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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

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

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.010 Definitions of the Missouri Department of Agriculture Organic Program

PURPOSE: This rule defines terms to be used when implementing the Missouri Department of Agriculture Organic Program.

(1) These definitions apply to all rules adopted and incorporated under authority of section 261.110, RSMo Supp. 2002, unless specified differently by statute or law.

(A) Certifying agent registration. "Certifying agent registration" means the mandatory act of filing with the director, on forms provided by or approved by the department, the name and address of any accredited certifying agent that certifies organic entities within the state of Missouri.

(B) Department. The "department" means the Missouri Department of Agriculture (MDA).

(C) Director. The "director" means the director of the Missouri Department of Agriculture, or designee.

(D) Missouri-based. "Missouri-based" means any organic entity with not less than fifty-one percent (51%) of the certified organic production area and of any production/handling facility(ies) located within the state's borders.

(E) NOP. "NOP" means the National Organic Program, as outlined in *Federal Register* Vol. 65, No. 246 NOP 7 CFR, Part 205.

(F) Organic entity. "Organic entity" refers to any producer or handler, and the production or handling site and/or facility, that utilizes methods that adhere to those required by NOP 7 CFR, Part 205.

(G) Organic registration. "Organic registration" means a voluntary act of filing with the director, on forms provided by or approved by the program.

(H) Program. "Program" means the Missouri Department of Agriculture (MDA) Organic Program.

(I) Transitional-to-organic. "Transitional-to-organic" means any Missouri-based agricultural producer or handler that is converting from conventional to organic production methods while adhering to NOP requirements.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.015 The Adoption of NOP Standards

PURPOSE: This rule outlines the portions of NOP 7 CFR, Part 205 that will be adopted as Missouri Department of Agriculture (MDA) Organic Program standards.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost

of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The department adopts and incorporates by reference the following parts of the official rules and regulations of the National Organic Program (NOP), as outlined in *Federal Register* Vol. 65, No. 246 NOP 7 CFR Part 205; except for 2 CSR 70-16.010, or as the director designates otherwise in specific cases:

(A) Subpart A—Definitions, all sections; except for those defined in 2 CSR 70-16.010;

(B) Subpart B—Applicability, all sections;

(C) Subpart C—Organic Production and Handling Requirements, all sections;

(D) Subpart D—Labels, Labeling, and Market Information, all sections;

(E) Subpart E—Certification, all sections;

(F) Subpart F—General Requirements for Accreditation, all sections; and

(G) Subpart G—Administrative.

1. Sections 205.600 through 205.607.
2. Sections 205.660 through 205.663.
2. Sections 205.670 through 205.672.
4. Sections 205.680 through 205.681.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.020 MDA Organic Program Advisory Board

PURPOSE: This rule establishes a Missouri Department of Agriculture (MDA) Organic Program Advisory Board and defines its duties.

(1) The department shall establish a Missouri Department of Agriculture (MDA) Organic Program Advisory Board for the purpose of advising the director with respect to his or her responsibilities under this chapter.

(A) The department shall maintain a copy of the purpose and duties of the MDA Organic Program Advisory Board, with a current listing of the members, which shall be available to the public upon request.

(B) The board members shall conduct annual review of the certification program activities, which may include a review of the certification decisions made by the program staff.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.025 Procedures for Organic Certification

PURPOSE: This rule outlines the procedures for application for organic certification or recertification by the Missouri Department of Agriculture (MDA) Organic Program, with associated fees.

(1) The application for organic certification of producers and handlers, as defined by the National Organic Program (NOP), 7 CFR, Part 205, shall be submitted to the department on an approved application form available from the program, or in a manner prescribed by the director. Applications shall only be received from Missouri-based organic entities.

(2) Initial application for certification shall be accompanied by the certification fee and completed information in compliance with NOP 7 CFR 205.401. The initial application shall be received by the program not less than sixty (60) days before harvest of crop or before final handling of the organic product.

(3) Once granted, certification continues in effect until surrendered by the certified entity, or is suspended or revoked by the department. An annual renewal application for certification must be submitted to the program with fee and information as required by NOP 7 CFR 205.406; and an annual reinspection shall be conducted by the program at each facility to determine whether the certification of the operation should continue.

(4) An application and inspection fee of one hundred dollars ($100) shall accompany each application for organic certification. Total certification fees shall be assessed at the rate of:

(A) First year Certification Fee: Total certification fee shall be the initial application and inspection fee of one hundred dollars ($100);

(B) Second year, and every year thereafter, Renewal Certification Fee: Renewal certification fees shall be as follows:

1. Total renewal certification fee shall be the combined initial application and inspection fee of one hundred dollars ($100) for those organic entities with previous year's gross sales from organic production and/or handling of not more than fifty thousand dollars ($50,000);

2. Renewal certification fees for organic entities with previous year's gross sales from organic production and/or handling of more than fifty thousand dollars ($50,000) shall be the initial application and inspection fee of one hundred dollars ($100), plus additional certification fees of one hundred dollars ($100) for every one hundred thousand dollars ($100,000) in gross sales from organic production and/or handling, not to exceed five hundred dollars ($500);

3. If the organic entity does not want to reveal organic gross sales, the maximum five hundred dollar ($500) certification fee will apply;

(C) The initial application and inspection fee and the certification fees are not prorated throughout the year, nor are they refunded if the application is withdrawn by the applicant or is denied by the director for any cause;

(D) All certification fees shall be due and payable before organic inspections will be conducted.

(5) Applications to continue certification are due one (1) year from date of the previous application. Any application postmarked fifteen (15) days after due date shall pay an additional late fee of one hundred dollars ($100) to continue certification by the program.

(6) Certified organic entities may petition to withdraw certification with the program at any time. In order to withdraw certification, the applicant must submit the request in writing, with company name, address, and signature. A voluntary withdrawal of the certification application by the organic entity shall not result in a "Notice of Certification Denial."

(7) Any certified entity that withdraws the certification from the program or allows their certification to elapse may reapply for recertification, but will be considered to be a renewal application and shall pay the renewal certification fee.

(8) "Exempt" or "excluded" organic producers or handlers, as defined by the NOP 7 CFR 205.101, may apply to be certified "organic" by the program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

PRIVATE COST: This proposed rule will cost private entities one hundred eight thousand nine hundred dollars ($108,900) 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 Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	2 CSR 70-16.025 Procedures for Organic Certification
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the 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:	Estimated in the aggregate as to the cost of compliance with the rule by the affected entities:	
		1st year 2003	2nd year 2004
50	Organic Handlers	$5,000	$ 30,000
30	Organic Livestock Producers	$3,000	$ 18,000
100	Organic Crops Producers	$10,000	$ 60,000
Annual Late Fees			$ 900
Total Annual Fees		$18,000	$108,900
Estimated Annual Cost for 2nd year (2004), and thereafter, of Compliance for the Life of the Rule			$108,900

III. WORKSHEET

The first year certification fee is a combined application and inspection fee of one hundred dollars ($100) per entity. The second year renewal fees are one hundred dollars ($100) application and inspection fee, plus additional certification fees of one hundred dollars ($100) for every one hundred thousand dollars ($100,000) of the previous year's gross sales from certified organic production and/or handling, not to exceed five hundred dollars ($500).

IV. ASSUMPTIONS

1. Figures are based on predicted number of organic handlers, and organic producers of crops and livestock in the state that will utilize the certification program. It is estimated that the same number of handlers and producers would participate in the program during the second year. Late fee is based upon five percent (5%) of individuals certified with the program.

2. It is anticipated that the total cost for the life of the rule may vary with inflation and is expected to increase as numbers of organic handlers and producers of crops and livestock increase until a plateau is reached; at which time, the total cost will become a static annual total cost.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.030 Records to be Maintained for Certification

PURPOSE: This rule describes the records that organic entities shall maintain for organic certification or recertification by the Missouri Department of Agriculture (MDA) Organic Program.

(1) Certified organic entities shall maintain records applicable to the organic operation for not less than five (5) years and shall make such records available to the program as required by National Organic Program (NOP) 7 CFR 205.103.

(A) All certified organic producers shall keep records for each commodity produced; including, but not limited to:

1. Physical address of each production site where crops grown;
2. Crop and site history for previous three (3) years of production;
3. Names of crops, with varieties, produced;
4. Input materials applied to plants, soil, water, and products. These records shall include date applied, application rate, and name of material, including brand name where possible;
5. Handling and processing description, date, and location. Location shall include the name and address of the handler or processor;
6. Records of volume of all sales including: on-farm, wholesale, and retail; name and address of purchaser where possible; and transaction certificate when used;
7. Audit tracking system for each product identified, with lots numbers or other identifiers that facilitates tracking of product from seed or seedling to sale or release of physical control. Storage identification and bin location, and identifiable number if applicable, must be included.

(B) Certified organic livestock producers shall keep records; including, but not limited to:

1. Receipts for stock and materials;
2. Birth or purchase of livestock through sale or slaughter;
3. All disease and pest management materials administered including dates administered, material identification, dosages, and sources;
4. All purchased feeds including dates purchased, feed identification, quantities purchased, sources, and a copy of the organic certification;
5. Weight of slaughter animals at slaughter and weight of post-slaughter animal products;
6. Sales records of all organic animal products sold including dates, quantities, and weights. Sales records shall include the purchaser's name and address where possible and transaction certificate number when used;
7. If livestock graze any fields or consume any production crops, certification records of those fields or crops.

