

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 197—Board of Therapeutic Massage
Chapter 6—Complaints and Investigations**

PROPOSED RULE

4 CSR 197-6.010 Public Complaint Handling and Disposition Procedure

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of public complaints pursuant to the mandate of section 620.010.15(6), RSMo.

(1) The Division of Professional Registration/Board of Therapeutic Massage will receive and process each complaint made against any licensee, applicant or unlicensed individual or entity, in which the complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of sections 324.240–324.275, RSMo. Any member of the public or the profession, or any federal, state or local official, may make and file a complaint with the Board of Therapeutic Massage. Complaints will be received from sources both within and without Missouri and processed in the same manner as those originating within Missouri. No member of the Board of Therapeutic Massage may file a complaint with the board while serving in that capacity, unless that member is excused from further deliberation or activity concerning the matters alleged within that complaint. The executive director or any division staff member may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints shall be mailed or delivered to the following address: The Division of Professional Registration or the Board of Therapeutic Massage, P.O. Box 1335, Jefferson City, MO 65102. Complaints may be based upon personal knowledge or beliefs based on information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Oral or telephone communications will not be considered or processed as complaints. The person making these communications will be asked to file a written statement.

(4) The division will maintain each complaint received under this rule. The complaint file will contain a record of each complainant's name and address, and the subject(s) of the complaint; the date each complaint is received by the division; a brief statement of the complaint, including the name of any person injured or victimized by the alleged acts or practices; and the ultimate disposition of the complaint. This complaint file shall be a closed record of the division.

(5) Each complaint received under this rule shall be acknowledged in writing. The complainant shall be notified of the ultimate disposition of the complaint.

(6) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee with any actionable conduct or violation. The complaint filed by the board need not be limited to the acts charged in a public complaint.

(7) The division/board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the division/board. This rule does not create any cause of action for licensees against whom the division/board has instituted or may institute administrative or judicial proceed-

ings concerning possible violations of the provisions of sections 324.240–324.275, RSMo.

AUTHORITY: sections 324.245, 324.257, 324.260, 324.262, 324.275 and 620.010.15(6), RSMo Supp. 1999. Original rule filed Feb. 25, 2000.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated \$35,192 annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will not cost private entities more than \$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 Board of Therapeutic Massage, Donna Steinmetz, Executive Director, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing on this proposed rule is scheduled for May 10, 2000 from 1:00–5:00 p.m. in Room 492 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

Division of Professional Registration
FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 197-Board of Therapeutic Massage

Chapter: 6 – Complaints and Investigations

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 197-6.010 Public Complaint Handling and Disposition Procedure

Prepared December 27, 1999 by the Board of Therapeutic Massage of the Department of Economic Development.

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Board of Therapeutic Massage	\$35,192.00

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries, correspondence, process complaints, prepare meeting agendas, attend meetings of the board and to implement board/division directives.
- 2) Expense and equipment costs are incurred for meeting preparation and board expenses incurred in monitoring complaints and conducting investigations;
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, survey inspections, investigations and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 0%	Enforcement – 40%
Personal Service	\$0	\$9,910.00
Expense & Equipment	\$0	\$2,288.00
Transfers	\$0	\$22,994.00
TOTAL	\$0	\$35,192.00

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Board of Therapeutic Massage were determined by using allotment figures for personal service, expense and equipment, and

transfers based on actual costs incurred for a board of similar size. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 60% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 40% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2– Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$61,934.00	60% - Licensure	\$37,160.00
\$61,934.00	40% - Enforcement	\$24,774.00

Table 3– Allocation of Expense & Equipment Dollars

Allotment	Percentage & Category	Dollar Amount
\$14,298.00	60% - Licensure	\$8,579.00
\$14,298.00	40% - Enforcement	\$5,719.00

Table 4– Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$143,711.00	60% - Licensure	\$86,227.00
\$143,711.00	40% - Enforcement	\$57,484.00

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 40% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 197—Board of Therapeutic Massage
Chapter 6—Complaints and Investigations**

PROPOSED RULE

4 CSR 197-6.020 Investigation

PURPOSE: This rule outlines the procedures for conducting an investigation.

(1) Upon receipt of a complaint in proper form, the division/board may investigate the actions of the licensee, applicant or registrant against whom the complaint is made.

(2) In conducting an investigation, the division/board, in its discretion, may request the licensee, applicant or registrant under investigation to answer the charges made against him/her in writing and to produce relevant documentary evidence and may request him/her to appear before the division/board.

AUTHORITY: sections 324.245, 324.257, 324.260, 324.262, 324.275 and 620.010.15(6), RSMo Supp. 1999. Original rule filed Feb. 25, 2000.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated \$17,596 annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will not cost private entities more than \$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 Board of Therapeutic Massage, Donna Steinmetz, Executive Director, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. A public hearing on this proposed rule is scheduled for May 10, 2000 from 1:00–5:00 p.m. in Room 492 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

**Division of Professional Registration
FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 197-Board of Therapeutic Massage

Chapter: 6 – Complaints and Investigations

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 197-6.020 Investigation

Prepared December 27, 1999 by the Board of Therapeutic Massage of the Department of Economic Development.

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Board of Therapeutic Massage	\$17,596.00

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries, correspondence, process complaints and investigative reports, prepare meeting agendas, attend meetings of the board and to implement board/division directives.
- 2) Expense and equipment costs are incurred for meeting preparation and board expenses in monitoring complaints and conducting investigations;
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room survey inspections, investigations and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 – Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure – 0%	Enforcement – 20%
Personal Service	\$0	\$4,955.00
Expense & Equipment	\$0	\$1,144.00
Transfers	\$0	\$11,497.00
TOTAL	\$0	\$17,596.00

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Board of Therapeutic Massage were determined by using allotment figures for personal service, expense and equipment, and transfers based on actual costs incurred for a board of similar size. These annual costs will recur

each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 60% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 40% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

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Allotment	Percentage & Category	Dollar Amount
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In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 20% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RULE

11 CSR 30-9.010 Definition

PURPOSE: This rule defines a crime tip organization as it applies under Operation Payback.

(1) "Crime tip organization" shall mean a Missouri, community-based partnership between the community, law enforcement and the media working together in the community's fight against crime by encouraging citizens via cash rewards and anonymity to provide law enforcement information leading to the arrest of criminals.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expires Aug. 26, 2000. Original rule filed Feb. 28, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Doug Shoemaker, Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RULE

11 CSR 30-9.020 Participation Eligibility Requirements

PURPOSE: This rule establishes the criteria for a crime tip organization to be registered with the Missouri Department of Public Safety and thus be eligible to request reimbursement funds through Operation Payback.

(1) To be registered with the Missouri Department of Public Safety, the crime tip organization must provide the Missouri Department of Public Safety, Office of the Director, the following information:

(A) A current list of all board members, which includes at least one representative of the community's municipal or county law enforcement agency;

(B) A copy of the crime tip organization's bylaws; and

(C) Information concerning the crime tip organization's federal tax identification number and a copy of documents of incorporation filed with the Missouri secretary of state.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expires Aug. 26, 2000. Original rule filed Feb. 28, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Doug Shoemaker, Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RULE

11 CSR 30-9.030 Reimbursement Criteria

PURPOSE: This rule establishes the criteria for a crime tip organization receiving reimbursement funds through Operation Payback.

(1) To be considered for reimbursement through Operation Payback, the requesting crime tip organization must be registered with the Missouri Department of Public Safety, Office of the Director.

(2) The crime tip organization must submit the following information with its request for reimbursement:

(A) The date each tip, for which reimbursement is requested, was provided to the crime tip organization;

(B) The date each informant was paid for a tip, for which reimbursement is requested;

(C) The total amount paid to the informant for each tip, for which reimbursement is requested;

(D) The number of arrests that resulted from each tip for which reimbursement is requested;

(E) The amount of methamphetamine seized as a result from each tip for which reimbursement is requested; and

(F) A copy of the report filed by the law enforcement agency making the arrest/seizure or a case number of the arrest/seizure.

(3) A crime tip organization requesting reimbursement funds through Operation Payback may be reimbursed up to two hundred fifty dollars (\$250) for each crime tip on methamphetamine. If a crime tip organization awards more than two hundred fifty dollars (\$250) for a tip on methamphetamine, it may only receive two hundred fifty dollars (\$250) in reimbursement funds. A crime tip organization may not receive in excess of five thousand dollars (\$5,000) during any state fiscal year.

(4) A crime tip organization registered under Operation Payback may only receive reimbursement funds for methamphetamine seizures within the state of Missouri.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expires Aug. 26, 2000. Original rule filed Feb. 28, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Doug Shoemaker, Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RULE

11 CSR 30-9.040 Operation Payback Restrictions

PURPOSE: This rule stipulates prohibited use of reimbursement funds through Operation Payback.

