

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 30—Missouri Board for Architects, Professional Engineers and Professional Land Surveyors Chapter 6—Fees

PROPOSED AMENDMENT

4 CSR 30-6.015 Application, Renewal, Reinstatement, Reregistration, and Miscellaneous Fees. The board is proposing to amend section (1), add section (2) and renumber the remaining section accordingly.

PURPOSE: The Missouri Board for Architects, Professional Engineers and Professional Land Surveyors is statutorily obligated to enforce and administer the provisions of Chapter 327, RSMo.

Pursuant to section 327.431, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 327, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 327, RSMo. This proposed amendment is necessary because the board's fund balance and projected revenue for FY2001 will not support the expenditures necessary to enforce and administer the provisions of Chapter 327, RSMo, which will result in an endangerment to the life, health, peace and safety of the public.

The board is also proposing to delete subsection (1)(R) pursuant to section 610.026, RSMo, which states fees for copying records shall not exceed the actual cost of document search and duplication.

(1) The following fees are established by the Missouri Board for Architects, Professional Engineers and Professional Land Surveyors:

(A) Architectural Application Filing Fee—		
Comity	<i>[\$ 150.00]</i>	\$200.00
(C) Professional Engineer Application Filing Fee—		
Comity	<i>[\$ 150.00]</i>	\$200.00
(D) Professional Engineer Application Filing Fee—		
Examination	<i>[\$ 150.00]</i>	\$200.00
(E) Land Surveyor Application Filing Fee—		
Comity	<i>[\$ 150.00]</i>	\$200.00
(F) Land Surveyor Application Filing Fee—		
Examination	<i>[\$ 150.00]</i>	\$200.00
(G) Land Surveyor Missouri Specific		
Examination	<i>[\$ 50.00]</i>	\$100.00
(H) 327.391 Application Fee	<i>[\$ 150.00]</i>	\$200.00
(I) Engineer[-in-Training] Intern		
Application Fee		\$ 50.00
(K) Individual Renewal Fee	<i>[\$ 70.00]</i>	\$100.00
(L) Individual Reinstatement Fee	<i>[\$ 100.00]</i>	\$150.00
(M) Individual Reregistration Fee	<i>[\$ 120.00]</i>	\$200.00
(N) Corporate Application Fee	<i>[\$ 200.00]</i>	\$300.00
(O) Corporate Renewal Fee	<i>[\$ 120.00]</i>	\$200.00
(P) Corporate Reinstatement Fee	<i>[\$ 170.00]</i>	\$250.00
(Q) Corporate Reauthorization Fee	<i>[\$ 220.00]</i>	\$300.00
<i>[(R) Photocopy Fee</i>	<i>\$.05/sheet</i>	
	<i>or 1.00/drwg. (\$5.00 minimum)]</i>	
<i>[(S)] (R) Certification Fee</i>	<i>[\$5.00]</i>	\$10.00
<i>[(T)] (S) Duplicate Certificate License</i>		
Fee[, or both		\$5.00] \$10.00
<i>[(U)] (T) Architectural Routing Fee</i>		\$25.00
(U) Out of State Proctor Fee		\$100.00

(2) Fees for photocopying and research shall not exceed the actual cost of the document search and duplication pursuant to section 610.025, RSMo.

[(2)] (3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: section 327.041, RSMo [Supp. 1997] 2000. Emergency rule filed Aug. 12, 1981, effective Aug. 22, 1981, expired Dec. 10, 1981. Original rule filed Aug. 12, 1981, effective Nov. 12, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 21, 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 is estimated to cost private entities an annual increase of \$90,880 with a projected continuous annual increase of \$1,150 for the life of the rule; an increase of \$155,430 during the second year of implementation of the rule with a projected continuous biennial increase of \$5,610 for the life of the rule; and an increase of \$407,040 during the third year of implementation of the rule with a projected continuous biennial increase of \$4,080 for the life of the rule. It is anticipated that the total costs will recur for the life of the rule, may vary with inflation and is expected to increase 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.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Missouri Board for Architects, Professional Engineers and Professional Land Surveyors, Milton F. (Milt) Barr, Executive Director, 3605 Missouri Boulevard, Suite 380, P.O. Box 184, 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 PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 30 – Missouri Board for Architects, Professional Engineers and Professional Land Surveyors

Chapter: 6 - Fees

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 30-6.015 Application, Renewal, Reinstatement, Reregistration, and Miscellaneous Fees