(C) Certified organic handlers shall maintain records that track ingredients and certified organic products from receiving through distribution, shipping, or sale; including, but not limited to:

1. An organic handler system plan;
2. Maps of production facility structures and handling areas;
3. Production flow charts, with organic control points highlighted;
4. Assigned production lot numbers;
5. Formulation for each product;
6. Product audit tracking records, which may include; but are not limited to:
   A. Invoices;
   B. Bills of lading, and producer certificates for incoming products;
   C. Date and quantity of product processed or handled;
   D. Repack data and production run reports;
   E. Invoices and bills of lading of products shipped out.

(2) Handlers shall have available copies of organic certificates for all organic ingredients and products. Organic certificates shall be current, correspond to the organic ingredients used in processing, and be from accredited certifying agents.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

PRIVATE COST: This proposed rule will cost private entities two hundred thirty-six thousand one hundred dollars ($236,100) in the aggregate to maintain certification records.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	2 CSR 70-16.030 Records to be Maintained for Certification
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the 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:	Estimated in the aggregate as to the cost of compliance with the rule by the affected entities:
50	Organic Handlers	$ 75,120
30	Organic Livestock Producers	$ 12,600
100	Organic Crops Producers	$160,500
Total	Total Organic Handlers and Producers of Crops and Livestock	$236,100
Estimated Annual Cost of Compliance for the Life of the Rule		$236,100

III. WORKSHEET

Maintenance of records for organic handlers is estimated upon two (2) hours per run at approximately two-thousand, five hundred (2,500) total runs per year, plus eight (8) hours filling out certification application; total of five thousand, eight (5,008) aggregate hours.

Maintenance of records for organic livestock producers is estimated at two (2) hours, ten (10) times during the year, plus eight (8) hours filling out certification application; total of eight hundred, forty (840) aggregate hours.

Maintenance of records for organic crops producers is estimated at one (1) hour per day during planting and harvesting, at twelve (12) weeks, with two and one-half (2.5) hours per week during cultivation in summer, at six (6) weeks, plus eight (8) hours filling out certification application; total of ten thousand, seven hundred (10,700) aggregate hours.

IV. ASSUMPTIONS

1. The cost for the maintenance of records is based on fifteen dollars ($15) per hour.

2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation, and is expected to increase with increased numbers of organic producers and handlers until a plateau is reached; at which time, the total cost will become a static annual total cost.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.035 Inspections and Sampling for Certification

PURPOSE: This rule outlines procedures that the Missouri Department of Agriculture (MDA) Organic Program will utilize for inspections and sampling of certification applicants and certified organic entities.

(1) An initial on-site inspection shall be conducted for each production unit, facility, and site that produces or handles organic products, as required by National Organic Program (NOP) 7 CFR 205.403. The inspector shall conduct an exit interview with the organic entity's authorized representative at the end of the inspection to verify the accuracy of the inspection. A copy of the exit interview summary shall be given to the applicant at the time of inspection, and a copy of the inspection report shall be provided to the applicant within a reasonable time following the inspection.

(2) The program shall conduct additional inspections to determine compliance to the NOP and department rules of an applicant or organic entity certified by the program when requested by the United States Department of Agriculture (USDA)-NOP administrator or by the department.

(A) Additional inspections may be conducted without notification at the discretion of the program.

(3) The department, or any inspection designee of the program, may collect samples of soil, products, or agricultural inputs from randomly or systematically selected organic entities certified by the program as part of the routine annual organic inspection. The department shall collect samples of soil, products, or agricultural inputs when there is reason to believe that land, an input, or product came into contact with a prohibited substance or that excluded methods were used.

(4) Applicants shall be provided with a receipt for any samples collected by the department, or by the designated inspector. The collected samples shall be analyzed by any qualified laboratory at the expense of the department.

(5) Results of the individual inspections, sampling, and test analyses shall be provided to the NOP administrator and the certified organic entity or applicant.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.040 Complaints and Investigations

PURPOSE: This rule outlines the criteria that the program will use to determine when to investigate complaints.

(1) Any person with knowledge of a violation of the National Organic Program (NOP) 7 CFR, Part 205, may file a complaint with the department.

(2) The department shall investigate complaints involving organic entities certified by the program. Complaints involving organic entities not certified by the program will be referred to the NOP administrator.

(3) The department, in cooperation with all pertinent state and federal agencies, may investigate certified or non-certified organic entities, whether certified by the program or not, upon determining that a need exists to protect public health and safety or preserve evidence that would justify an immediate investigation.

(A) This rule in no way negates the responsibilities of the certified and non-certified organic entities to meet the statutory mandates of Chapter 196, RSMo.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.045 Compliance Enforcement

PURPOSE: This rule outlines the criteria that the program shall use to determine when to implement compliance enforcement actions, and the procedures to be followed for the compliance actions.

(1) When it has been determined that an organic entity certified by the program is knowingly selling, representing, or labeling as organic any products that have been exposed to or contain prohibited substances, or that have been produced using prohibited substances or excluded methods, the program shall send the certified organic entity a written notification of suspension of rights to sell such product as organic.

(A) Such product is prohibited from further sale or movement, in accordance with National Organic Program (NOP) 7 CFR 205.6462(d). The department shall remove the suspension of rights to sell when the organic entity becomes compliant to requirements of the NOP 7 CFR, Part 205.

(2) The department may initiate a compliance action against an applicant for certification or an organic entity certified by the program that is not in compliance with NOP 7 CFR, Part 205.

(A) The department and applicants for certification shall follow procedures established in 7 CFR 205.405 in addressing noncompliance issues.

(B) The department and certified organic entities shall follow procedure established in 7 CFR 205.662 in addressing noncompliance issues.

(C) The department's procedure for denying certification shall adhere to that established in 7 CFR 205.405.

(D) Any notice of denial of certification or proposed suspension or revocation of certification shall state the organic entity's right to an informal hearing as provided by 7 CFR 205.663, Mediation.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.050 Certificates Issued as Result of Certification with the MDA Organic Program

PURPOSE: This rule outlines procedures for issuing certificates to organic entities that are certified by the program.

(1) The program shall issue a "Certificate of Organic Operation" to all organic entities that are certified by the program, with such information as required by 7 CFR 205.404.

(A) Such certificate shall continue in effect until surrendered by the certified organic entity, or is revoked by the program or by the administrator for cause, as required by 7 CFR 205.405.

(2) Transaction Certificates issued by the program may be used in sales transactions of certified organic products to identify that the products were produced or handled in accordance with National Organic Program (NOP) and program rules.

(A) The program shall issue the Transition Certificates upon written application from the organic entity, on forms approved by the program, which shall contain all information requested on the application.

(B) Transaction Certificates may be issued with the producer's identification number and an expiration date beyond which use is not valid. User shall enter shipment information that includes the shipment date, product name, and volume of product, and may include the lot number if applicable.

(C) Transaction Certificates provided by the program shall only be used by organic entities certified by the program and only for products covered by program certification.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.055 MDA Organic Program Seal

PURPOSE: This rule establishes a Missouri Department of Agriculture (MDA) Organic Program Seal, and the criteria for use of the seal.

(1) The program shall establish a "Missouri Department of Agriculture (MDA) Organic Program Seal," identifying the program as the certifying agent. The seal shall be available for use by organic entities that are certified by the program, provided that such seal is used in compliance with National Organic Program (NOP) 7 CFR 205.303.

(2) The seal must replicate the form and design as adopted by the program.

(3) The seal may be duplicated in the original program seal colors or may be converted to black and white type-cast.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.060 Registration with the MDA Organic Program

PURPOSE: This rule outlines procedures for organic entities to be registered with the program, with associated fees.

(1) Producers and handlers that are converting to certified organic production or handling methods, but do not yet quality for certification, may apply to be registered with the program as, "Transitional-to-Organic."

(A) The application for registration as "Transitional-to-Organic," shall be submitted to the program on an approved form, in the manner prescribed by the director, and shall be accompanied by a fifty dollar ($50) application fee. The application fee is not prorated, nor is it refunded for any reason.

(B) The registrant shall submit a completed Organic System Plan to the program and shall use organic methods that adhere to National Organic Program (NOP) 7 CFR, Part 205.

(C) The program shall conduct an initial review of the applicant's plan, and an inspection may be scheduled to reveal any possible deficiencies or noncompliance to NOP standards.

1. The applicant shall be notified in writing of the deficiencies or noncompliance found as a result of the review or inspection.

(D) After successful review of the Organic System Plan or initial inspection, the applicant shall be issued a "Transitional-to-Organic" certificate. The certificate shall continue in effect for one (1) year from date of issuance unless cancelled by the registrant, or the registrant is no longer deemed qualified by the director.

(E) An application, with an updated system plan and application fee, shall be made to the program annually from first date of issuance. The program shall review the application and may conduct annual reinspections to ensure continued compliance with NOP 7 CFR, Part 205. The "Transitional-to-Organic" certificate shall only be issued to an applicant for three (3) consecutive years for the same organic production or handling site.

(F) The "Transitional-to-Organic" certificate does not imply in any manner that the operation is certified "organic," and products being produced from this registration program shall not in any way be sold, labeled, or represented as certified "100% Organic," "Organic," or "Made with Organic."

(G) The "Transitional-to-Organic" certificate shall only be used for marketing purposes within the state of Missouri and shall only be used for raw and processed organically produced agricultural products when authorized by the department under this rule.

(2) The program shall provide a registration service designed to promote education of organic production methods and to provide organic marketing tools for Missouri's organic farmers and handlers.

(A) All certified organic entities that are certified by the program shall be registered with the program.