(1) Reimbursement funds through Operation Payback may only be utilized by crime tip organizations registered and approved through the Missouri Department of Public Safety, Office of the Director, and only for use of the registered crime tip organization as provided in section 650.020, RSMo.

(A) Crime tip organizations are not permitted to use Operation Payback funds to reimburse any law enforcement officer.

(B) Requests for reimbursement must only be for tips involving the sale or manufacture of methamphetamine that leads to a methamphetamine seizure.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expires Aug. 26, 2000. Original rule filed Feb. 28, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Doug Shoemaker, Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RULE

11 CSR 30-9.050 Organization Disqualification

PURPOSE: This rule establishes the criteria for which a crime tip organization may be removed from, or denied entry into, the Operation Payback program.

(1) A crime tip organization may be removed from participation in Operation Payback if it is determined they have provided false information to the Missouri Department of Public Safety, Office of the Director, in order to receive reimbursement funds. False information may include, but is not limited to:

(A) Indicating a higher amount of rewards granted than they actually provided; or

(B) Providing false information regarding seizures of methamphetamine or methamphetamine arrests; or

(C) Using Operation Payback funds to pay law enforcement officers.

(2) A crime tip organization may be denied entry into Operation Payback by the Missouri Department of Public Safety, Office of the Director, for the following reasons:

(A) The crime tip organization refuses or is unable to provide the information required in order to be registered with the Missouri Department of Public Safety, Office of the Director; or

(B) It is determined the crime tip organization has provided false information to the Missouri Department of Public Safety, Office of the Director.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expires Aug. 26, 2000. Original rule filed Feb. 28, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Doug Shoemaker, Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.053 Policies. The commission proposes to amend subsection (4)(D).

PURPOSE: This amendment gives the commission the discretion to permit certain devices that assist patrons in playing gambling games.

(4) No person shall use, or possess with the intent to use, any calculator, computer or other electronic, electrical or mechanical device at any table game that—

(D) Keeps track of playing strategies being utilized, **except as permitted by the commission.**

AUTHORITY: sections 313.004 and 313.805, RSMo 1994 and 313.807, RSMo [Supp. 1997] Supp. 1999. Original rule filed Feb. 19, 1998, effective Aug. 30, 1998. Amended: Filed May 13, 1998, effective Jan. 30, 1999. Amended: Filed March 1, 2000.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. A public hearing is scheduled for 2:00 p.m., on May 5, 2000, at the Missouri Gaming Commission, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

PROPOSED AMENDMENT

11 CSR 45-17.030 Procedure for Entry of Names onto List of Disassociated Persons. The commission proposes to amend section (2) of the rule.

PURPOSE: This rule changes procedures for entry of names onto the List of Disassociated Persons.

(2) The director shall deliver a copy of the Notice of Placement on the List of Disassociated Persons to the applicant via [certified mail at the home address listed in the application, unless otherwise requested by the applicant. If certified mail delivery is unsuccessful, the director shall send the notice via] regular U.S. mail to the home address contained on the application. The applicant is deemed to be placed on the List of Disassociated Persons at the time the person executes the application for placement on the List of Disassociated Persons, not at the time such notice is delivered to the applicant.

AUTHORITY: sections 313.004 and 313.805, RSMo 1994. Original rule filed April 18, 1996, effective Dec. 30, 1996. Emergency amendment filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Amended: Filed Aug. 28, 1998, effective March 30, 1999. Amended: Filed March 1, 2000.

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

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

NOTICE 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 Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 2:00 p.m. on May 5, 2000, at the Missouri Gaming Commission, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers**

PROPOSED AMENDMENT

11 CSR 75-3.030 Requirements for and Terms of Certification. The commission is amending subsections (1)(C) and (1)(E).

PURPOSE: This rule is deleting a requirement that no longer pertains to a peace officer's certification, but adding a new requirement that each peace officer will have to pass a certification exam.

(1) Requirements for Certification.

(C) [The director or his/her designated representatives may require the passing of a qualifying examination as a condition of certification. Trainees who fail to pass the examination may apply for reexamination no less than thirty (30) days after notification of failure. Trainees also may be required to take supplementary or remedial training before being permitted to retake the examination. Trainees

who fail after three (3) attempts to pass the qualifying examination shall repeat the basic training course and pass the qualifying examination in order to become certified. On or after January 1, 1998, the director or his/her designate may require that trainees graduating from a POST certified training center shall pass the Missouri Certification Examination to become certified.] On or after January 1, 1998, the director may require that all individuals graduating from a POST certified training course of four hundred and seventy (470) hours or more, and all individuals participating in the reciprocity process as is outlined in paragraphs (1)(E)6. through (1)(E)9. of this section, shall be required to pass the Missouri Peace Officer Certification Examination to become certified to be commissioned as peace officers. Individuals must pass the certification examination with a minimum score of seventy percent (70%) as a condition of certification. Individuals who fail to pass the examination may apply for reexamination by POST or its designated representative within thirty (30) days after notification of failure. If an individual fails the examination a second time, such person must contact POST no less than thirty (30) days after notification of failure and schedule a time to take the examination a third time. If an individual fails the examination for a third time, or fails to reschedule within the thirty (30)-day time frame to retake the examination, such person must wait one year from the date of the last examination. An individual may take the examination no more than three (3) times in any one (1)-year period, unless the individual completes a basic training course of four hundred and seventy (470) hours or more within this one (1)-year period. The Department of Public Safety may charge individuals taking the examination a fee each time that they take the Missouri Peace Officer Certification Examination.

(E) On or after August 28, 1996, individuals graduating from a POST certified training center and meeting the certification requirements of sections 590.100–590.180, RSMo, shall be issued certification to be eligible for employment as a Missouri peace officer.

1. Starting August 28, 1996, the training center director shall insure that each individual entering a basic training course meets the POST mandated training center entry requirements. The training center director shall complete a POST Certification/Information Form (I-1T), on each student attending basic training, and attach the following:

- A. The results of a criminal background check by the Missouri State Highway Patrol and from the state of residency;
- B. Proof of United States citizenship;
- C. A copy of high school diploma or its equivalent; and
- D. Proof that the applicant is at least eighteen (18) years of age at the beginning of the basic training course.

2. Applicant must be twenty-one (21) years of age at the time certification is issued. If the period of time from training center graduation and his/her twenty-first birthday is greater than ninety (90) days then a criminal background check by the Missouri State Highway Patrol will need to be submitted to the Department of Public Safety before certification will be granted.

3. If the individual has a criminal history or the training center director has information that the applicant has committed gross misconduct indicating inability to function as a peace officer, POST approval must be obtained before the applicant may attend the basic training course. Any denial of entry to a POST certified training center shall be in accordance with section 590.135, RSMo.

4. Within thirty-five (35) days prior to the completion of the basic training course the completed Certification/Information Form and supporting documentation will be sent to POST by the training center director. Late applicants shall not be issued certification until the completed Certification/Information/[a] Form and supporting documentation is received and processed by POST. The

training center director shall advise the late applicant before admission, in writing, that if the applicant has committed acts in violation of section 590.135, RSMo, s/he shall be dismissed from the academy and/or shall not be certified by POST.

5. The graduate will receive the POST Certification Certificate upon successful completion of the basic training course. The certificate will be distributed by the training center director. The training center director shall return to POST all POST Certification Certificates of those individuals not graduating.

6. Individuals other than recruits in training centers shall apply directly to the POST Program for certification using the POST Certification Information Form 1-R (see 11 CSR 75-1.010), that is, officers seeking reciprocity from other states, federal law enforcement officers seeking Missouri certification, Missouri certified peace officers seeking a higher level of certification, or officers whose certification has expired applying for peace officer certification.

7. These officers must successfully pass the Missouri **Peace Officer Certification Examination in accordance with the requirements outlined in subsection (1)(C) of this rule** to become certified peace officers. Eligibility for examination shall be based on comparable pre-employment education as determined by points given for hours of basic training, years of service as a full-time certified peace officer or federal law enforcement officer, advanced degrees, or hours of documented law enforcement continuing education. Ten to fifteen (10-15) points allows a candidate to take the examination and upon passing same becomes certified. Sixteen (16) points or more allows a candidate to take the examination and upon passing, the candidate would become certified for employment in first class charter counties.