II. SUMMARY OF FISCAL IMPACT

Annual Estimates

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 annual cost of compliance with the rule by the affected entities:
196 during the first year of implementation of the rule with a continuous annual growth rate of 1% (2 applicants)	Applicants submitting an Architectural Application – Comity Fee (increase of \$50.00)	\$9,800 with a projected continuous annual increase of \$100
381 during the first year of implementation of the rule with a continuous annual growth rate of 1% (4 applicants)	Applicants submitting a Professional Engineer Application – Comity Fee (increase of \$50.00)	\$19,050 with a projected continuous annual increase of \$200
334 during the first year of implementation of the rule with a continuous annual growth rate of 1% (3 applicants)	Applicants submitting a Professional Engineer Application – Examination Fee (increase of \$50.00)	\$16,700 with a projected continuous annual increase of \$150
9 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting a Land Surveyor Application – Comity Fee (increase of \$50.00)	\$450 with a projected continuous annual increase of \$50

34 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicants)	Applicants submitting a Land Surveyor Application ... Examination Fee (increase of \$50.00)	\$1,700 with a projected continuous annual increase of \$50
66 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicants)	Applicants submitting a Land Surveyor Missouri Specific Examination Fee (increase of \$50.00)	\$3,300 with a projected continuous annual increase of \$50
5 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicants)	Applicants submitting a 327.391 Application Fee (increase of \$50.00)	\$250 with a projected continuous annual increase of \$50
164 during the first year of implementation of the rule with a continuous annual growth rate of 1% (2 applicants)	Applicants submitting an Individual Reinstatement Fee (increase of \$50.00)	\$8,200 with a projected continuous annual increase of \$100
62 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting an Individual Reregistration Fee (increase of \$80.00)	\$4,960 with a projected continuous annual increase of \$80
137 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting a Corporate Application Fee (increase of \$100.00)	\$13,700 with a projected continuous annual increase of \$100
41 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting a Corporate Reinstatement Fee (increase of \$80.00)	\$3,280 with a projected continuous annual increase of \$80
15 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting a Corporate Reauthorization Fee (increase of \$80.00)	\$1,200 with a projected continuous annual increase of \$80
1,109 during the first year of implementation of the rule with a continuous annual growth rate of 1% (11 applicants)	Licensee submitting a Certification Fee (increase of \$5.00)	\$5,545 with a projected continuous annual increase of \$55

69 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Licensee submitting a Duplicate Certificate License Fee (increase of \$5.00)	\$345 with a projected continuous annual increase of \$5
24 annually	Applicants submitting an Out of State Proctor Fee (\$100.00 – new fee)	\$2,400

Total Annual Private Entity Cost \$90,880 with a projected continuous annual increase of \$1,150

Biennial Estimates

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 biennial cost of compliance with the rule by the affected entities:
5,130 during the second year of implementation of the rule with a continuous annual growth rate of 1% (51 applicants)	Professional Engineers submitting an Individual License Renewal Fee (increase of \$30.00)	\$153,900 during the second year of implementation of the rule with a projected continuous biennial increase of \$1,530
641 during the second year of implementation of the rule with a continuous annual growth rate of 1% (6 applicants)	Applicants submitting a Corporate Renewal Fee (increase of \$80.00)	\$51,280 during the second year of implementation of the rule with a projected continuous biennial increase of \$480
13,568 during the third year of implementation of the rule with a continuous annual growth rate of 1% (136 applicants)	Architects and Land Surveyors submitting an Individual License Renewal Fee (increase of \$30.00)	\$407,040 during the third year of implementation of the rule with a projected continuous biennial increase of \$4,080

Total Biennial Private Entity Cost \$155,430 during the second year of implementation of the rule with a projected continuous biennial increase of \$5,610
\$407,040 during the third year of implementation of the rule with a projected continuous biennial increase of \$4,080

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 30—Missouri Board for Architects,
Professional Engineers and Professional Land Surveyors
Chapter 6—Fees**

PROPOSED AMENDMENT

4 CSR 30-6.020 Reexamination Fees. The board is proposing to amend subsections (1)(A)—(1)(D), add subsection (1)(C), and renumber the remaining subsections accordingly.

PURPOSE: The Missouri Board for Architects, Professional Engineers and Professional Land Surveyors is statutorily obligated to enforce and administer the provisions of Chapter 327, RSMo. Pursuant to section 327.431, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 327, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 327, RSMo. This proposed amendment is necessary because the board's fund balance and projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 327, RSMo, which will result in an endangerment to the life, health, peace and safety of the public.