(B) Certified entities within the state that are not certified by the program, but desire to be registered by the program, shall pay the registration fee of twenty-five dollars ($25), but shall not be required to adhere to other requirements of this rule.

(C) Producers and handlers using organic production and handling methods that adhere to requirements of NOP 7 CFR, Part 205, Subpart C–Organic Production and Handling Requirements, and are direct marketing to their consumers, may apply to be registered with the program.

(D) The registration shall apply to the knowledge and/or use of organic procedures and methods, as opposed to a product being registered as "organic."

(E) The application for registration shall be submitted to the program on an approved application form, as supplied by the director. A registration fee of twenty-five dollars ($25) shall accompany each application for registration. Registration fee is not prorated throughout the year, nor is it refunded.

1. Producers shall provide a site map, detailing size and shape of the site.

2. Handlers shall provide a process flow chart.

3. Landscape architects shall provide a plan outlining landscaping procedures that result in soil improvements and maintenance of natural resources.

(F) Registration shall be in effect from January 1 of the year registered and shall continue to be in effect through December 31 of the year it was issued unless cancelled by the registrant or by the director pursuant to sections (5) and (6) of this rule.

(G) No initial registration application shall be approved until the applicant has demonstrated knowledge of organic methods and procedures. Knowledge may be demonstrated by participating in educational training sessions sponsored by the program, or other program-approved methods; and by passing an examination provided by the director. Renewal applicants shall not be required to participate in further educational sessions to continue registration with the program.

(H) Registrants agree to assist with educational sessions promoting organic production, handling, and marketing methods. The registrant may alternatively choose to serve on program-designated peer groups to educate registrants about organic procedures and methods when the department receives inquiries.

(I) The department shall issue a registration certificate to qualified applicants. A database listing of all registrants shall be maintained by the department and shall be made available to the public as a marketing tool for the registrants.

(J) If the director refuses registration for any reason, the applicant shall be notified by writing of the reasons thereof. An informal hearing will be granted upon notification of denial when requested by the applicant.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

PRIVATE COST: This proposed rule will cost private entities fifteen thousand dollars ($15,000) 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 Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	2 CSR 70-16.060 Registration with the MDA Organic Program
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the 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:	Estimated in the aggregate as to the cost of compliance with the rule by the affected entities:
50	Participants in transitional-to-organic program	$2,500
500	Participants in registration program	$12,500
Total	Annual participants in transitional-to-organic and registration program	$15,000
Estimated Annual Cost of Compliance for the Life of the Rule		$15,000

III. WORKSHEET

IV. ASSUMPTIONS

1. Assumption is made that there will be fifty (50) organic producers and handlers participating in the transitional-to-organic program annually and five hundred (500) producers participating in the registration program annually.

2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation, and is expected to increase with increased number of transitional-to-organic handlers and producers and those producers who wish to participate in the registration program until a plateau is reached; at which time, the total cost will become a static annual total cost.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.065 Inspection and Sampling for Registration

PURPOSE: This rule outlines inspection and sampling procedures of applicants and registrants with the program.

(1) The program, or designated inspector, may conduct on-site inspections of each registered producer or handler.

(2) All on-site inspections shall be conducted at such time that the applicant, or an authorized representative of the applicant, can be present; and when land, facilities, or activities demonstrate the applicant's compliance with, or capability to comply with, registration requirements. This does not apply to inspections for the purposes of complaint investigations.

(3) A written Notice of Inspection shall be completed at the time of inspection, detailing any results of the inspection, or any observations made by the inspector, that would result in approval or denial of the application. A copy of the Notice of Inspection shall be given to the applicant, or authorized representative of the applicant, at the time of inspection.

(4) The program, or designated inspector, may conduct reinspections as deemed necessary to investigate complaints. The program may deny, suspend, or revoke the registration of an organic entity when such organic entity is found to not be in compliance with this rule.

(5) Any denial of entry for inspection purposes will be considered grounds for denial of registration.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.070 Marketing When Registered with the MDA Organic Program

PURPOSE: This rule describes the use of the "Registered by the MDA Organic Program" logo.

(1) The program shall issue a numbered logo stating, "Registered by the MDA Organic Program." The logo shall be annually dated to ensure that the registrant has currently completed registration requirements and shall be made available to the registrant on an annual basis.

(2) The registrant may display the logo, or copies of the logo, on marketing information used at the location where conducting business; but the logo shall not be attached directly to a product label.

(3) The "Registered by the MDA Organic Program" logo shall only be used for marketing purposes within the state of Missouri and shall only be used for raw and processed organically produced agricultural products when authorized by the program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 16—Missouri Department of Agriculture Organic Program

PROPOSED RULE

2 CSR 70-16.075 Organic Certifying Agent Registration

PURPOSE: This rule outlines the procedures for certifying agents that certify organic entities in the state of Missouri to register with the program.

(1) Any certifying agent that certifies organic entities within the state shall be required to submit an application for registration with the program. A listing of registered certifying agents shall be maintained by the program and shall be made available to the public upon request.

(2) Registration shall be in effect from January 1 of the year registered and shall continue to be in effect through December 31 of the year it was issued, unless cancelled by the registrant or by the director pursuant to sections (6) and (7) of this rule.

(3) An annual registration fee of twenty-five dollars ($25) shall accompany each application. Registration fee is not prorated throughout the year nor refunded if denied for any reason.

(4) Registration renewal applications shall be submitted within fifteen (15) working days from last valid date of registration. Any applicant who fails to comply with registration renewal requirements shall pay a fifty dollar ($50) late fee in addition to the annual registration fee to become eligible for registration renewal.

(5) The application for registration shall be submitted to the program on an approved application form in the manner prescribed by the director. The application shall include information about:

(A) Business name and address of certifying agent;

(B) Name and address of certifying agent's authorized representative;

(C) Listing of organic entities' names and addresses located within the state of Missouri certified by the certifying agent;

(D) The category of organic entity, whether of production or handling.

1. If production, total organic acreage or square footage of land located in the state, and gross sales generated by organic entity.

2. If handling, total gross sales generated by facilities located in the state.

3. Years organic entity has been certified by certifying agent.

(6) Any certifying agent found to be certifying organic entities located within the state may be assessed a fee up to five hundred dollars ($500) per violation for failure to register with the program. An order assessing the fee shall state the manner of collection, with a notice to a right to an informal hearing.

(7) If the state refuses registration to a certifying agent for any reason, the applicant shall be notified by writing of the reasons thereof. An informal hearing shall be granted upon notification of denial when requested by the applicant.

(A) The applicant has the right to appear before the director within thirty (30) days from time of postmark on the written "Denial of Registration" or "Suspension or Revocation of Registration" letter to introduce evidence; either in person or by an agent or attorney at an informal hearing.

(B) If, after such hearing, or if the defendant or the defendant's agent or attorney fails or refuses to appear, the director determines that the evidence warrants refusal of registration, the director shall proceed as herein provided.

(C) If any applicant is adversely affected by an act, order, or ruling made pursuant to the provisions of this rule, an appeal may be filed according to procedures established by sections 536.050 through 536.160, RSMo Supp. 2002.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Organic Program; PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 2—Banks and Trust Companies

PROPOSED AMENDMENT

4 CSR 140-2.055 Purchase of *[Key-Man]* ***Bank Owned Life*** **Insurance**. The Missouri Division of Finance proposes to amend the purpose and sections (2)–(4) and adding new sections (3) and (4) of this regulation by addressing various bank owned life insurance products.

PURPOSE: This amendment is necessary to respond to evolving practices in the banking industry related to banks and life insurance.

PURPOSE: The Division of Finance routinely receives inquiries about the purchase of [single premium] life insurance [as an investment]. Some bankers indicate they have considered purchasing [large single premium] life insurance policies and treating the cash surrender value as a significant portion of the bank's capital account. ***A bank may, within the bank's incidental powers, purchase life insurance reasonably related to a legitimate bank interest. A bank may not purchase life insurance for investment purposes.*** *This rule sets guidelines for the purchase of [Key-Man]* ***bank owned*** *life insurance.*

(2) A bank may purchase life insurance to indemnify itself against the loss of key management personnel. The amount of insurance purchased must be reasonable in relation to the size and needs of the bank. Also, the board of directors must document the basis upon which it determines who qualifies to be covered by the insurance. The board must document the basis for determining the amount of insurance needed to indemnify the bank against the death of each individual. **The bank must document and be able to demonstrate an insurable interest and a legitimate insurance need when insuring a key person. The authority to hold such a policy lapses if, because of a change in employment status or responsibilities, the individual is no longer considered a key person.**

(3) A bank may purchase life insurance in conjunction with providing employee compensation and benefits or when the insurance is paid in part to the bank and to the employee, which is commonly referred to as split dollar insurance. A bank may also purchase life insurance in connection with an employee compensation and benefit plan. The bank's funding obligation must be reasonable and the projected cash flow from a life insurance policy must not substantially exceed the projected liabilities to fund the compensation or benefit program. Such life insurance policies may be held only so long as the bank's liability under the associated compensation or benefit plan continues.

(4) A bank may purchase, at the bank's expense, insurance on the life of a borrower to protect its interest in the event of the death of the borrower. The maximum amount of insurance should not exceed the principal balance of the borrower's obligation. Similarly, a bank may take security interest in an existing policy. In no event may the bank's decision to make a loan be based on the availability of the insurance proceeds for repayment of the loan.