8. Candidates who do not have one (1) year of continuous service as a full-time certified peace officer or federal law enforcement officer, or who have less than one hundred twenty (120) hours of basic training are not eligible for examination. Candidates who do not have one (1) year of continuous service as a full-time certified peace officer, but have had significant experience as a certified reserve officer, may appeal to the commission for eligibility of examination, however, no points shall be awarded for years of experience. Candidates trained and certified at less than three hundred (300) hours, after August 28, 1994, or four hundred and seventy (470) hours, after August 28, 1996, shall not be eligible for examination. For the purposes of this rule, the terms defined have the following meanings given to them:

A. "Basic training" means training recognized by a state council, state commission, state board, or state agency that leads to licensing or basic certification as a peace officer, or any portion of a basic recruit training course recognized by the federal government for its law enforcement officers, which falls within the core curricula areas of the Missouri four hundred seventy (470)-hour or six hundred (600)-hour basic training course;

B. "Years of experience" means the total number of years the applicant has been employed as a peace officer or federal law enforcement officer, including at least one (1) year of continuous employment as a peace officer or federal law enforcement officer, and who has not had a peace officer certification, license, or the federal equivalent suspended or revoked;

C. "Advanced degree" means an academic degree including: associate's degree, bachelor's degree, master's degree and doctorate, awarded by an accredited college or university; and

D. "Continuing education" means properly documented training which occurs after employment, used to refresh, expand or supplant basic training.

9. Eligibility for examination is determined by the number of points as follows:

- A. Basic training—
 - 120 hours to 299 hours of basic training, 3 points
 - 300 hours to 469 hours of basic training, 5 points

- 470 hours to 599 hours of basic training, 8 points
- 600 hours or more of basic training, 14 points

- B. Years of experience—
 - 1 year and 1 day to 3 years experience, 2 points
 - 3 years and 1 day to 4 years experience, 3 points
 - 4 years and 1 day to 5 years experience, 4 points
 - 5 years and 1 day to 10 years experience, 5 points
 - 10 years and 1 day to 15 years experience, 6 points
 - 15 years and 1 day to 20 years experience, 7 points
 - 20 years and 1 day or more experience, 8 points
- C. Advanced degree—
 - Associate's degree, 1 point
 - Bachelor's degree, 2 points
 - Master's degree, 3 points
 - Doctorate degree, 4 points
- D. Continuing education—
 - Achieved 16 continuing education hours for each calendar year of service, 1 point
 - Achieved 32 continuing education hours for each calendar year of service, 2 points.
- E. Additional training—
 - Graduate of the Federal Bureau of Investigation (FBI) National Academy or its equivalent as determined by the director for every 100 contact /training hours, 1 point.

[10. Candidates eligible for examination shall be required to pass the Missouri Certification Examination and any associated practical exercises, as a condition for certification. Candidates who fail to pass the examination may apply for re-examination after no less than thirty (30) days from notification of failure.

11. Candidates who fail the examination three (3) times shall be required to complete an applicable certified basic training course and pass the examination to become certified.]

AUTHORITY: sections 590.120 and 590.135, RSMo [Supp. 1997] Supp. 1999. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 15, 1999. Amended: Filed Feb. 9, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 15—Division of Aging Chapter 15—Residential Care Facilities I and II

PROPOSED AMENDMENT

13 CSR 15-15.022 Fire Safety Standards for New and Existing Residential Care Facilities I and II. The division proposes to amend the entire rule by deleting current sections (1) through (64) and replacing them with section (1), subsections (A)–(G); section (2), subsections (A)–(D); section (3), subsections (A)–(D); section (4), subsections (A)–(H); section (5), subsections (A)–(H); section

(6), subsections (A)–(C); section (7), subsections (A)–(M); section (8), subsections (A)–(K); section (9), subsections (A)–(F); section (10), subsections (A)–(C); section (11), subsections (A)–(D); section (12), subsections (A)–(C); and section (13), subsections (A)–(E).

PURPOSE: This rule is being amended by reformatting the existing sections into topical sections and subsections for clarity and ease of reference. Amendments include the following: clarifying the distinction between existing licensed facility and newly licensed facility; updating requirements to the applicable edition of the appropriate National Fire Protection Association (NFPA) code; updating the requirements for fire extinguishers; requiring range hood extinguishing systems to be inspected and certified annually; updating record keeping requirements for fire drills and emergency preparedness procedures; complying with *Life Safety Code* for directional indicators; including construction, storage and hazardous area exceptions for facilities with complete sprinkler systems; adding fire alarm system requirements under section (7), subsections (E), (K) and (M); adding sprinkler system requirements under section (9), subsections (E) and (G); adding requirements for facilities with atriums; and making grammatical and wording changes necessary due to reformatting as well as to clarify the intent and meaning of the fire safety standards for new and existing residential care facilities I and II.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

PUBLISHER'S NOTE: All rules relating to long-term care facilities licensed by the Division of Aging are followed by a Roman Numeral notation which refers to the class (either class I, II or III) of standard as designated in section 198.085.1, RSMo. [1986] Supp. 1999.

(1) Fire extinguishers shall be provided at a minimum of one (1) per floor, so that there is no more than a one hundred-foot (100') travel distance from any point on that floor to an extinguisher. I/II

(2) All new or replacement portable fire extinguishers shall be ABC-type extinguishers. II

(3) There shall be an extinguisher of at least ten (10) pounds dry powder, or the equivalent, in or immediately adjacent to hazardous areas. II

(4) There shall be an extinguisher of at least five (5) pounds dry powder or the equivalent in other areas. II

(5) Every fire extinguisher shall bear the label of the Underwriters' Laboratories (UL) of the Factory Mutual (FM) Laboratories and the extinguisher, its installation, maintenance and use shall comply with National Fire Protection Association (NFPA) Pamphlet No. 10 (1978). This includes the documentation and dating of a monthly check of pressure. II/III

(6) All newly licensed facilities with a kitchen that serves a total of more than twenty-one (21) licensed beds whose application was filed after July 11, 1980 shall be provided with a range hood and an approved automatic class BC- or ABC-range hood extinguishing system which shall have the capacity of being manually operated, unless there is an

approved sprinkler system. The extinguishing system shall be installed and maintained in accordance with NFPA 96. II/III

(7) Existing facilities, either licensed or whose application for license was filed prior to July 11, 1980, or those facilities with fewer than twenty-one (21) beds, shall provide either an approved automatic class BC- or ABC-range hood extinguishing system which shall have the capability of being manually operated and which has been properly installed and maintained with at least an annual check or a portable BC- or ABC-fire extinguisher of at least ten (10) pounds dry powder or the equivalent in the kitchen area. II/III

(8) All facilities shall notify the Division of Aging immediately if there is a fire involving death or harm to a resident requiring medical attention by a physician or substantial damage to the facility. The division shall be notified in writing within seven (7) days in case of any other fire, regardless of the size of the fire or the loss involved. II/III

(9) All facilities shall develop a written plan for fire drills and evacuation and shall request consultation and assistance annually from a local fire unit. II/III

(10) The plan shall include, as a minimum, written instructions for evacuation of each floor and floor plan indicating the location of exits, fire alarm pull stations and fire extinguishers. II/III

(11) The written plan shall show the location of any additional water sources on the property such as cisterns, wells, lagoons, ponds or creeks. III

(12) The plan shall provide for the safety and comfort of residents evacuated. III

(13) The written plan and evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III

(14) A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. The staff shall be trained on how to proceed in the event of a fire, that is, who to call, how to evacuate injured residents, which residents may need to be awakened and may need special assistance and how to operate fire extinguishing equipment. The fire drill shall include resident evacuation at least once a year, preferably on the night shift. II/III

(15) A record shall be kept of all fire drills with the time, date, personnel participating and special problems. III

(16) Each floor of a facility shall have at least two (2) unobstructed exits remote from each other. I/II

(A) For a facility whose plans are approved or which was initially licensed before December 31, 1987 or a facility licensed for twenty (20) or fewer residents, one (1) of the required exits from a multi-story facility shall be an outside stairway or an enclosed stair that is separated by one (1)-hour rated construction from each floor with an exit leading directly to the outside at grade level. Existing plaster or gypsum board of at least one-half inch (1/2") thickness may be considered equivalent to one (1)-hour rated construction. The other required exit may be an interior stair leading through corridors or passageways to the outside.