(1) The following reexamination fees are established by the Missouri Board for Architects, Professional Engineers and Professional Land Surveyors:

- (A) Professional Engineer
Reexamination Fee ~~/\$80.00/~~ **\$150.00**
- (B) Engineer~~/-in-Training/~~ Intern
and Fundamentals of Engineering
Reexamination Fee ~~/\$50.00/~~ **\$100.00**
- (C) Land Surveyor Missouri Specific
Reexamination Fee **\$ 75.00**
- ~~/(C)/~~(D) Principles and Practice of Land
Surveying Reexamination Fee ~~/\$80.00/~~ **\$150.00**
- ~~/(D)/~~(E) Land Surveyor-in-Training
and Fundamentals of Land
Surveying Reexamination Fee ~~/\$70.00/~~ **\$100.00**

AUTHORITY: section 327.041, RSMo [Supp.1997] 2000. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 21, 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 is estimated to cost private entities an estimated annual increase of \$44,020 with a projected continuous annual increase of \$510 for the life of the rule. It is anticipated that the total annual cost will recur 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.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Missouri Board for Architects, Professional Engineers and Professional Land Surveyors, Milton F. (Milt) Barr, Executive Director, 3605 Missouri Boulevard, Suite 380, P.O. Box 184, 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 PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 30 – Missouri Board for Architects, Professional Engineers and Professional Land Surveyors

Chapter: 6 - Fees

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 30-6.020 Reexamination Fees

II. SUMMARY OF FISCAL IMPACT

Annual Estimates

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 annual cost of compliance with the rule by the affected entities:
380 during the first year of implementation of the rule with a continuous annual growth rate of 1% (4 applicants)	Applicants submitting an Professional Engineer Reexamination Fee (increase of \$70.00)	\$26,600 with a projected continuous annual increase of \$280
223 during the first year of implementation of the rule with a continuous annual growth rate of 1% (2 applicants)	Applicants submitting a Engineer Intern and Fundamentals of Engineering Reexamination Fee (increase of \$50.00)	\$11,150 with a projected continuous annual increase of \$100
66 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicants)	Applicants submitting a Land Surveyor Missouri Specific Reexamination Fee (\$70.00 – new fee)	\$4,620 with a projected continuous annual increase of \$70
33 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting a Principles and Practice of Land Surveying Reexamination Fee (increase of \$30.00)	\$990 with a projected continuous annual increase of \$30

22 during the first year of implementation of the rule with a continuous annual growth rate of 1% (1 applicant)	Applicants submitting an Land Surveyor-in-Training and Fundamentals of Land Surveying Reexamination Fee (increase of \$30.00)	\$660 with a projected continuous annual increase of \$30
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Total Annual Private Entity Cost **\$44,020 with a projected continuous annual increase of \$510**

III. WORKSHEET

See table above.

IV. ASSUMPTIONS

1. This proposed amendment is estimated to cost private entities an estimated annual increase of \$44,020 with a projected continuous annual increase of \$510 for the life of the rule. It is anticipated that the total annual cost will recur for the life, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**
Division 60—State Board of Barber Examiners
Chapter 1—General Rules

PROPOSED AMENDMENT

4 CSR 60-1.025 Fees. The board is proposing to amend paragraphs (1)(A)5., (1)(B)4., (1)(D)5., and (1)(E)5. and add new language in section (4).

PURPOSE: This amendment will allow the board to implement a biennial renewal and increases the barber and barbershop license renewal fees to accommodate the projected costs of administration of the board.

(1) The following fees are established by the State Board of Barber Examiners and are payable in the form of a cashier's check, money order, or personal check:

- (A) Barber
- | | |
|------------------------------------------------------------------------------------------|---------------------------|
| 1. Examination | \$50.00 |
| 2. Reexamination | \$50.00 |
| 3. Reciprocity (endorsement) | \$50.00 |
| 4. Certificate of Registration (first license) | \$20.00 |
| 5. [Annual] License Renewal [(expiration
February 28)] | \$ 30.00] \$100.00 |
| A. Reinstatement (delinquent) Fee
after April 30 not renewable after
two (2) years | \$50.00 |
| 6. Duplicate License | \$ 5.00 |
- (B) Instructor
- | | |
|------------------------------------------------------------------------------------------|--------------------------|
| 1. Examination | \$50.00 |
| 2. Reexamination | \$50.00 |
| 3. Certificate of Registration (first license) | \$20.00 |
| 4. [Annual] License Renewal [(expiration
February 28)] | \$ 30.00] \$60.00 |
| A. Reinstatement (delinquent)
Fee after April 30 not renewable
after two (2) years | \$50.00 |
| 5. Duplicate License | \$ 5.00 |
- (D) School
- | | |
|-------------------------------------------------------|---------------------------|
| 1. Application Fee to Open
a New School/College | \$500.00 |
| 2. Change of Location | \$500.00 |
| 3. Change of Ownership | \$300.00 |
| 4. Adding Co-Owner | \$ 50.00 |
| 5. [Annual] License Renewal [(expiration
June 30)] | \$300.00] \$600.00 |
- (E) Barbershop
- | | |
|-----------------------------------------------------------|---------------------------|
| 1. Certificate of Registration/
License | \$50.00 |
| 2. Change of Location | \$50.00 |
| 3. Change of Ownership | \$50.00 |
| 4. Adding a Co-Owner | \$50.00 |
| 5. [Annual] License Renewal [(expiration
February 28)] | \$ 20.00] \$100.00 |
| A. Penalty Fee after March 30 | \$100.00 |
| 6. Delinquent Fee for Opening
Shop Before Registering | \$100.00 |
| 7. Duplicate License | \$ 5.00 |

(4) All licenses shall be renewed biennially and shall expire on February 28 of each even numbered year.

AUTHORITY: section 328.060.1, RSMo [1994] 2000. The material covered in this rule was previously filed as 4 CSR 60-4.010. Original rule filed Nov. 12, 1997, effective May 30, 1998. Amended: Filed Dec. 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 is estimated to cost private entities approximately \$226,080 biennially for the life of the rule. The increased costs to private entities will begin during the second year of implementation of the rule and will recur biennially for the life of the rule, may vary with inflation and are expected to increase biennially 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.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Barber Examiners, Pamela A. Hoelscher, Executive Director, P.O. Box 1062, 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
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 60 – State Board of Barber Examiners

Chapter: 1 – General Rules

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 60-1.025 Fees

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate biennial increase to comply with the rule by the affected entities:
3489	Barbers submitting License Renewal Fee (biennial increase of \$40.00)	\$139,560
1442	Barbershops submitting License Renewal Fee (biennial increase of \$60.00)	\$86,520

Total Biennial Private Entity Increase **\$226,080**

III. WORKSHEET

See above table

IV. ASSUMPTIONS

1. The board estimates that 3489 barber licensees will experience a \$40.00 increase and 1442 barbershops will experience a \$60.00 increase during each biennial license renewal as a result of this amendment.
2. The board does not anticipate any growth rate in licensees. However, if the number of licensees increases, the estimated private entity cost will increase by the number of licensees.
3. The board estimates this amendment will cost private entities approximately \$226,080 biennially for the life of the rule. The increased costs to private entities will begin during the second year of implementation of the rule and will recur biennially for the life of the rule, may vary with inflation and are expected to increase biennially at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 60—State Board of Barber Examiners
Chapter 1—General Rules**

PROPOSED RULE

4 CSR 60-1.030 Requirement of Identification

PURPOSE: This rule explains the requirement that all licensees must have on their person a form of state identification while providing any barber service.

(1) All licensees must possess or obtain one (1) of two (2) forms of state identification. The first acceptable form of identification is an automobile driver's license from any state. The second acceptable form of identification is a Missouri state identification card. Missouri state identification cards may be obtained at any revenue office throughout the state.

(2) All licensees must carry one (1) of these forms of identification with them at all times when providing any professional barber services. Licensees must immediately produce one (1) of these forms of identification upon demand to any board inspector, to the board or its representative.

AUTHORITY: sections 328.060 and 328.150, RSMo 2000. Original rule filed Dec. 1, 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 is estimated to cost private entities \$750 during the first year of implementation of the rule and every three years thereafter for the life of the rule. These costs will recur during the first year of implementation of the rule and every three years thereafter for the life of the rule, may vary with inflation and are expected to increase 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.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Barber Examiners, Pamela A. Hoelscher, Executive Director, P.O. Box 1062, 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
 PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 60 – State Board of Barber Examiners

Chapter: 1 – General Rules

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 60-1.030 Requirement for Identification

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 cost to comply with the rule by the affected entities:
100	Licensees required to obtain a state identification card (increase of \$7.50)	\$750

Total Private Entity Cost \$750.00 during the first year of implementation of the rule and every three years thereafter.