[(3)] **(5)** Accounting for *[these]* **bank owned life** insurance policies must be consistent with the requirements of generally accepted accounting principles. However, in no event may a bank carry the value of that policy as an asset on its books in an amount which exceeds the current cash surrender value of the policy.

[(4)] **(6)** The cash surrender value of the policy represents funds due from a corporation and therefore may not exceed the limit on loans to one (1) borrower set by section 362.170, RSMo. The legal loan limit also will apply to the aggregate book value of all policies, including subsequent earnings, which are purchased from the same company. **The bank should examine the financial condition of the insurance company before purchasing the policy and maintain access to and periodically review recent financial statements of the insurance company.** Finally, if the aggregate cash surrender value of all these policies owned by the bank is large in relation to the bank's total capital account, these amounts will be considered a concentration of credit.

AUTHORITY: sections 361.105, RSMo [1986] ***2000*** *and 362.105, RSMo Supp. [1992]* ***2001****. Original rule filed Aug. 22, 1991, effective Feb. 6, 1992. Amended: Filed Jan. 16, 2003.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m., March 20, 2003, at the Harry S Truman State Office Building, Room 850, 301 West High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 2—Banks and Trust Companies

PROPOSED AMENDMENT

4 CSR 140-2.140 Preservation of Books and Records. The Missouri Division of Finance proposes to amend section (1) of this regulation by adding additional forms of record preservation.

PURPOSE: This amendment is necessary to reflect current statutes.

(1) The following Appendix A**, included herein,** lists the minimum times for preservation of books and records by state-chartered banks and trust companies. Where other law requires a longer retention, the greater period should be observed. Preservation on microfilm**,** *[or]* microfiche **or by means of electronic storage** is acceptable.

AUTHORITY: sections 361.105 [RSMo 1986] and 362.410, RSMo [Supp. 1988] 2000. Original rule filed Aug. 3, 1988, effective Nov. 11, 1988. Amended: Filed Jan. 16, 2003.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m., March 20, 2003, at the Harry S Truman State Office Building, Room 850, 301 West High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Small, Small Loan Companies

PROPOSED RESCISSION

4 CSR 140-11.010 Small, Small Loan Companies—Licensing and General Provisions. The Missouri Division of Finance proposes to rescind this regulation. This regulation established guidelines concerning obtaining licenses, which locations required a license, and other general provisions.

PURPOSE: The Division of Finance rescinds this regulation as unneccessary and obsolete.

AUTHORITY: section 408.500, RSMo Supp. 1990. Emergency rule filed Dec. 11, 1990, effective Jan. 1, 1991, expired April 30, 1991. Emergency rule filed April 8, 1991, effective April 30, 1991, expired Aug. 27, 1991. Original rule filed Dec. 11, 1990, effective July 8, 1991. Rescinded: Filed Jan. 16, 2003.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m., March 20, 2003, at the Harry S Truman State Office Building, Room 850, 301 West High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Small, Small Loan Companies

PROPOSED RESCISSION

4 CSR 140-11.020 Small, Small Loan Companies—Recordkeeping. The Missouri Division of Finance proposes to rescind this regulation. This regulation established minimum recordkeeping requirements to facilitate examination and regulation.

PURPOSE: The Division of Finance rescinds this regulation as unneccessary and obsolete.

AUTHORITY: section 408.500, RSMo Supp. 1990. Emergency rule filed Dec. 11, 1990, effective Jan. 1, 1991, expired April 30, 1991. Emergency rule filed April 8, 1991, effective April 30, 1991, expired Aug. 27, 1991. Original rule filed Dec. 11, 1990, effective July 8, 1991. Rescinded: Filed Jan. 16, 2003.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m., March 20, 2003, at the Harry S Truman State*

Office Building, Room 850, 301 West High Street, Jefferson City, Missouri.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—*[Small, Small Loan Companies] Section 500 Companies*

PROPOSED RULE

4 CSR 140-11.030 Licensing and General Provisions

PURPOSE: Section 500 companies are required by section 408.500.1 to 408.506, RSMo, to obtain a license from the director of finance. This rule establishes guidelines concerning licenses, which locations will require a license and other general provisions.

(1) License. The license issued by the Division of Finance shall specify the location of the section 500 company and shall be prominently displayed therein. The license shall not be transferable or assignable except that the company named in any original license may obtain a change of address without charge, upon approval of the director.

(2) Display of Notice. The notice required by section 408.500.4, RSMo shall be prominently displayed in the section 500 company office. The notice shall be clearly readable from any place in the office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(3) Locations. The conduct of other business on the premises will not bar the issuance of a section 500 company license but the records of the company must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) section 500 company license be issued to the same address.

(4) Additional Locations. Any location at which a section 500 company permits the acceptance or execution of any forms or documents relating to section 500 company business shall be deemed to be a place of business of the company and shall require a separate license.

(5) Contract Copies. A section 500 company shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(6) Interest—Loan Origination Fee—When Earned. Section 408.500.5, RSMo provides that a loan repaid by the close of the section 500 company's next full business day shall be at no cost to the borrower. Section 500 loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee, if permitted by section 408.140.1(1), RSMo is earned at the time the loan is made, unless the borrower returns the full principal balance by the end of the section 500 company's next full business day. The fee is only available on loans with terms of thirty (30) days or longer.

(7) Post-Dated Check. A post-dated check shall not be considered security or collateral; provided, however, that no post-dated check may bear any date earlier than the due date of the loan. A section 500 company shall not accept undated checks, checks that have been altered in any manner, or checks that do not bear the signature of the borrower. Should any such check be accepted, or should any post-dated check be deposited prior to its stated date, the section 500 company shall be barred from recovery of any interest or fees on the loan. A section 500 company shall not accept more than one (1) post-dated check per loan or renewal. A check left with a section 500 company shall be returned to the maker immediately upon payment, or renewal, of the loan.

(8) Renewals. The General Assembly has clearly indicated its intention that no borrower is to be indebted to a section 500 company for any great period of time. This is evidenced by language that a) requires the borrower to begin reducing the principal amount of the loan by not less than five percent (5%) with the first renewal, b) limits the number of renewals to six (6), and c) provides for seventy-five percent (75%) of the original loan amount as the maximum amount of interest and fees that a lender may collect. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division of Finance will insist upon absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have taken place unless the loan was paid in full in cash. A section 500 company is required by section 408.500.7, RSMo to consider, at the inception of the loan, the borrower's ability to repay. This requires the section 500 company to consider the borrower's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in sections 408.500.9 and 408.500.10, RSMo, which may include fines and/or revocation or suspension of the license. If a loan is renewed without the required principal reduction, the section 500 company shall reduce the principal of the loan to an amount that is consistent with the requirements of section 408.500.6, RSMo.

(9) Collection by Automated Clearing House (ACH). Checks may be presented for collection using an automated clearing house; however, a section 500 company shall not use a series of ACH transactions to collect a single check. Fees for dishonored ACH transactions shall be limited to those for refused instruments.

(10) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

(11) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002. Original rule filed Jan. 16, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for 10:00 a.m., March 20, 2003, at the Harry S Truman State Office Building, Room 850, 301 West High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Section 500 Companies

PROPOSED RULE

4 CSR 140-11.040 Record Keeping

PURPOSE: Section 500 companies are subject to regulation and examination by the Division of Finance, pursuant to sections 408.500.1 to 408.506, RSMo, for the purpose of assuring compliance with all applicable laws. This rule establishes minimum record keeping requirements to facilitate examination and regulation.

(1) Books and Records. No special system of records is required by the director of finance. The records of a section 500 company will be considered sufficient if they include a cash journal, double-entry general ledger or a comparable record, and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income, and expenses may be readily ascertained.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including all items of receipt or expenditures incidental to the granting or collection of section 500 company loans. Entries in the cash journal shall be separate from all other business activities.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit-and-loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. An individual record shall be kept for each borrower which shall include at least the following items:
(A) Name of the borrower;
(B) Date the original loan was made;
(C) Original loan amount;
(D) Interest rate;
(E) Dates payments were received;
(F) Amount of each payment received;
(G) Amount of each payment applied to interest;
(H) Amount of each payment applied to principal;
(I) Amount applied to late charges, if any;
(J) Amount applied to returned check charges, if any;
(K) Principal balance; and
(L) Renewal number.

(5) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the section 500 company and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the section 500 company and the other financial institution(s).

(6) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(7) Records to be Maintained. A section 500 company shall preserve all records of company transactions, including cards used in a card system, if any, for at least two (2) years after making the final entry with respect to any section 500 company agreement. Preservation of records may be by microfilm, microfiche or electronic means.

(8) Contracts Paid in Full. When a section 500 note is paid in full, the original contract or a copy thereof shall be marked "paid" and returned to the borrower.

(9) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002. Original rule filed Jan. 16, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for 10:00 a.m., March 20, 2003, at the Harry S Truman State Office Building, Room 850, 301 West High Street, Jefferson City, Missouri.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30—Division of Administrative and Financial Services
Chapter 4—General Administration

PROPOSED RESCISSION

5 CSR 30-4.010 General Provisions for Federal Programs. This rule established state finance regulations for federal programs to agree with federal regulations.

PURPOSE: This rule is being rescinded as the administrative and fiscal requirements are contained in the Education Division General Administrative Regulations (EDGAR).

AUTHORITY: section 178.430, RSMo 1986. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed May 13, 1976, effective Sept. 1, 1976. Amended: Filed May 12, 1978, effective Aug. 14, 1978. Amended: Filed Aug. 13, 1980, effective Nov. 14, 1980. Amended: Filed July 23, 1982, effective Nov. 15, 1982. Rescinded: Filed Jan. 14, 2003.