Neither of the required exits shall lead through a furnace or boiler room. Neither of the required exits shall be through a resident's bedroom, unless the bedroom door cannot be locked. I/II

(B) For a facility whose plans are approved or which is initially licensed after December 31, 1987 for more than twenty (20) residents, the required exits shall be doors leading directly outside, one (1)-hour enclosed stairs or outside stairs. The one (1)-hour enclosed stairs shall exit directly outside at grade. Access to these shall not be through a resident bedroom or a hazardous area. I/II

(17) In facilities whose plans are approved or which are initially licensed after December 31, 1987, no door to a resident-use room shall be more than one hundred feet (100') from an exit and dead-end corridors shall not exceed thirty feet (30'). II

(18) Outside stairways shall be constructed to support residents during evacuation, shall be continuous to the ground level and shall not be equipped with a counter-balanced device. They shall be protected or cleared of ice and snow. II/III

(19) Facilities with three (3) or more floors shall comply with Chapter 320, RSMo which requires outside stairways to be constructed of iron or steel. II

(20) Newly constructed fire escapes whether interior or exterior shall be thirty-six inches (36") wide, shall have eight-inch (8") maximum risers, nine-inch (9") minimum tread, no winders, maximum height between landings of twelve feet (12'), minimum dimensions of landings of forty-four inches (44"), landings at each exit door, handrails on both sides and be of sturdy construction using at least two-inch (2") lumber. Exit doors to newly constructed fire escapes shall be at least thirty-six inches (36") wide and the door shall swing outward. II/III

(21) All stairways and corridors shall be easily negotiable and shall be maintained free of obstructions. II

(22) If it is necessary to lock exit doors or resident room doors, the locks shall be of a type that can be released from the inside by a simple act that does not require a key. Only one (1) lock shall be permitted on each door. II

(23) Signs bearing the word EXIT in plain, legible letters shall be placed at each required exit, except at doors directly from rooms to exit passageways or corridors. II

(24) Additional signs shall be placed in corridors and passageways whenever necessary to indicate the direction of the exit. Letters of all exit signs shall be at least six inches (6") high and three-fourths of an inch (3/4") wide, except that letters of internally illuminated exit signs shall not be less than four and one-half inches (4 1/2") high. III

(25) All required exit and directional signs shall be positioned so that they are illuminated by both normal and emergency lighting. II/III

(26) All residential care facilities II and residential care facilities I licensed for more than twenty (20) residents or any facilities with more than one (1) structure on the premises housing residents shall be equipped with a complete fire alarm system. A complete fire alarm system will not be required for facilities licensed prior to July 11, 1980

if the facility has a sprinkler system installed and maintained in accordance with NFPA 13 (1976). II

(27) The fire alarm system shall be an electrically supervised system with standby emergency power installed and maintained in accordance with NFPA 72A (1975). II

(28) As a minimum, it shall consist of a manual pull station at or near each attendant's station and required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. In existing residential care facilities, smoke detectors every fifty feet (50') will be acceptable. The smoke detectors will not be required in existing facilities if a complete heat detector system, interconnected to the fire alarm system, is provided in every space throughout the facility; audible signal(s) can be heard throughout the building; and a main panel interconnects all alarm-activating devices and audible signals. II

(29) Every fire alarm system shall be tested at least once a month. II

(30) A record of these tests shall be maintained. III

(31) Any fault shall be corrected promptly upon discovery. I/II

(32) Residential care facilities I licensed for twenty (20) or fewer residents shall be equipped with a complete automatic fire alarm system or individual home-type detectors. The individual home-type detectors shall be UL-approved battery-powered detectors which sense smoke and automatically sound an alarm which can be heard throughout the facility. If individual home-type detectors are being used, there shall be one (1) detector per resident-use room, in corridors and stairwells and in any hazardous area other than the kitchen where either a smoke or heat detector may be used. I/II

(33) Detectors shall be tested monthly and batteries shall be changed as needed. I/II

(34) A record shall be kept of the dates of testing and the changing of batteries. III

(35) In newly licensed residential care facilities I and II licensed for more than twelve (12) residents, hazardous areas shall be separated by construction of at least a one (1)-hour fire-resistant rating. Facilities equipped with a complete automatic fire alarm system, not individual home-type detectors, the one (1)-hour fire separation is required only for furnace or boiler rooms. Doors to hazardous areas shall be self-closing and shall be kept closed unless an electromagnetic hold-open device is used which is interconnected with the fire alarm system. II

(36) The storage of unnecessary combustible materials in any part of a building in which a licensed facility is located is prohibited. II

(37) Space under stairways shall not be used for storage of combustible materials. II/III

(38) No section of the building shall present a fire hazard. The Division of Aging shall have the right of inspection of any portion of a building in which a licensed facility is

located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction. II

(39) Electric or gas clothes dryers shall be vented to the outside. Lint traps shall be cleaned regularly. II/III

(40) In newly licensed residential care facilities II, each floor shall be separated by construction of at least a one (1)-hour fire-resistant rating. Doors between floors must be solid core wood doors and a minimum of one and three-fourths inches (1 3/4") thick. II

(41) In existing licensed residential care facilities I and II and newly licensed multi-storied residential care facilities I, there shall be a smoke separation barrier between the floors of resident-use areas and any floor below the resident-use area. This shall consist of, at a minimum, a solid core wood door at the top or the bottom of the stairs. There shall not be a transom above the door that would permit the passage of smoke. II

(42) All doors providing separation between floors shall have a self-closing device attached. If the doors are to be held open, electromagnetic hold-open devices shall be used that are interconnected with either a smoke alarm or other fire extinguishment or alarm systems in the building if sensitive to smoke. II

(43) In facilities whose plans are approved or which are initially licensed after December 31, 1987 for more than twenty (20) residents, each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one(1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, the length (or width) of a floor does not exceed seventy-five feet (75'), no smoke-stop partitions are required. Openings in smoke-stop partitions shall be protected by solid core doors equipped with closers and magnetic hold-open devices. Any duct work passing through this smoke wall shall be equipped with automatic resetting smoking dampers that are activated by the fire alarm system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II

(44) All residential care facilities II that are not of fire-resistant construction which house any residents above the second floor shall be provided throughout with an automatic sprinkler system installed and maintained according to NFPA 13. Residential care facilities I that are not of fire-resistant construction and which house residents above the third floor shall be provided throughout with an automatic sprinkler system installed and maintained according to NFPA 13 or 13D. Those facilities licensed prior to July 11, 1983 will be allowed until November 11, 1985 to install the sprinkler system. I/II For the purpose of this section, fire-resistant construction is defined as that type of construction in which bearing walls, columns and floors are of non-combustible material and all bearing walls, floors and roofs shall have a minimum of a one (1)-hour fire-resistant rating.

(45) Facilities whose plans are approved or which are initially licensed after December 31, 1987 for more than twenty (20) residents shall be completely sprinklered if they are not of fire-resistant construction and if they are over one (1) story. One (1) story facilities shall be completely sprinklered unless all combustible structural members are provided with one (1)-hour fire-rated protection.

One-half inch (1/2") gypsum board or plaster is considered equivalent to one (1)-hour protection. The sprinkler system shall comply with either NFPA 13 or NFPA 13D (Standards for the Installation of Sprinkler Systems in One and Two Family Dwellings and Mobile Homes). I/II

(46) Facilities whose plans are approved or which are initially licensed after December 31, 1987 for more than twenty (20) residents which are unsprinklered shall have one (1)-hour rated corridor walls with one and three-quarters inch (1 3/4") solid core doors. II

(47) If two (2) or more levels of long-term care or two (2) different businesses are located in the same building, the entire facility shall meet either the most strict construction and fire safety standards for the combined facility or the facilities shall be separated from the other(s) by two (2)-hour fire-resistant construction. II

(48) Emergency lighting of sufficient intensity to provide for safety shall be provided for exits, stairs, resident corridors and attendant's station. II

(49) The lighting shall be supplied by an emergency service, an automatic emergency generator or battery lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. II

(50) In an existing licensed facility, if battery lights are used, they shall be wet cell units or other rechargeable-type batteries that shall be capable of operating the light for at least one and one-half (1 1/2) hours. Emergency lights in newly licensed facilities and all replacement lights shall be four (4)-hour rated and shall be UL-approved. II

(51) All facilities shall have an annual inspection and written certification of the fire alarm system and sprinkler system by an approved, qualified electrical or service representative. II/III

(52) In a newly licensed facility licensed for more than twelve (12) residents, wall and ceiling surfaces of all occupied rooms and all exit ways shall be of a material or so treated as not to have a flame-spread classification of more than seventy-five (75) according to the method of the Fire Hazard Classification of Building Materials of Underwriters Laboratories, Inc. II

(53) In existing licensed facilities, all wall and ceiling surfaces shall be smooth and free of highly combustible materials. II

(54) Only metal or UL- or FM-fire-resistant rated wastebaskets shall be used for trash. II

