9.040

Title: Title 19 – Department of Health

Division: Division 40 – Division of Maternal, Child and Family Health

Chapter: Chapter 9 – Universal Newborn Hearing Screening Program

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 40-9.040 Information to be Reported to the Department of Health

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 type 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:
80	Hospital/Ambulatory Care Centers	\$179,025 Annually
299	Audiologists	\$14,625 Annually
Total Private Entity Cost		\$193,650 Annually

Notes: 1.) It is understood that physicians and primary care providers have a responsibility to assure all newborns who did not have hearing screening performed at the birth facility prior to discharge, or were delivered outside of a facility, receive a hearing screening. It is assumed the physicians and primary care providers will refer these newborns either to audiologists or to hospitals/ambulatory surgical centers for the newborn hearing screening.

2.) These costs are reflective of the annual personnel and equipment costs for facilities and audiologists. It is assumed the facilities and audiologists will be reimbursed at least an amount equivalent to the above costs, as reimbursement for this screening is mandatory according to the statute.

III. WORKSHEET

The estimate in the aggregate was calculated as follows:

It is assumed that fifty percent of hospitals and ambulatory care centers will use the web-based reporting system and fifty percent will complete the hard copy newborn screening form they presently use for the metabolic screening program to report newborn hearing screening.

Further assumptions are:

1. Clerical staff will be doing the data entry for all reporting.
2. It takes approximately ten minutes to provide the information requested when using the web-based reporting system or the hard copy form.
3. The average hourly wage of clerical staff is \$13.00, which includes a 28% fringe benefit rate.
4. Rescreenings will amount to approximately ten percent of newborns at facilities.
5. There are approximately 75,000 births in Missouri.
6. An average of 938 births per facility is used. With a ten percent rescreen rate, this gives a total of 1,032 newborns screened/rescreened per facility.
7. Three percent of newborns (2,250) will require an audiological assessment by an audiologist.
8. Reporting results of audiological assessments will require approximately 30 minutes to produce, whether reporting via the web or hard copy.

Hospital/Ambulatory Care Screenings and Rescreenings				
Type of Staff	Hourly Wage +	Time to Complete Task	Cost Per Newborn	Total Personnel Cost
Clerical Staff- average cost per facility based on 1032 screenings/rescreenings	\$13.00	10 minutes	\$2.17	\$2,239
Total cost for all newborns in MO (82,500 screenings or rescreenings)				\$179,025

Audiological Assessments				
Type of Staff	Hourly Wage	Time to Complete Task	Cost Per Newborn	Total Personnel Cost
Clerical Staff	\$13.00	30 minutes	\$6.50	\$6.50 per newborn
Total cost for 2,250 newborns				\$14,625

Total costs for facilities doing screenings and rescreenings and for audiological assessments is then $\$179,025 + \$14,625 = \$193,650$.

IV. ASSUMPTIONS

Approximately 75,000 live births occur in 80 birthing facilities annually in Missouri, an average of 938 births per facility. The birthing facilities include publicly and privately funded hospitals and ambulatory care centers. We assume no hospital or ambulatory care center is totally publicly funded, therefore all birthing facilities are considered private entities. It is assumed 100% of newborns will be screened prior to discharge from the birthing facilities.

For the purposes of this fiscal note, Missouri is expected to mirror the national average for referral rates and costs of operating a newborn hearing screening program. Cost estimates used in this fiscal note are based on data from the National Center for Hearing Assessment and Management (NCHAM). It is assumed 10% of all newborns born in Missouri, or 7500 (an average of 94 per facility) will require rescreening. In addition, 3% of the 7500 newborns (2,250) will require diagnostic audiological assessment (an average of 7.53 per licensed audiologist).

It is assumed each facility will utilize a clerk to perform data entry, tracking, and billing functions for the initial screenings and rescreenings performed in the facility's outpatient department. NCHAM estimates each clerk would spend an average of 5 minutes completing tasks, with an average hourly wage of \$13.00. Based on the information to be reported, Missouri allows an additional five minutes for gathering information. This ten minute average reporting time per newborn equates to \$2.17 per newborn and a total annual personnel cost of \$179,025.

Again, due to the information requested, Missouri anticipates an average of 30 minutes to compile notes and enter information on audiological assessments by the audiologist's clerical staff. This equates to a cost of \$6.50 per newborn and a total cost of \$14,625 for 2,250 newborn audiological assessments.

The cumulative annual personnel costs for reporting all screenings, rescreenings and audiological assessments amount to \$193,650.