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 Department of Elementary and Secondary Education, Division of Administrative and Financial Services, Attn: Gerri Ogle, Associate Commissioner, PO Box 480, Jefferson City, MO 65102-0480. 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 50—Division of School Improvement
Chapter 355—No Child Left Behind

PROPOSED RULE

5 CSR 50-355.100 Persistently Dangerous Schools

PURPOSE: This rule will be used in Missouri to establish state compliance with the federal requirement set forth in the No Child Left Behind Act of 2001, and to determine if any Missouri public elementary and secondary schools are "persistently dangerous."

(1) The following definition(s) apply to this rule:

(A) Expulsions are defined as removal from school by local board action for an indefinite period of time until student is reinstated by local board of education.

(2) A Missouri public elementary or secondary school is persistently dangerous if the following conditions exists:

(A) In each of three (3) consecutive years:

1. The school has a federal and/or state gun-free schools violation; or

2. A violent criminal offense as set forth below is committed on school property which includes but is not limited to school buses or school activities; and

(B) In any two (2) years within the three (3)-year period listed above, the school experienced expulsions by local board action, for drug, alcohol, weapons or violence that exceed one (1) of the following rates:

1. More than five (5) expulsions per year for a school of less than two hundred fifty (250) students;

2. More than ten (10) expulsions per year for a school of more than two hundred fifty (250) students but less than one thousand (1,000) students; or

3. More than fifteen (15) expulsions per year for a school of more than one thousand (1,000) students.

(3) A student shall be allowed to attend a safe public school within the district, if that student is enrolled in a persistently dangerous school as defined above or becomes a victim of a violent criminal offense while on school property which includes but is not limited to school buses or school activities.

(4) For the purpose of this rule, a "violent criminal offense" shall be any offense that would require school administrators to, as soon as reasonably practical, notify the appropriate law enforcement agency pursuant to section 160.261, RSMo and those offenses that would bar a student from readmission to school pursuant to section 167.171, RSMo. Violent criminal offenses shall be reported by the school district to the Department of Elementary and Secondary Education (DESE) through Core Data. Violent criminal offenses are as follows:

(A) Murder 1st Degree under section 565.020, RSMo;
(B) Murder 2nd Degree under section 565.021, RSMo;
(C) Kidnapping under section 565.110, RSMo;
(D) Assault 1st Degree under section 565.050, RSMo;
(E) Forcible Rape under section 566.030, RSMo;
(F) Forcible Sodomy under section 566.060, RSMo;
(G) Burglary 1st Degree under section 569.160, RSMo;
(H) Burglary 2nd Degree under section 569.170, RSMo;
(I) Robbery 1st Degree under section 569.020, RSMo;
(J) Distribution of Drugs under section 195.211, RSMo;
(K) Distribution of Drugs to a Minor under section 195.212, RSMo;
(L) Arson 1st Degree under section 569.040, RSMo;
(M) Voluntary Manslaughter under section 565.023, RSMo;
(N) Involuntary Manslaughter under section 565.024, RSMo;
(O) Assault 2nd Degree under section 565.060, RSMo;
(P) Sexual Assault under section 566.040, RSMo;
(Q) Felonious Restraint under section 565.120, RSMo;
(R) Property Damage 1st Degree under section 569.100, RSMo;
(S) Possession of a Weapon under Chapter 571, RSMo;
(T) Child Molestation 1st Degree under section 566.067, RSMo;
(U) Deviate Sexual Assault under section 566.070, RSMo;
(V) Sexual Misconduct Involving a Child under section 566.083, RSMo; and/or
(W) Sexual Abuse under section 566.100, RSMo.

(5) A Missouri public elementary or secondary school shall receive technical assistance from DESE staff which includes but may not be limited to a site visit to work with building and district staff to prepare and implement a plan to prevent the building from meeting the criteria for a second year if it has:

(A) In any one (1) year:

1. A federal or state gun-free schools violation; or

2. A violent criminal offense, as set forth above, on school property; or

(B) In any one (1) year, expulsions by local board action for drugs, alcohol, weapons or violence that exceed one (1) of the following rates:

1. More than five (5) expulsions for schools of less than two hundred fifty (250) students;

2. More than ten (10) expulsions for schools of more than two hundred fifty (250) students, but less than one thousand (1,000) students; or

3. More than fifteen (15) expulsions per year for a school of more than one thousand (1,000) students.

AUTHORITY: sections 167.171, RSMo 2000, 160.261, RSMo Supp. 2001, and 161.092, RSMo Supp. 2002. Original rule filed Jan. 14, 2003.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions up to forty thousand dollars ($40,000) in Fiscal Year 2004 with the cost recurring annually over the life of the rule.

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 Department of Elementary and Secondary Education, ATTN: Dr. Bert Schulte, Assistant Commissioner, Division of School Improvement, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Title: 5 – Department of Elementary and Secondary Education
Division: 50 – Division of School Improvement
Chapter: 355 – No Child Left Behind
Type of Rulemaking: Proposed Rule
Rule Number and Name: 5 CSR 50-355.100, Persistently Dangerous Schools

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Public Elementary and Secondary School Districts	Cost of providing alternative program $20,000 (Transportation, out-of-district tuition.) Federal funds will be used for these activities.
Department of Elementary and Secondary Education (DESE)	Prevention programs - $20,000 (Training, materials, substitute costs.) Federal funds will be used for these activities.

III. WORKSHEET

Transportation - $13,500; Out-of-district tuition - $6,500; Training $300 X 50 = $15,000; Materials - $1,520; Substitute costs $60 X 58 = $3,480.

IV. ASSUMPTIONS

Cost of compliance for public elementary and secondary school districts is based on the number of students involved in a violent crime, the tuition to be paid to a neighboring school, the number of visitations a teacher would have to home school a student, and the cost of providing an alternative program for a student being located outside of their district. The cost for DESE depends on preventive measures that need to be taken and the number of site visits to schools.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 20—Labor and Industrial Relations Commission
Chapter 3—Rules Relating to Division of Workers' Compensation

PROPOSED AMENDMENT

8 CSR 20-3.030 Review of Awards or Orders Issued by Administrative Law Judges. The commission is amending section (5) and deleting the form following the rule in the *Code of State Regulations*.

PURPOSE: This amendment sets out specific requirements for the format of the briefs and clarifies the required contents of the briefs

(5) Briefs, Typewritten. Briefs filed in any case pending before the commission shall be typewritten. The original and two (2) copies shall be filed with the commission and a copy served upon the opposing party(ies).

(A) All briefs shall be subject to the following requirements:

1. Be on paper of size eight and one-half inches by eleven inches (8 1/2" × 11");

2. Be on paper weighing not less than nine (9) pounds to the ream;

3. Be typed on one (1) side of the paper;

4. Have a left, right, bottom, and top margin of not less than one inch (1"). Page numbers may appear in the bottom margin, but no other text may appear in the margins;

5. Have all pages consecutively numbered;

6. Use characters throughout the briefs, including footnotes that are not smaller than thirteen (13) font, Times New Roman on Microsoft Word;

7. Be double-spaced, except the cover, if any, certificate of service and signature block may be single-spaced.

(B) The brief of the petitioner shall not exceed thirty (30) pages. A respondent's brief shall not exceed twenty-five (25) pages. A reply brief is not required or suggested but if the petitioner believes it is necessary to file a reply, it shall not exceed eight (8) pages. A reply brief must be filed within ten (10) days of receipt of the respondent's brief. A cover sheet or index to the brief need not be counted in the page limitation but any attachments, exhibits or appendices to the brief will be considered as pages of the brief and subject to the page limitation for the entire brief. (Parties should note that the commission file contains the award and decision of the administrative law judge along with a complete transcript of the record. It is unnecessary to attach any of these materials to the brief. Any other attachment would not be of record and not subject to consideration, which is limited to the record or transcript of the hearing.) Any brief submitted which is not in compliance with the above may not be considered.

(C) The brief of the party requesting the application for review shall contain a fair and concise statement of facts without argument. The respondent may supplement the statement of facts if necessary. No jurisdictional statement is necessary unless jurisdiction is at issue. (Parties are advised that recitations of basic legal principles of workers' compensation law are not necessary and are discouraged. The commission is aware of principles such as that the burden of proof is on the employee, the law is to be liberally interpreted in favor of the employee, and that the commission may make its own determination of the facts, and credibility of the witnesses including experts.) The briefs shall identify the issues in dispute and address those issues only. The briefs should state concisely the factual or legal support for the party's positions. Lengthy recitation of facts or cases without identifying how they relate to the party's position will not be considered. Briefs of all parties should clearly outline and explain the issues in dispute and contain a conclusion in detail as to the decision, award or action requested from the Labor and Industrial Relations Commission.

*AUTHORITY: section 286.060, RSMo [Supp. 1997] **2000**. This version of rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed March 16, 1992, effective Sept. 6, 1992. Amended: Filed Nov. 17, 1998, effective April 30, 1999. Amended: Filed Jan. 15, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Labor and Industrial Relations Commission, Attn: John P. Madigan, PO Box 599, Jefferson City, MO 65102-0599. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

PROPOSED AMENDMENT

10 CSR 10-2.340 Control of Emissions from Lithographic Printing *[Facilities]* ***Installations***. The commission proposes to amend the rule title; amend subsections (1)(B) and (4)(C); amend headers on original sections (2), (3), (4) and (5); add new subsection (2)(I); renumber original subsections (5)(A) and (5)(C); renumber and amend original subsection (5)(B) and section (7); and delete section (6). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

PURPOSE: This amendment corrects an error in the applicability formula. This error can cause an understating of volatile organic compound (VOC) emissions and may be removing installations in an ozone maintenance area from applicability of this rule. Also, all sections of this rule are proposed to be restructured for consistency with the rule organization format and will clarify rule language to assist in enforcement of the rule. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is notification of problems in interpreting the calculation from Kansas City Regional Office.