(55) In a newly licensed facility licensed for more than twelve (12) residents, or if new floor covering or carpeting is installed in an existing licensed facility for more than twelve (12) residents, the floor covering and carpeting shall be Class I nonsprinklered buildings and Class II in sprinklered buildings. Class I has a critical radiant flux of .45 or more watts per square centimeter when tested according to NFPA-253. Class II has a critical radiant flux of .22 or more watts per square centimeter when tested according to NFPA-253. II/III

(56) In a newly licensed facility or if curtains or drapes are installed in an existing licensed facility, the curtains and drapes shall be certified or treated to be flame-resistant. II

(57) Smoking shall not be permitted in sleeping quarters except at that time as direct supervision is provided. Areas where smoking is permitted shall be designated as such and shall be supervised either directly or by a resident informing an employee of the facility that the area is being used for smoking. II/III

(58) The facility shall maintain the exterior premises in a manner as to provide for fire safety. II

(59) Trash shall be removed from the premises as often as necessary to prevent fire hazards and public health nuisance. II

(60) No trash shall be burned within fifty feet (50') of any facility except in an approved incinerator. I/II

(61) Trash may be burned only in a masonry or metal container. II

(62) The container shall be equipped with a metal cover with openings no larger than one-half inch (1/2") in size. III

(63) If a ramp is required (see 13 CSR 15-15.042(25), the ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II/III

(64) Residential care facilities I with an asleep night attendant shall have appropriate assistive devices to enable each deaf person to negotiate a path to safety, including, but not limited to, visual or tactile alarm systems for any deaf residents, when the facility accepts a deaf resident. II/III

(1) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule are incorporated by reference in this rule with regard to the minimum fire safety standards for residential care facilities I and II.

(B) For the purpose of this rule, fire-resistant construction is defined as that type of construction in which bearing walls, columns and floors are of noncombustible material and all bearing walls, floors and roofs shall have a minimum of a one (1)-hour fire-resistant rating.

(C) All licensed facilities shall meet and maintain the facility in accordance with the fire safety standards in effect at the time of initial licensing, unless there is a specific requirement cited in this rule. I/II

(D) All facilities shall notify the Division of Aging immediately if there is a fire involving death or harm to a resident requiring medical attention by a physician or substantial damage to the facility. The division shall be notified in writing within seven (7) days in case of any other fire, regardless of the size of the fire or the loss involved. II/III

(E) The Division of Aging shall have the right of inspection of any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction. No section of the building shall present a fire hazard. I/II

(F) The facility shall maintain the exterior premises in a manner as to provide for fire safety. II

(G) When the facility accepts residents who are deaf, residential care facilities I with an asleep night attendant shall have appropriate assistive devices to enable each deaf person to negotiate a path to safety, including, but not limited to, visual or tactile alarm systems. I/II

(2) Fire Extinguishers.

(A) Fire extinguishers shall be provided at a minimum of one (1) per floor, so that there is no more than one hundred feet (100') travel distance from any point on that floor to an extinguisher. I/II

(B) All new or replacement portable fire extinguishers shall be ABC-type extinguishers, in accordance with the provisions of the 1994 National Fire Protection Association (NFPA) 10, *Standard for Portable Fire Extinguishers*. II

(C) Fire extinguishers shall have a rating of at least:

1. Ten (10) pounds, or the equivalent, in or within fifteen feet (15') of hazardous areas as defined in 13 CSR 15-11; and
2. Five (5) pounds or the equivalent in other areas. II

(D) Every fire extinguisher shall bear the label of the Underwriters' Laboratories (UL) or the Factory Mutual (FM) Laboratories and the extinguisher, its installation, maintenance and use shall comply with the provisions of the 1994 edition of the NFPA 10. This includes the documentation and dating of a monthly pressure check. II/III

(3) Range Hood Extinguishing Systems.

(A) In facilities licensed on or before July 11, 1980, or in any facility with fewer than twenty-one (21) beds, the kitchen shall provide either:

1. An approved automatic range hood extinguishing system properly installed and maintained in accordance with the 1994 NFPA 96, *Standard on Ventilation Control and Fire Protection of Commercial Cooking Operations*; or

2. A portable fire extinguisher of at least ten (10) pounds, or the equivalent, in the kitchen area in accordance with the 1994 NFPA 10. II/III

(B) In licensed facilities with a total of twenty-one (21) or more licensed beds and whose application was filed after July 11, 1980 and prior to October 1, 2000:

1. The kitchen shall be provided with a range hood and an approved automatic range hood extinguishing system;

2. The range hood extinguishing system shall have the capacity of being manually operated, unless there is an approved sprinkler system; and

3. The extinguishing system shall be installed and maintained in accordance with the applicable edition of NFPA 96. II/III

(C) Facilities licensed on or after October 1, 2000, shall not be required to install and maintain range hood extinguishing systems since facilities shall be required to have complete sprinkler systems; however, if facilities have range hood extinguishing systems, they shall comply with the provisions of the 1994 NFPA 96. II/III

(D) The range hood and its extinguishing system shall be inspected and certified at least annually. II/III

(4) Fire Drills.

(A) All facilities shall develop a written plan for fire drills and evacuation and shall request consultation and assistance annually from a local fire unit. II/III

(B) The plan shall include, as a minimum, written instructions for evacuation of each floor and floor plan indicating the location of exits, fire alarm pull stations and fire extinguishers. II/III

(C) The written plan shall show the location of any additional water sources on the property such as cisterns, wells, lagoons, ponds or creeks. III

(D) The evacuation plan shall include procedures for the safety and comfort of residents evacuated. III

(E) The written plan and evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III

(F) A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. The fire drills shall include a resident evacuation at least once a year. II/III

(G) The staff shall be trained on how to proceed in the event of a fire. The training shall include:

1. Who to call;
2. How to properly evacuate injured residents;
3. Which residents may need to be awakened or may need special assistance; and
4. How to operate fire extinguishing equipment. II/III

(H) The facility shall keep a record of all fire drills. The record shall include the time, date, personnel participating, length of time to complete the fire drill, and a narrative notation of any special problems. III

(5) Exits, Stairways and Fire Escapes.

(A) Each floor of a facility shall have at least two (2) unobstructed exits remote from each other.

1. For a facility whose plans were approved on or before December 31, 1987, or a facility licensed for twenty (20) or fewer residents, one (1) of the required exits from a multi-story facility shall be an outside stairway or an enclosed stairway that is separated by one (1)-hour rated construction from each floor with an exit leading directly to the outside at grade level. Existing plaster or gypsum board of at least one-half inch (1/2") thickness may be considered equivalent to one (1)-hour rated construction. The other required exit may be an interior stairway leading through corridors or passageways to outside. Neither of the required exits shall lead through a furnace or boiler room. Neither of the required exits shall be through a resident's bedroom, unless the bedroom door cannot be locked.

2. For a facility whose plans were approved after December 31, 1987, for more than twenty (20) residents, the required exits shall be doors leading directly outside, one (1)-hour enclosed stairs or outside stairs. The one (1)-hour enclosed stairs shall exit directly outside at grade. Access to these shall not be through a resident bedroom or a hazardous area. I/II

(B) In facilities with plans approved after December 31, 1987, doors to resident use rooms shall not be more than one hundred feet (100') from an exit. Dead-end corridors shall not exceed thirty feet (30') in length. II

(C) If it is necessary to lock exit doors or resident room doors, the locks shall not require the use of a key, tool, special knowledge or effort to unlock the door from inside the building. Only one (1) lock shall be permitted on each door. I/II

(D) All stairways and corridors shall be easily negotiable and shall be maintained free of obstructions. II

(E) Outside stairways shall be constructed to support residents during evacuation and shall be continuous to the ground level. Outside stairways shall not be equipped with a counter-balanced device. They shall be protected from or cleared of ice or snow. II/III

(F) Facilities with three (3) or more floors shall comply with the provisions of Chapter 320, RSMo which requires outside stairways to be constructed of iron or steel. II

(G) Fire escapes constructed on or after November 13, 1980, whether interior or exterior, shall be thirty-six inches (36") wide, shall have eight-inch (8") maximum risers, nine-inch (9") minimum tread, no winders, maximum height between landings of twelve feet (12'), minimum dimensions of landings of forty-four inches (44"), landings at each exit door, handrails on both sides and be of sturdy construction, using at least two-inch (2") lumber. Exit doors to these fire escapes shall be at least thirty-six inches (36") wide and the door shall swing outward. II/III

(H) If a ramp is required to meet residents' needs under 13 CSR 15-15.042(32), the ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II/III

(6) Exit Signs.