III. WORKSHEET

State Identification Card @\$7.50/3 years

IV. ASSUMPTIONS

1. The board estimates that 100 licensees will be required to obtain a state identification card during the first year of implementation of the rule and each third year thereafter. Therefore, the board estimates this amendment will cost private entities \$750.00 every three years for the life of the rule.
2. These costs will recur every three years for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 60—State Board of Barber Examiners
Chapter 4—Sanitation Rules**

PROPOSED AMENDMENT

4 CSR 60-4.015 Sanitation Rules. The board is proposing to amend subsection (1)(K).

PURPOSE: This amendment requires all lavatories in barber schools and barbershops to be located within the toilet facility.

(1) Physical facilities shall consist of the following:

(K) Toilet Facilities. All shops shall provide adequate and conveniently located toilet facilities for use by patrons and operators. All schools/colleges shall provide two (2) or more restrooms to separately accommodate male and female students. All lavatories in barber schools and barbershops shall be provided with hot and cold running water, soap (liquid or powder), and paper towels, and shall be located within the toilet facility and shall be kept clean and in good repair;

AUTHORITY: sections 328.060.2, 328.115, 328.130, 328.150 and 328.160, RSMo [1994] 2000. The material covered in this rule was previously filed as 4 CSR 60-3.010. Original rule filed Nov. 12, 1997, effective May 30, 1998. Amended: Filed Dec. 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 would not cost private entities or political subdivisions more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Barber Examiners, Pamela A. Hoelscher, Executive Director, P.O. Box 1062, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 13—General Rules**

PROPOSED AMENDMENT

4 CSR 90-13.010 Fees. The board is amending section (1).

PURPOSE: This rule is being amended to increase the renewals fees for cosmetology operators, cosmetology instructors, cosmetology schools and cosmetology salons, in order to ensure that the board will continue to have sufficient funds to conduct its licensing and regulatory functions pursuant to section 329.210, RSMo. The board is also proposing to delete the time frame that allows cosmetologists to apply for an esthetics license without examination. Therefore, subsection (1)(T), esthetician application fee is being deleted. Subsections (1)(P), (1)(Q), and (1)(R) are also being deleted pursuant to section 610.026, which states fees for copying records shall not exceed the actual cost of document search and duplication.

(1) The following application fees hereby are established by the State Board of Cosmetology:

(C) Operator Renewal Fee	[\$ 30.00]	\$50.00
(E) Instructor License/Renewal Fee	[\$ 18.00]	\$30.00

(G) Operator Reinstatement Fee	[\$ 60.00]	\$80.00
(H) Student/Instructor Trainee Enrollment Fee	[\$ 5.00]	\$15.00
(L) School License/Renewal Fee	[\$ 370.00]	\$500.00
(M) Salon License/Renewal Fee (up to and including three (3) operators)	[\$ 30.00]	\$60.00
[(P) Photocopies/Printouts Fee (initial page/copy)	\$ 2.00	
[(Q) Photocopies/Printouts Fee (per page/copy after that)	\$.50	
(R) Document Search Fee (per hour)	\$ 20.00	
[(S)] (P) Handling Fee (Any uncollectible check or other uncollectible financial instrument)	[\$ 15.00]	\$25.00
[(T) *Esthetician Application Fee	\$ 30.00	

*[*Until July 1, 1999, any person licensed in Missouri as a Class CH or CA cosmetologist pursuant to Chapter 329, RSMo, may be licensed as an esthetician without examination if such person applies to the State Board of Cosmetology and pays a thirty-dollar (\$30) fee. After July 1, 1999, any licensed cosmetologist shall be required to complete the required training of seven hundred fifty (750) hours and pass the required examination as provided in section 329.040, RSMo, and as set forth in 4 CSR 90-3.010.]*

AUTHORITY: sections 329.110 and 329.210, RSMo [Supp. 1999] 2000. Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 11, 1981. Original rule filed July 1, 1981, effective Dec. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 is estimated to cost private entities an annual increase of \$10,550 and an estimated biennial increase of \$1,373,480 for the life of the rule. It is anticipated that this total increase will recur for the life of the rule, may vary with inflation and is expected to increase 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.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, P.O. Box 1062, 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
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 90 – State Board of Cosmetology

Chapter: 13 – General Rules

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 90-13.010 Fees

II. SUMMARY OF FISCAL IMPACT

Annual Estimates

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 annual increase to comply with the rule by the affected entities:
475	Operators submitting the Operator Reinstatement Fee - (increase of \$20.00)	\$9,500
75	Student/Instructors submitting a Student/Instructor Trainee Enrollment Fee (increase of \$10.00)	\$750
30	Licensee submitting a Handling Fee (increase of \$10.00)	\$300