(1) Applicability.

(B) This regulation shall apply to installations that have *[calculated actual volatile organic compound (VOC) emissions for a known number of crewed hours, increased by the amount by weight of VOCs whose emission into the atmosphere is prevented by the use of air pollution control devices and extrapolated to eight thousand seven hundred sixty (8760) hours per year to be equal to or greater than one hundred (100) tons per year from offset lithographic printing presses*

after December 9, 1991. To demonstrate this by formula. This regulation applies if—

$$[[E \times (1 - C) + E] \times \frac{8760}{H}] \geq 100 \text{ tons per year}$$

where
E = actual emissions during period of time H
C = overall control efficiency of control device(s)
H = number of crewed hours.]

uncontrolled potential to emit volatile organic compound (VOC) emissions greater or equal to one hundred (100) tons per year. To calculate the installation wide uncontrolled potential to emit VOC emissions, the following factors shall be taken into consideration unless an alternative method is approved by the director:

1. The installation shall assume fifty percent (50%) of the solvent used for cleanup is retained in the rag(s) when the used solvent-laden rag(s) are cleaned or disposed of. The installation must demonstrate to the director that the solvents are not evaporated into the air when the waste rags are properly cleaned and disposed of;

2. The installation shall assume forty percent (40%) of the heatset ink oils stay in the paper web;

3. The installation shall assume no VOCs are emitted from the inks used in sheet-fed presses and nonheatset web presses;

4. The installation may assume that fifty percent (50%) of the alcohol from the fountain solution is emitted from the dryer;

5. The installation shall assume, if control devices are present, the uncontrolled potential to emit VOC emissions are the potential emissions extrapolated to eight thousand seven hundred sixty (8,760) hours per year added to the emissions that are removed by the pollution control device(s) and extrapolated to eight thousand seven hundred sixty (8,760) hours per year;

6. The installation shall assume the potential emissions are the actual emissions released at the stack extrapolated to eight thousand seven hundred sixty (8,760) hours per year; and

7. The installation shall assume the control device emissions are all of the VOC emissions retained in the cleaning rags, substrate and those emissions removed by air pollution control devices extrapolated to eight thousand seven hundred sixty (8,760) hours per year.

(2) Definitions. *[Definitions of some terms specified in this regulation may be found in 10 CSR 10-6.020. Other definitions specific to this regulation are as follows:]*

(I) Definitions of certain terms in this rule, other than those specified in this rule section may be found in 10 CSR 10-6.020.

(3) *[Emission Limits]* **General Provisions**.

(4) *[Recordkeeping]* **Reporting and Record Keeping**.

(C) For each regulated printing press, records shall be maintained to show—

1. Quantity of alcohol added to the fountain solution of each regulated press in pounds each month;

2. Percent of alcohol in fountain solution by weight as monitored on a once per shift basis;

3. Results of any testing conducted on an emission unit at a regulated *[facility]* **installation**;

4. Maintenance records of any air pollution control equipment; and

5. The temperature of alcohol-based fountain solution as recorded on a once per shift basis.

[(5) Compliance.]

*[(A)]***(F)** All persons subject to the provisions of this regulation shall provide to the director for approval a demonstration of final compliance with subsection (3)(A)—

1. Upon startup of presses which are not in existence and operating on December 9, 1991;

2. Within eighteen (18) months (June 9, 1993) after the effective date of this regulation (December 9, 1991) for all presses with a cylinder width of less than sixty inches (60") and all web presses with a cylinder width of sixty inches (60") or greater that are in existence and operating on December 9, 1991; and

3. Within thirty-six (36) months (December 9, *[1991]* **1994**) after the effective date of this regulation (December 9, 1991) for all sheet-fed presses with a cylinder width of sixty inches (60") or greater that are in existence and operating on December 9, 1991.

*[(B)]***(G)** All persons subject to the provisions of this regulation shall provide to the director for approval a demonstration of final compliance with subsections (3)(B) and (C) **of this rule**—

1. Upon startup of presses which are not in existence and operating on December 9, 1991; and

2. Within eighteen (18) **months** (June 9, 1993) *[months]* after the effective date of this regulation for all presses that are in existence and operating December 9, 1991.

*[(C)]***(H)** All persons subject to the provisions of this regulation and not in compliance with all provisions of this regulation within twelve (12) months (December 9, 1992) from the effective date of this regulation (December 9, 1991) must submit a compliance plan to the director for approval. This plan must be received within six (6) months (June 9, 1992) after the effective date of this regulation (December 9, 1991). This plan must include the following:

1. A detailed plan of process modifications; and

2. A time schedule for compliance containing increments of progress, including:

A. Date of submittal of the source's final control plan to the appropriate air pollution control agency;

B. Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

C. Date of initiation of on-site construction or installation of emission control equipment or process change;

D. Date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

E. Date by which final compliance is to be achieved.

[(6) Calculations. To calculate the facility-wide VOC emissions, the following factors may be taken into consideration unless an alternative method is approved by the director:

(A) The facility may assume fifty percent (50%) of the solvent used for cleanup is retained in the rag when the used solvent-laden rags are cleaned or disposed of. The facility must demonstrate to the director that the solvents are not evaporated into the air when the waste rags are properly cleaned and disposed of;

(B) The facility may assume forty percent (40%) of the heatset ink oils stay in the paper web;

(C) The facility may assume no VOCs are emitted from the inks used in sheet-fed presses and nonheatset web presses; and

(D) The facility may assume that fifty percent (50%) of the alcohol from the fountain solution is emitted from the dryer.]

*[(7)]***(5)** *[Testing Procedures]* **Test Methods**.

(A) Testing and compliance demonstrations for subsection (3)(C) of this *[regulation]* **rule** shall follow the procedures contained in Environmental Protection Agency Reference Methods 25 or 25A found in 40 CFR Part 60, Appendix A.

(B) Testing and compliance demonstrations for paragraph (3)(A)1. of this *[regulation]* **rule** shall be based on the results from a calibrated hydrometer or refractometer.

AUTHORITY: section 643.050, RSMo [1986] 2000. Original rule filed June 4, 1991, effective Dec. 9, 1991. Amended: Filed Jan. 13, 2003.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., March 27, 2003. The public hearing will be held at the Holiday Inn West Park Conference Center, Sierra Room, 3257 Williams Street, Cape Girardeau, MO 63702. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., April 3, 2003. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

PROPOSED RULE

13 CSR 70-3.065 Medicaid Program Payment of Claims for Medicare Part B Services

PURPOSE: This rule establishes the regulatory basis for the administration of payment of claims for Medicare Part B services. The Division of Medical Services will limit reimbursement of deductible and coinsurance under Medicare Part B for dually-entitled individuals to only those covered services for which benefits are also allowable under the Medicaid program. This rule also limits Medicaid reimbursement to the lesser of such deductible and coinsurance amounts as are determined by Medicare for a given service or the amount by which the Medicaid maximum allowable amount for the same service exceeds the Medicare Part B payment made to the provider of physician or clinic services. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Title XIX Medicaid benefits for individuals dually entitled to Missouri Medicaid and Title XVIII Medicare Part B Supplementary Medical Insurance (SMI) shall be limited as follows:

(A) For services provided by an enrolled Medicaid provider to a recipient who is dually entitled to Title XIX Medicaid and Title XVIII Medicare Part B SMI, Medicaid vendor reimbursement shall be limited to payment of deductible and coinsurance amounts, as determined due under the applicable provisions of federal regulations pertaining to Medicare Part B, for only those goods and services which are covered by the state Medicaid program for those individuals who are Medicaid eligible; and

(B) Medicaid payment of such deductible and coinsurance amounts shall be limited to the lesser of—

1. The deductible and coinsurance due on the service; or
2. The amount remaining, if any, after subtracting the Medicare Part B payment made for the service from the maximum amount which Medicaid alone would have reimbursed for that same service.

(2) Provider, as used in this regulation, shall include the following Medicaid provider types:

20 and 24	Physicians
25	Nurse midwife
30	Podiatrist
36	Podiatry clinic
42	Nurse practitioner
49	Psychologist
50	Independent clinic (except federally qualified health clinic, ambulatory surgical center, and renal dialysis center)
51	Public health department clinic
52	Family planning clinic
54	Teaching institution department
55	Teaching institution
56	Community mental health center
75	Qualified Medicare beneficiary (QMB) only
91	Certified registered nurse anesthetist (CRNA)

(3) The provider of service which is covered under both Medicare Part B SMI and Medicaid must accept assignment of the Medicare benefits available for the service before Medicaid may consider a claim for payment of deductible and coinsurance subject to the limitations of this rule.

(4) If the service is a Medicaid covered service, amounts not reimbursed by Medicaid for crossover claims may not be billed to the Medicaid recipient.

(5) If the service is a non-covered Medicaid service, then no payment will be made. The recipient will be responsible for the coinsurance and deductible for any non-covered Medicaid service.

(6) The services and items covered and not covered and the program limitations shall be determined by the Department of Social Services, Division of Medical Services and shall be included in the *Physician Provider Manual* and special bulletins, which are incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at www.medicaid.state.mo.us.