(A) Signs bearing the word EXIT in plain, legible letters shall be placed at each required exit, except at doors directly from rooms to exit passageways or corridors. Letters of all exit signs shall be at least six inches (6") high and three-fourths of an inch (3/4") wide, except that letters of internally illuminated exit signs shall not be less than four and one-half inches (4 1/2") high. II

(B) Directional indicators showing the direction of travel shall be placed in corridors, passageways or other locations where the direction of travel to reach the nearest exit is not apparent. II/III

(C) All required exit signs and directional indicators shall be positioned so that they are illuminated by both normal and emergency lighting. II/III

(7) Fire Alarm Systems.

(A) All facilities shall have inspections and written certifications of the fire alarm system completed by an approved qualified service representative in accordance with the 1996 NFPA 72, *National Fire Alarm Code*, at least annually. II/III

(B) All residential care facilities I licensed for more than twenty (20) residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(C) All residential care facilities II shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(D) All residential care facilities with more than one (1) structure on the premises housing residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(E) A complete fire alarm system will not be required for facilities licensed prior to July 11, 1980, if the facility has a sprinkler system installed and maintained in accordance with the 1976 NFPA 13, *Standard for the Installation of Sprinkler Systems*. I/II

(F) Residential care facilities I licensed for twenty (20) or fewer residents shall be equipped with a complete automatic fire alarm system or individual home-type detectors. The individual home-type detectors shall be UL-approved battery-powered detectors which sense smoke and automatically sound an alarm which can be heard throughout the facility. If individual home-type detectors are being used, there shall be one (1) detector per resident-use room, in corridors and stairwells and in any hazardous area other than the kitchen where either a smoke or heat detector may be used. I/II

(G) The fire alarm system shall be an electrically supervised system with standby emergency power installed and maintained in accordance with the 1996 NFPA 72. Those facilities with plans approved prior to October 1, 2000, shall comply with the provision of the 1975 edition of NFPA 72A, *Local Protective Signaling Systems*. Those facilities with plans approved on or after October 1, 2000, shall comply with the 1996 edition of NFPA 72. I/II

(H) As a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. In residential care facilities licensed prior to November 13, 1980, smoke detectors located every fifty feet (50') will be acceptable. The smoke detectors will not be

required in facilities licensed prior to November 13, 1980, if a complete heat detector system, interconnected to the fire alarm system, is provided in every space throughout the facility. It must include audible signal(s) which can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. I/II

(I) Every fire alarm system shall be tested at least once a month, and a record of all tests shall be maintained. II/III

(J) Any fault with any part of the fire alarm system shall be corrected immediately upon discovery. I/II

(K) When a fire alarm system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the Division of Aging and implement an approved fire watch until the fire alarm system has been returned to full service. I/II

(L) Detectors shall be tested monthly and batteries shall be changed as needed. A record shall be kept of the dates of testing and the changing of batteries. II/III

(M) Any fault with any detector shall be corrected immediately upon discovery. I/II

(8) Protection from Hazards.

(A) In residential care facilities I and II licensed on or after November 13, 1980, for more than twelve (12) residents, hazardous areas shall be separated by construction of at least a one (1)-hour fire-resistant rating. In facilities equipped with a complete automatic fire alarm system, not individual residential-type detectors, the one (1)-hour fire separation is required only for furnace or boiler rooms. Hazardous areas equipped with a complete sprinkler system are not required to have this one (1)-hour fire separation. Doors to hazardous areas shall be self-closing and shall be kept closed unless an electromagnetic hold-open device is used which is interconnected with the fire alarm system. II

(B) The storage of unnecessary combustible materials in any part of a building in which a licensed facility is located is prohibited. I/II

(C) Space under stairways shall not be used for storage of combustible materials unless the space is separated by one (1)-hour rated construction and sprinklered. II/III

(D) Electric or gas clothes dryers shall be vented to the outside. Lint traps shall be cleaned regularly to protect against fire hazard. II/III

(E) In residential care facilities II licensed on or after November 13, 1980, each floor shall be separated by construction of at least a one (1)-hour fire resistant rating. Buildings equipped with a complete sprinkler system may have a non-rated smoke separation barrier between floors. Doors between floors must be a minimum of one and three-fourths inches (1 3/4") thick and be solid core wood doors or metal doors with an equivalent fire rating. II

(F) In residential care facilities I and II licensed prior to November 13, 1980, and multistoried residential care facilities I licensed on or after November 13, 1980, there shall be a smoke separation barrier between the floors of resident-use areas and any floor below the resident-use area. This shall consist of a solid core wood door or metal door with an equivalent fire rating at the top or the bottom of the stairs. There shall not be a transom above the door that would permit the passage of smoke. II

(G) Atriums open between floors will be permitted if resident room corridors are separated from the atrium by one (1)-hour rated smoke walls. These corridors must have access to at least one (1) of the required exits without traversing any space opened to the atrium. II

(H) All doors providing separation between floors shall have a self-closing device attached. If the doors are to be held open, electromagnetic hold-open devices shall be used that are inter-

connected with either an individual smoke detector, a sprinkler system or a complete fire alarm system. II

(I) In facilities whose plans are approved or which are initially licensed after December 31, 1987, for more than twenty (20) residents, each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke stop partitions are required. Openings in smoke stop partitions shall be protected by solid core doors equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II

(J) Facilities whose plans are approved or which are initially licensed after December 31, 1987, for more than twenty (20) residents and which are unsprinklered shall have one (1)-hour rated corridor walls with one and three-quarters inch (1 3/4") solid core wood doors or metal doors with an equivalent fire rating. II

(K) If two (2) or more levels of long-term care or two (2) different businesses are located in the same building, the entire building shall meet either the most strict construction and fire safety standards for the combined facility or the facilities shall be separated from the other(s) by two (2)-hour fire-resistant construction. II

(9) Sprinkler Systems.

(A) All residential care facilities II that are not of fire-resistant construction which house any residents above the second floor shall be provided throughout with an automatic sprinkler system installed and maintained according to the applicable edition of the NFPA 13, *Standard for the Installation of Sprinkler Systems*. I/II

(B) Residential care facilities I that are not of fire-resistant construction and which house residents above the third floor shall be provided throughout with an automatic sprinkler system installed and maintained according to the applicable edition of the NFPA 13 or NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Story Dwellings and Manufactured Homes*. I/II

(C) Facilities whose plans are approved or which are initially licensed after December 31, 1987, for more than twenty (20) residents shall be completely sprinklered if they are not of fire-resistant construction and if they are over one (1) story in height. One (1) story facilities shall be completely sprinklered unless all combustible structural members are provided with one (1)-hour fire-rated protection. One-half inch (1/2") gypsum board or plaster is considered equivalent to one (1)-hour protection. The sprinkler system shall comply with the applicable edition of either NFPA 13 or NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height*. I/II

(D) All residential care facilities I and II initially licensed or with plans approved on or after October 1, 2000, shall have complete sprinkler systems installed and maintained in accordance with the 1996 edition of NFPA 13 or NFPA 13R. I/II

(E) All facilities shall have inspections and written certifications of the sprinkler system completed by an approved qualified service representative in accordance with the 1998 NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*. The inspections shall be in accordance with the provisions of NFPA 25, with certification at least annually by a qualified service representative. II/III

(F) When a sprinkler system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the

facility shall immediately notify the Division of Aging and implement an approved fire watch until the sprinkler system has been returned to full service. I/II

(10) Emergency Lighting.

(A) Emergency lighting of sufficient intensity shall be provided for exits, stairs, resident corridors and attendants' station. II

(B) The lighting shall be supplied by an emergency service, an automatic emergency generator or battery operated lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. II

(C) If battery powered lights are used, they shall be capable of operating the light for at least one and one-half (1 1/2) hours. II

(11) Interior Finish and Furnishings.

(A) In a facility licensed on or after November 13, 1980, for more than twelve (12) residents, wall and ceiling surfaces of all occupied rooms and all exitways shall be of a material or so treated as not to have a flame-spread classification of more than seventy-five (75) according to the method of the *Fire Hazard Classification of Building Materials of Underwriters Laboratories, Inc.* II

(B) In facilities licensed prior to November 13, 1980, all wall and ceiling surfaces shall be smooth and free of highly combustible materials. II

(C) In a facility licensed on or after November 13, 1980, for more than twelve (12) residents, the new or replacement floor covering and carpeting shall be Class I in nonsprinklered buildings and Class II in sprinklered buildings. Class I has a critical radiant flux of zero point forty-five (0.45) or more watts per square centimeter when tested according to NFPA 253, *Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source*. Class II has a critical radiant flux of zero point twenty-two (0.22) or more watts per square centimeter when tested according to NFPA 253. II/III

(D) All new or replacement curtains and drapes in a licensed facility shall be certified or treated to be flame-resistant. II

(12) Smoking.