(7) The limitations on Medicaid reimbursement provided in this rule shall be effective based on the date of service.

(8) There will be a processing charge for any Medicare Part B claim that does not automatically cross over or is not submitted to Department of Social Services, Division of Medical Services electronically via the Internet. In order to submit paper claims for reimbursement, Medicaid providers must agree that the cost of processing the paper claim of two dollars and ninety-one cents ($2.91) will be deducted from Medicaid payment due the provider. Paper claims

that cannot be filed electronically due to Medicaid policy are exempt from the processing charge.

AUTHORITY: sections 208.153 and 208.201, RSMo 2000. Original rule filed Jan. 10, 2003.

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

PRIVATE COST: This proposed rule represents an estimated maximal potential cost to providers of services to eligibles of Medicare Part B and Medicaid (dual eligibles) of 8.4 million dollars for SFY 2003 and 25 million dollars for SFY 2004.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-3.065 Medicaid Program Payment of Claims for Medicare Part B Services
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Providers of services to eligibles of Medicare Part B and Medicaid (dual eligibles)	SFY 2003 - $8.4 million SFY 2004 - $25 million

III. WORKSHEET

DMS uses Medicare guidelines for covered services and coding. This means that most procedure codes used by Medicaid are the same as Medicare. Repricing could begin in FY01. Assume fifteen percent (15%) could not be repriced - Medicaid rate higher than Medicare, mismatched codes, paper claims, Medicaid noncovered service (QMB eligible).

Physician Services	$12,288,402
Clinic Services	$17,434,478
Total	$29,722,880
Percent Save	85.00%
Projected Savings	$25,264,448

SFY 2003 = $25,264,448 x 4/12 = $8,421,482.

IV. ASSUMPTIONS

Examples of Part B Limitation to Medicaid Reimbursement for Medicare/Medicaid Dual Entitlement			
Explanation	Examples		
	1	2	3
A. Provider's charge for a service	$120	$120	$120
B. Medicare Part B reasonable charge (for service in Line A)	$100	$100	$100
C. Medicaid maximum allowable fee (for service in Line A)	$90	$110	$75
D. Medicare Part B payment (80% of reasonable charge in Line B)	$80	$80	$80
E. Maximum amount allowed for payment of coinsurance (e.g., Medicaid fee less Medicare payment: (Line C - Line D)	$10	$30	$0
F. Medicare Part B coinsurance billed to Medicaid (20% of reasonable charge in Line B)	$20	$20	$20
G. Medicaid payment for coinsurance (lesser of Lines E or F)	$10	$20	$0

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

PROPOSED AMENDMENT

15 CSR 30-52.310 Report of Completion of a Registration Statement. The commission is amending sections (1) and (2).

PURPOSE: The commissioner is amending sections (1) and (2) of this rule to extend the time in which the written statement of completion needs to be filed with the division and to allow authorized signatories of the registrant to sign the statement.

(1) Within *[fifteen (15) business]* **thirty** (**30**) days of the completion of an offering in Missouri, the registrant shall provide a written statement to the Securities Division that states the following:

(2) The written statement needs to be signed by an officer or director of the issuer **or by an authorized signatory of the registrant**.

AUTHORITY: sections 409.305(i) and 409.413(a), RSMo 2000. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Nov. 26, 2002.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Doug Ommen, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.010 Appointment of Arbitration Firm

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed by the attorney general in appointing a professional arbitrator or arbitration firm.

(1) Any controversy or claim arising out of or relating to consumer rights or remedies under sections 407.950 to 407.970, RSMo shall, at the option of the consumer, be settled by arbitration.

(2) The attorney general shall appoint a professional arbitrator or arbitration firm to administer the program for a term not to exceed two (2) years ending on the thirty-first day of December of the final year of appointment. At the option of the attorney general, the term shall be renewable.

(3) The following criteria shall be considered in the selection of a professional arbitrator or arbitration firm: capability, objectivity, nonaffiliation with an assistive device manufacturer, dealer or lessor, reliability, experience, financial stability, extent of geographic coverage, and fee structure.

(4) Each professional arbitrator or arbitration firm applying for appointment shall submit a fee schedule to the attorney general. Upon appointment by the attorney general, the arbitration firm shall adhere to its submitted fee schedule until the expiration of its appointed term.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.020 Notice to Consumers

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies the notice which must be given by sellers of the assistive device to consumers.

(1) Each manufacturer who sells or leases an assistive device to a Missouri consumer, either directly or through an assistive device dealer, shall furnish the consumer contemporaneously with the express warranty required by section 407.953, RSMo, a clear and conspicuous notice of the consumer's right to elect arbitration. This notice shall be in (10) ten point boldface type and shall include the following words or words of similar import and meaning:

> "Pursuant to Missouri law, you have the right to have certain disputes regarding the purchase of an Assistive device resolved through binding arbitration. To obtain a request for arbitration form, contact the manufacturer."

(2) The notice shall also include the name, address and telephone number of the person whom the consumer may contact to obtain a "Request for Arbitration form."

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.030 Filing for Arbitration

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed by the parties in arbitration.

(1) Each manufacturer who sells or leases an assistive device to a Missouri consumer, either directly or through an assistive device dealer, shall make available to the consumer, upon request a "Request for Arbitration" form.

(2) The "Request for Arbitration" form shall be in a format substantially similar to that set out in 15 CSR 60-11.160.

(3) To apply for arbitration under the program, a consumer shall obtain a "Request for Arbitration" form from the manufacturer, complete the form and submit it to the arbitration firm along with the prescribed filing fee.

(4) For claims made pursuant to sections 407.950 to 407.970, RSMo, the consumer shall indicate on the form his/her choice of remedy (i.e., refund, repair or replacement with a comparable assistive device), in the event the arbitrator rules in favor of the consumer. If the consumer prevails, such choice shall be followed by the arbitrator unless the consumer advises the arbitrator, in writing, of a change in his/her choice of remedy prior to the arbitrator's rendering of a decision.

(5) On the day the arbitration firm receives the "Request for Arbitration" form together with the filing fee, the arbitration firm shall date stamp the form. Such date shall be considered the "filing date."

(6) Within five (5) business days of the filing date, the arbitration firm shall send the manufacturer's designee a copy of the consumer's completed form along with a notice that it may respond in writing.

(7) Within fifteen (15) days of the filing date, the manufacturer shall respond in triplicate to the arbitration firm, who shall promptly forward one (1) copy to the consumer. Failure by the manufacturer to respond shall be deemed to be an admission of all claims made by the consumer.

(8) The consumer may respond in writing to the manufacturer's submission within twenty-five (25) days of the filing date. Such response shall be sent in triplicate to the arbitration firm, who shall promptly forward a copy to the manufacturer.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.040 Cost of Arbitration

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures concerning the cost of arbitration.

(1) Each consumer who files a "Request for Arbitration" form shall pay a processing fee to the arbitration firm of fifty dollars ($50).

(2) All other costs of arbitration shall be paid to the arbitration firm by the manufacturer.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.050 Assignment of Arbitrator

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed by the arbitration firm in selecting an arbitrator.

(1) After the filing date, the arbitration firm shall assign an arbitrator to hear and decide the case. Notice of assignment shall be mailed to the arbitrator and the parties along with a copy of these regulations and sections 407.950 to 407.970, RSMo.

(2) The arbitrator assigned shall not have any bias, any financial or personal interest in the outcome of the hearing, or any current connection to the sale or manufacture of assistive devices.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.060 Scheduling of Arbitration Hearings

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed by the parties and the arbitrator.

(1) The arbitration shall be conducted as an oral hearing unless the consumer has requested, on the "Request for Arbitration" form, a hearing on documents only and both parties agree to a documents-only hearing; provided, however, that the parties may mutually agree in writing to change the mode of hearing. Upon such change, the parties shall notify the arbitrator who shall comply with the request.

(2) An oral hearing, unless waived by the parties, shall be scheduled to take place no later than forty (40) days from the filing date, unless a later date is agreed to by both parties. The arbitrator shall notify both parties of the date, time and place of the hearing at least ten (10) days prior to its scheduled date.

(3) Hearings shall be scheduled to accommodate, where possible, time-of-day needs of the consumer and the manufacturer, including evening and weekend hours.

(4) Hearings shall also be scheduled to accommodate geographic needs of the consumer. The hearing site shall be no more than one hundred (100) miles from the consumer's residence unless the consumer agrees, in writing, to a hearing at a location farther than one hundred (100) miles from his or her residence.

(5) A party may present its case by telephone, provided that notice, in writing, is given to the arbitrator and to the other party at least two (2) business days prior to the scheduled hearing date. In such cases, the arbitrator and both parties shall be included.

(6) Either party may make a request to adjourn and reschedule the hearing. Except in unusual circumstances, such request shall be made to the arbitrator, orally or in writing, at least two (2) business days prior to the hearing date. Upon a finding of good cause, the arbitrator may reschedule the hearing. In unusual circumstances, the arbitrator may reschedule the hearing at any time prior to its commencement.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.070 Request for Additional Information or Documents

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed in conducting discovery.

(1) A party, by application in writing to the arbitrator, may request the arbitrator to direct the other party to produce any documents or information. The arbitrator shall, upon receiving such request, or on his or her own initiative, direct the production of documents or information which he or she believes will reasonably assist a party in presenting his or her case or assist the arbitrator in deciding the case. The arbitrator's direction for the production of documents and information shall allow a reasonable time for the gathering and production of such documents and information.

(2) All documents and information forwarded in compliance with the arbitrator's direction shall be legible and received by the arbitrator and other party no later than three (3) business days prior to the date of the hearing. Each party shall bear its own photocopying costs.

(3) Upon failure of a party to comply with the arbitrator's direction to produce documents and/or information, the arbitrator may draw a negative inference concerning any issue involving such documents or information.

(4) The term "documents" in this section shall include, but not be limited to, relevant manufacturer's service bulletins, dealer work orders, diagnoses, bills, and all communication relating to the consumer's claim.

(5) At the request of either party or on his or her own initiative, the arbitrator, when he or she believes it appropriate, may subpoena any witnesses to appear or documents to be presented at the hearing.

(6) Where a witness cannot be subpoenaed or is unable to attend the hearing, the arbitrator may, at the written request of either party or on his or her own initiative, permit a deposition to be taken, in a manner and upon terms designated by the arbitrator. Such deposition may be used as evidence and considered by the arbitrator in making his or her decision.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.080 Representation by Counsel or Third Party

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures related to participation by a third party.

(1) Any party may be represented by counsel or assisted by any third party.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.090 Hearing Procedure

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed at the arbitration hearing.

(1) The conduct of the hearing shall afford each party a full and reasonable opportunity to present his or her case.

(2) The arbitrator shall administer an oath or affirmation to each individual who testifies.

(3) Formal rules of evidence shall not apply; the parties may introduce any relevant evidence at the discretion of the arbitrator.

(4) The arbitrator may receive relevant evidence of witnesses by affidavit and such affidavits shall be given such weight as the arbitrator deems appropriate.

(5) The arbitrator shall have discretion to examine the consumer's assistive device. Both parties shall be afforded the opportunity to be present and accompany the arbitrator on any such examination.

(6) The consumer shall first present evidence in support of his or her claim, and the manufacturer shall then present its evidence. Each party may question the witnesses called by the other. The arbitrator may question any party or witness at any time during the hearing.

(7) The arbitrator may request additional evidence after closing the hearing. All such evidence shall be submitted to the arbitration firm for transmission to the arbitrator and the parties.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.100 Accommodations for the Disabled

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures related to accommodations for the disabled.

(1) Any party may request reasonable accommodations at a hearing, including access and auxiliary aids and services, in accordance with the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) and the regulations thereunder (28 CFR Part 35) as such Act and regulations may, from time-to-time, be amended.

(2) Such request shall be made to the arbitration firm at the time the consumer submits his or her "Request for Arbitration" form.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.110 Hearing on Documents Only

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures related to submission of the case on documents only.

(1) If the hearing is on documents only, all documents shall be submitted to the arbitrator no later than thirty-five (35) days from the filing date. The arbitrator shall render a decision within ten (10) business days based on all documents submitted.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.120 Defaults

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed by the arbitrator in conducting the hearing.

(1) Upon the failure of a party to appear at an oral hearing, the arbitrator shall nevertheless conduct the hearing and render a decision based on the evidence presented and documents contained in the file.

(2) If neither party appears at a scheduled oral hearing, the arbitrator shall dismiss the case without a decision and so notify the parties. The dismissal shall be without prejudice to future refiling.

(3) In a documents-only hearing, where the manufacturer fails to respond to the claim, the arbitrator shall render a decision based upon the documents contained in the file.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.130 Withdrawal or Settlement Prior to Decision

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required

to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures related to withdrawal of claims or settlement.

(1) A consumer may withdraw his or her request for arbitration at any time prior to decision. If the arbitration firm is notified by the consumer of his or her request to withdraw the claim within seven (7) business days of the filing date, the arbitration firm shall refund the filing fee.

(2) If the parties agree to a settlement more than seven (7) business days after the filing date but prior to the issuance of a decision, they shall notify the arbitrator in writing of the terms of the settlement. Upon the request of the parties, the arbitrator shall issue a decision reflecting the settlement.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.140 Arbitrator's Decision

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures to be followed by the arbitrator in reaching the decision.

(1) The arbitrator shall render a decision within ten (10) business days of the hearing date which shall be in writing and shall include findings of fact and conclusions of law. The decision shall be dated and signed by the arbitrator.

(2) In his or her decision, the arbitrator shall determine whether the consumer is entitled to relief pursuant to sections 407.950 to 407.970, RSMo. If the arbitrator finds that the consumer is so entitled, he or she shall award the specific remedies prescribed by the statute.

(3) The decision shall specify the monetary award, where applicable. A calculation of the amount, in accordance with sections 407.950 to 407.970, RSMo, shall be included in the decision. If the consumer prevails, the decision may also award the prescribed filing fee along with reasonable attorney fees, if applicable, and any equitable relief that the arbitrator deems appropriate.

(4) The decision shall, where applicable, require that any action required to be taken by the manufacturer be completed within thirty (30) days from the date the arbitrator notifies the manufacturer of the decision.

(5) The arbitrator shall, within five (5) days of rendering a decision, mail a copy of the final decision to both parties and the attorney general.

(6) Failure to mail the decision to the parties within the specified time period or failure to hold the hearing within the prescribed time shall not invalidate the decision.

(7) The arbitrator's decision is binding on both parties and is final. The decision shall include a statement to this effect.

(8) An award rendered by the arbitrator may be confirmed, vacated or modified in the manner set out in sections 435.400–435.440, RSMo.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.150 Record Keeping

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies procedures related to making a record.

(1) The arbitration firm shall keep all records pertaining to each arbitration for a period of at least two (2) years and shall make the records of a particular arbitration available for inspection upon written request by a party to that arbitration, and shall make records of all arbitrations available to the attorney general upon written request.

(2) At the expiration of the arbitration firm's appointment, if that appointment is not renewed, all records pertaining to arbitrations conducted pursuant to sections 407.950 to 407.970, RSMo shall be turned over to the attorney general.

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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 11—Rules for Assistive Devices

PROPOSED RULE

15 CSR 60-11.160 Sample "Request For Arbitration" Form

PURPOSE: The attorney general administers provisions of the Wheelchair Lemon Law and Assistive Devices for Major Life Activity, sections 407.950 to 407.970, RSMo. The attorney general is required to establish regulations controlling the arbitration of disputes arising under these provisions. This rule specifies a sample Request for Arbitration form.

MISSOURI WHEELCHAIR AND ASSISTIVE DEVICE LEMON LAW

CONSUMER INFORMATION

1. Name:_____
   Address:_____
   City:_____State:_____ Zip:_____
   Phone: Home (____)_____ Work: (____)_____

ASSISTIVE DEVICE INFORMATION
(Attach Copy of Bill of Sale or Lease)

1. Type of Device: _____
   (For example, Wheelchair or Hearing Aid)
2. Manufacturer: _____
3. Year: _____ Model: _____
4. [ ] I purchased my assistive device [ ] I leased my assistive device
5. Did you purchase or lease your assistive device in Missouri?
   [ ] Yes [ ] No
6. Date of delivery? _____
7. Do you still own or lease your assistive device?
   [ ] Yes [ ] No

DEALER INFORMATION

8. Name: _____
   Address: _____
   City: _____ State: _____ Zip: _____

LEASING COMPANY (if leased)

9. Name: _____
   Address: _____
   City: _____ State: _____ Zip: _____

ASSISTIVE DEVICE PROBLEM(S)

10. Briefly describe the existing problem(s) for which you now seek relief:

_____

_____

11. (a) What date did you first report the problem(s) to the dealer or the manufacturer? _____
    (b) Did you make the assistive device available for repair before one year after the first delivery? . . . . . Yes [ ] No [ ]
12. Were there one or more unsuccessful repair attempts within one year from the date of original delivery? . . . . Yes [ ] No [ ]
13. Does the problem continue to exist? . . . . . .Yes [ ] No [ ]
14. Give the date and work order number for each of the repair attempts by the dealer or manufacturer and attach copies of them. If you do not have copies of the work orders, once accepted into the Program, you may request copies from the manufacturer, with the arbitrator's approval.
    Problem (Specify) _____

	Date	Work Order Number
(1)	_____	_____
(2)	_____	_____
(3)	_____	_____
(4)	_____	_____

15. List the dates your assistive device was out of service:
    From: _____ To: _____ Days out: _____
    From: _____ To: _____ Days out: _____
    From: _____ To: _____ Days out: _____
    From: _____ To: _____ Days out: _____

TYPE OF HEARING

16. [ ] Oral
    (a) in person ..... [ ]
    (b) by telephone..... [ ]
[ ] Documents only (if manufacturer agrees)

RELIEF REQUESTED

17. If successful, I wish to receive a:
    [ ] full refund [ ] comparable new replacement device

Attach copies of all relevant documents (including your purchase or lease agreement, all service or work orders relating to the problem for which you seek this arbitration, and any correspondence between you and the manufacturer or its dealer relating to such problem). DO NOT SEND ORIGINAL DOCUMENTS.

Please enclose the filing fee of $50.00. Upon receipt of the filing fee, your claim will begin to be processed.

NOTICE: The decision of the arbitrator under this program is binding on both parties. You may wish to consult an attorney before participating in this program.

Sign below and return the completed form, together with your documents and the filing fee, to _____.

SIGNATURE: _____ Date: _____

AUTHORITY: sections 407.965 and 407.970, RSMo 2000. Original rule filed Jan. 27, 2003.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Office of Attorney General, David B. Cosgrove, Chief Counsel, 1530 Rax Court, 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.*