(A) Smoking shall not be permitted in sleeping quarters except at that time as direct supervision is provided. Areas where smoking is permitted shall be designated as such and shall be supervised either directly or by a resident informing an employee of the facility that the area is being used for smoking. II/III

(B) Ashtrays shall be made of noncombustible material and safe design and shall be provided in all areas where smoking is permitted. II/III

(C) The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material. II/III

(13) Trash and Rubbish Disposal.

(A) Only metal or UL- or FM-fire-resistant rated wastebaskets shall be used for trash. II

(B) Trash shall be removed from the premises as often as necessary to prevent fire hazards and public health nuisance. II

(C) No trash shall be burned within fifty feet (50') of any facility except in an approved incinerator. I/II

(D) Trash may be burned only in a masonry or metal container. II

(E) The container shall be equipped with a metal cover with openings no larger than one-half inch (1/2") in size. III

AUTHORITY: section 198.076, RSMo [1986] 1994. Original rule filed July 13, 1983, effective Oct. 13, 1983. Emergency amendment filed Aug. 1, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed May 13, 1987, effective Aug. 13, 1987. Amended: Filed Aug. 1, 1988, effective Nov. 10, 1988. Amended: Filed Feb. 28, 2000.

PUBLIC COST: This proposed amendment is estimated to cost county/nursing home district existing facilities \$31,000 in FY-01 (\$20,920 for annual inspections and certifications; and a one-time cost of \$10,080 for replacement of fire extinguishers) and \$21,548 for FY-02 and annually thereafter for the life of the rule adjusting for inflation. This proposed amendment is estimated to cost new facilities \$60,000 in FY-01 and \$61,800 for FY-02 and annually thereafter for the life of the rule (adjusting for inflation) for installation of complete sprinkler systems.

PRIVATE COST: This proposed amendment is estimated to cost existing private entity facilities \$316,840 in FY-01 (\$203,980 for annual inspections and certifications; and a one-time cost of \$112,860 for replacement of fire extinguishers) and \$210,099 for FY-02 and annually thereafter for the life of the rule adjusting for inflation. This proposed amendment is estimated to cost new private entity facilities \$480,000 in FY-01 and \$494,400 for FY-02 and annually thereafter for the life of the rule (adjusting for inflation) for installation of complete sprinkler systems.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Aging, ATTN: Richard C. Dunn, Director, 615 Howerton Court, P.O. Box 1337, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 13 - Department of Social Services

Division: 15 - Division of Aging

Chapter: 15 - Residential Care Facilities I and II

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 15-15.022 Fire Safety Standards for New and Existing Residential Care Facilities I and II

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:
14	County/Nursing Home Districts	FY-01 \$31,000
	with 56 Existing RCFs	FY-02 \$21,548*
2	New RCFs	FY-01 \$60,000
		FY-02 \$61,800*

*Annually for the life of the rule plus 3% inflationary costs

III. WORKSHEET

• **Existing Residential Care Facilities (RCFs)**

14 County/Nursing Home Districts with 56 RCFs; average number of fire extinguishers/RCF = 6; 6 x 56 = 336 fire extinguishers; 20% of existing RCFs have sprinkler systems; 90% of existing RCFs have complete fire alarm systems; 15% of existing RCFs have rangehood extinguishing systems.

FY-01: Fire extinguishers maintenance @ \$5.00 each/year x 336 fire extinguishers = \$1,680 + Annual sprinkler system certification @ \$800/RCF x 20% of RCFs = 11 RCFs x \$800 = \$8,800 + Annual fire alarm system certification @ \$200/RCF x 90% of RCFs = 50 RCFs x \$200 = \$10,000 + Annual rangehood extinguishing system certification @ \$55/RCF x 15% of RCFs = 8 x \$55 = \$440. Total of \$20,920

FY-01 (one-time only): Fire extinguisher replacement: 168 extinguishers (one-half) @ \$20.00/5 lb. extinguisher + 168 extinguishers (one-half) @ \$40.00/10 lb. extinguisher = \$3,360 + \$6,720 = \$10,080 cost to replace all fire extinguishers.

FY-02: \$1,680 fire extinguisher maintenance + \$8,800 sprinkler system certification + \$10,000 fire alarm system certification + \$440 rangehood extinguishing system certification = \$20,920 x 1.03 inflationary factor = \$21,548

- **New Residential Care Facilities I and II**

Two (2) new RCFs with 50 beds/RCF = 100 beds; Cost of residential type sprinkler system (plastic or steel) in an RCF I or II is \$2.00/square foot; average RCF I or II contains 300 square feet/bed.

FY-01: Installation of sprinkler system: 300 sq. ft./bed x \$2.00/sq. ft. = \$600 x 100 beds = \$60,000

FY-02: Installation of sprinkler system: \$60,000 x 1.03 (inflationary factor) = \$61,800

IV. ASSUMPTIONS

1. All rules in 13 CSR 15 are integrally related. All Chapter 15 rules should be considered collectively to obtain a complete assessment of the costs related to Residential Care Facilities (RCFs).
2. The average cost of a fire extinguisher is \$40.00 for a 10 lb. and \$20.00 for a 5 lb. An average of 6 fire extinguishers per facility was used with one-half being 10 lb., and one-half being 5 lb. The annual maintenance cost is \$5.00 per fire extinguisher.
3. Fire extinguishers need to be tested every 10 to 12 years; however, due to the testing costs, most facilities purchase new ones. Since the last time a fiscal note was completed to consider the cost to replace fire extinguishers was for FY-90 the division is assuming that replacement of fire extinguishers should again be projected to occur during FY-01 even though replacements will occur at varying times during various intervals.
4. Annual certification costs for sprinkler systems is estimated at \$800; annual fire alarm system certification is estimated to be \$200; and annual rangehood extinguishing system certification is estimated at \$55 for each affected RCF I or II.
5. The cost projections contained in this fiscal note are based on historical data, the Means Building Construction Cost Data publication, and information from several contractors and installation experts.
6. The aggregate cost over the life of this rule may be obtained by multiplying the estimated costs times the number of years the rule is projected to be in effect and factoring in inflationary costs of 3% per year.
7. As this rule is substantially based on the statutory requirements of Chapter 198, RSMo (Supp. 1999), a taking analysis is not required under §536.017, RSMo (Supp. 1999).
8. This rule is mandated by Chapter 198, RSMo (Supp. 1999); therefore, the life of the rule cannot be determined by the Division of Aging.
9. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 13 - Department of Social Services
Division: 15 - Division of Aging
Chapter: 15 - Residential Care Facilities I and II
Type of Rulemaking: Proposed Amendment
Rule Number and Name: 13 CSR 15-15.022 Fire Safety Standards for New and Existing Residential Care Facilities I and II

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:
627	Existing RCF I & II	FY-01 \$316,840 FY-02 \$210,099*
16	New RCF I & II	FY-01 \$480,000 FY-02 \$494,400*

*Annually for the life of the rule plus 3% inflationary costs

III. WORKSHEET

• **Existing Residential Care Facilities (RCFs)**

300 RCF IIs and 327 RCF Is = 627 RCFs; average number of fire extinguishers/RCF = 6; 627 RCFs x 6 fire extinguishers/RCF = 3,762 fire extinguishers; 20% of existing RCFs have sprinkler systems; all existing RCF IIs and 100 RCF Is have complete fire alarm systems; 15% of existing RCFs have rangehood extinguishing systems.

FY-01: Fire extinguishers maintenance @ \$5.00 each/year x 3,762 fire extinguishers = \$18,810 + Annual sprinkler system certification @ \$800/RCF x 20% of RCFs = 125 RCFs x \$800 = \$100,000; Annual fire alarm certification @ \$200/RCF x 400 RCFs = \$80,000; rangehood extinguishing system certification @ \$55/RCF x 15% of RCFs = 94 RCFs x \$55 = \$5,170. Total - \$203,980.

FY-01 (one-time only): 3,762 fire extinguisher replacements: 1,881 (one-half) @ \$20.00/5 lb. extinguisher = \$37,620 + 1,881 (one-half) @ \$40.00/10 lb. extinguisher = \$75,240 = \$112,860

FY-02: \$18,810 fire extinguisher maintenance + \$100,000 sprinkler system certification + \$80,000 fire alarm system certification + \$5,170 rangehood extinguishing system certification = \$203,980 x 1.03 inflationary factor = \$210,099

- **New Residential Care Facilities (RCFs)**

16 new RCFs with 50 beds/RCF/year = 800 beds.

Cost of residential type sprinkler system (plastic or steel) in an RCF I or II is \$2.00/square foot.

Average RCF I or II contains 300 square feet/bed.

FY-01: Installation of sprinkler system: 300 sq. ft./bed @ \$2.00/sq. ft. = \$600 x 800 beds = \$480,000

FY-02: Installation of sprinkler system: \$480,000 x 1.03 (inflationary factor) = \$494,400

IV. ASSUMPTIONS

1. All rules in 13 CSR 15 are integrally related. All Chapter 15 rules should be considered collectively to obtain a complete assessment of the costs related to Residential Care Facilities (RCFs).
2. The average cost of a fire extinguisher is \$40.00 for a 10 lb. and \$20.00 for a 5 lb. An average of 6 fire extinguishers per facility was used with one-half being 10 lb., and one-half being 5 lb. The annual maintenance cost is \$5.00 per fire extinguisher.
3. Fire extinguishers need to be tested every 10 to 12 years; however, due to the testing costs, most facilities purchase new ones. Since the last time a fiscal note was completed to consider the cost to replace fire extinguishers was for FY-90 the division is assuming that replacement of fire extinguishers should again be projected to occur during FY-01 even though replacements will occur at varying times during various intervals.
4. Annual certification costs for sprinkler systems is estimated at \$800; annual fire alarm system certification is estimated to be \$200; and annual rangehood extinguishing system certification is estimated at \$55 for each affected RCF I or II.
5. The cost projections contained in this fiscal note are based on historical data, the Means Building Construction Cost Data publication, and information from several contractors and installation experts.
6. The aggregate cost over the life of this rule may be obtained by multiplying the estimated costs times the number of years the rule is projected to be in effect and factoring in inflationary costs of 3% per year.
7. As this rule is substantially based on the statutory requirements of Chapter 198, RSMo (Supp. 1999), a taking analysis is not required under §536.017, RSMo (Supp. 1999).
8. This rule is mandated by Chapter 198, RSMo (Supp. 1999); therefore, the life of the rule cannot be determined by the Division of Aging.
9. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is amending section (1) and section (2).

PURPOSE: This amendment provides for the Nursing Facility Reimbursement Allowance of \$7.55 per patient occupancy day, effective July 1, 2000.

(1) Nursing Facility Reimbursement Allowance (NFRA). NFRA shall be assessed as described in this section.

(B) Each nursing facility, except any nursing facility operated by the Department of Mental Health, engaging in the business of providing nursing facility services in Missouri shall pay a Nursing Facility Reimbursement Allowance (NFRA). *[The NFRA rates shall be calculated by the department and are included in section (2) NFRA rates.]*

1. The NFRA *[effective October 1 of each year]* owed for existing nursing facilities shall be *[based on the]* calculated by multiplying the NFRA rate by the annualized level of patient occupancy days from the *[second quarter survey received from the]* applicable Division of Aging *[for that year]* ICF/SNF Certificate of Need Quarterly Survey. The NFRA shall be divided by and collected over the number of months for which each NFRA rate is effective. The NFRA rates, effective dates and applicable quarterly surveys are set forth in section (2).

A. Exceptions.

(I) If an existing nursing facility's applicable quarterly survey, as set forth in section (2), does not represent a full quarter's worth of days due to a termination, temporary closure, change of ownership, etc., the patient occupancy days used to determine the NFRA shall be the greater of:

(a) The quarterly survey immediately prior to the applicable quarterly survey, if it represents a full quarter's worth of days; or

(b) Fifty percent (50%) of licensed beds.

(II) If an existing nursing facility did not have patient occupancy information included on the applicable quarterly survey due to a termination, temporary closure, change of ownership, etc., the patient occupancy days used to determine the NFRA shall be the greater of:

(a) The quarterly survey immediately prior to the applicable quarterly survey, if it represents a full quarter's worth of days; or

(b) Fifty percent (50%) of licensed beds.

(III) If a nursing facility has ICF licensed beds and SNF licensed beds and none of the beds are Medicaid certified, only the SNF beds are subject to NFRA. The patient occupancy days used to determine the NFRA shall be determined by multiplying the occupancy percentage from the applicable quarterly survey by the annualized level of patient occupancy days based on the SNF licensed beds.

[2. If a nursing facility did not have patient occupancy day information included on the second quarter survey from the Division of Aging and is licensed prior to October 1, the patient occupancy days used to determine the facility's NFRA shall be based on an estimated fifty percent (50%) of licensed beds.

3. If a nursing facility is licensed after September 30, its NFRA shall be determined in accordance with paragraph (1)(B)2. of this regulation, divided by twelve (12),

and prorated for the number of months they are licensed prior to October 1. If a nursing facility's licensure date is after the first day of a month, the number of months that the nursing facility is licensed for and that the NFRA will be collected over will begin with the first day of the month following the actual licensure date.]

2. The initial NFRA owed by a newly licensed nursing facility that just opened as a result of receiving a Certificate of Need (CON) for a new nursing facility shall be calculated by multiplying the NFRA rate by the annualized level of patient occupancy days based on fifty percent (50%) of licensed beds. The NFRA shall be prorated for the number of months remaining in the NFRA period. If a nursing facility's licensure date is after the first day of a month, the NFRA will be collected beginning with the first day of the month following the actual licensure date.

3. If a nursing facility ceases to provide nursing facility services, the nursing facility is not required to pay the NFRA during the months in which it does not have residents, even though it may retain a license due to temporary closure for renovations, replacement, etc. If the facility reopens, it shall resume paying the NFRA. It shall owe the same NFRA as it did prior to closing, if the NFRA has not changed per section (2) below. If the NFRA has changed, the facility shall be assessed in accordance with paragraph (1)(B)1. above.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(A) The NFRA will be two dollars and seventy-six cents (\$2.76) per patient occupancy day for the period January 1, 1995 through September 30, 1995, and collected over nine (9) months (February 1995 through October 1995);/. The applicable quarterly survey for this period shall be the Division of Aging's June 1994 quarterly survey;

(B) The NFRA will be three dollars fifty-five cents (\$3.55) per patient occupancy day for the period October 1, 1995 through September 30, 1996, and collected over twelve (12) months (November 1995 through October 1996);/. The applicable quarterly survey for this period shall be the Division of Aging's June 1995 quarterly survey;

(C) The NFRA will be five dollars and thirty cents (\$5.30) per patient occupancy day for the period October 1, 1996 through September 30, 1997, and collected over twelve (12) months (November 1996 through October 1997);/. The applicable quarterly survey for this period shall be the Division of Aging's June 1996 quarterly survey;

(D) The NFRA will be five dollars and eighty-eight cents (\$5.88) per patient occupancy day for the period October 1, 1997 through September 30, 1998, and collected over twelve (12) months (November 1997 through October 1998);/. The applicable quarterly survey for this period shall be the Division of Aging's June 1997 quarterly survey;

(E) The NFRA will be five dollars and eighty-eight cents (\$5.88) per patient occupancy day for the period October 1, 1998 through September 30, 1999, and collected over twelve (12) months (November 1998 through October 1999); and/. The applicable quarterly survey for this period shall be the Division of Aging's June 1998 quarterly survey;

(F) The NFRA will be seven dollars and four cents (\$7.04) per patient occupancy day effective October 1, 1999. The applicable quarterly survey for this period shall be the Division of Aging's June 1999 quarterly survey; and

(G) The NFRA will be seven dollars and fifty-five cents (\$7.55) per patient occupancy day, effective July 1, 2000. The applicable quarterly survey for this period shall be the Division of Aging's December 1999 quarterly survey.

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433 and 198.436, RSMo [Supp. 1998] Supp. 1999 and 208.201, RSMo 1994. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 29, 2000.

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

PRIVATE COST: This proposed amendment will cost private entities approximately \$119,607,545 annually over the life of this amendment. The annual impact is based on 576 nursing facilities which include some costs to small businesses. A fiscal note containing the estimated cost of compliance has been filed with the secretary of state.

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

**FISCAL NOTE
PRIVATE ENTITY COSTS**

I. RULE NUMBER

Title : 13 - Department of Social Services
 Division : 70 - Division of Medical Services
 Chapter : 10 - Nursing Home Program
 Type of Rulemaking : Proposed Amendment
 Rule Number and Name : 13 CSR 70-10.110 Nursing Facility Reimbursement Allowance

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 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:
576	Long term care facilities	Annual estimated cost: \$119,607,545

III. WORKSHEET

Annual days to be assessed	15,842,059
NFRA	x \$7.55
Annual estimated cost	<u>\$119,607,545</u>

IV. ASSUMPTIONS

The annual impact of \$119,607,545 is based on the FY2001 assessed amount of \$7.55 per multiplied by the estimated annualized occupied days of 15,842,059.

The annual impact is based on 576 facilities which include some costs to small businesses.