**Total Annual Private
Entity Increase**

**\$10,550 annually
beginning during the
first year of
implementation of the
rule**

Biennial Estimates

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 biennial increase to comply with the rule by the affected entities:
48,489	Operators submitting the Renewal Fee (increase of \$20.00)	\$969,780
500	Instructors submitting the Instructor License/Renewal Fee (increase of \$12.00)	\$6,000
1,995	Operators submitting the Operator Reinstatement Fee (increase of \$20.00)	\$39,900
68	Cosmetology Schools submitting School License/Renewal Fee (increase of \$130)	\$8,840
11,632	Salon Owners submitting the Salon License/Renewal Fee (increase of \$30.00)	\$348,960

**Total Biennial Private
Entity Increase**

**\$1,373,480 biennially
beginning during the second
year of implementation of
the rule**

III. WORKSHEET

See table above.

IV. ASSUMPTIONS

1. The board does not anticipate any growth in the number of individuals apply for the above licensure categories.
2. This proposed amendment is estimated to cost private entities an estimated annual increase of \$10,550 for the life of the rule. It is anticipated that the total annual increase will recur for the life, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.
3. This proposed amendment is estimated to cost private entities an estimated biennial increase of \$1,373,480 for the life of the rule. It is anticipated that this total biennial increase will recur for the life, may vary with inflation and is expected to increase biennially at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**
Division 200—State Board of Nursing
**Chapter 2—Minimum Standards for [Accredited]
Approved Programs of Professional Nursing**

PROPOSED AMENDMENT

4 CSR 200-2.001 Definitions. The board is amending the chapter title and proposing to add new language in subsection (1)(A), renumber the remaining sections accordingly and amend the language in the newly lettered subsections (1)(B), (1)(I), (1)(L), and (1)(X).

PURPOSE: Pursuant to House Bill 343 of the 90th General Assembly, this amendment clarifies the term "accredited" and establishes the definition of "approval" to comply with national standards.

(1) When used in 4 CSR 200, the following terms mean:

(A) Accredited—The official authorization or status granted by an agency for a program through a voluntary process;

[(A)] (B) [Accredited] Approved—Recognized by the board as meeting or maintaining minimum standards for educational preparation of professional nurses;

[(B)] (C) Administrator—Registered professional nurse with authority and responsibility for administration of program;

[(C)] (D) Annual report—Report submitted annually by the administrator of the program that updates information on file with the board and validates continuing compliance with minimum standards;

[(D)] (E) Associate degree program—Program leading to associate degree in nursing conducted by degree granting institution;

[(E)] (F) Baccalaureate program—Program leading to baccalaureate degree in nursing conducted by degree granting institution;

[(F)] (G) Board—Missouri State Board of Nursing;

[(G)] (H) Campus—A separate geographic location with a separate student body and coordinator;

[(H)] (I) Certificate of [accreditation] approval—Document issued by the board to schools of nursing which have met minimum standards;

[(I)] (J) Clinical experience—Faculty planned and guided learning activities designed to meet course objectives or outcomes and to provide a nursing student with the opportunity to practice cognitive, psychomotor, and affective skills in the delivery of nursing care to an individual, group or community;

[(J)] (K) Clinical skills laboratory—Designated area where skills and procedures can be demonstrated and practiced;

[(K)] (L) Conditional [accreditation] approval—[s/Status of a school or program that has failed to meet or maintain the regulations or requirements, or both, set by the board. This status is subject to the school or program conforming to the requirements and recommendations and within a time period set by the board;

[(L)] (M) Coordinator—Registered professional nurse with authority and responsibility for administration of the campus nursing program as delegated by the administrator of the nursing program;

[(M)] (N) Curriculum—Planned studies and learning activities designed to lead students to graduation and eligibility for application of licensure;

[(N)] (O) Diploma program—Program leading to diploma in nursing sponsored by a health care institution;

[(O)] (P) Direct care—A clinical experience in which patient care is given by the student under the direction of the faculty member or preceptor;

[(P)] (Q) Distance learning site—An offering of studies primarily from a campus location to a separate location;

[(Q)] (R) Endorsement—Process of acquiring licensure as a nurse based on original licensure by examination in another state, territory or country;

[(R)] (S) Faculty—Individuals designated by sponsoring institution with responsibilities for development, implementation and evaluation of philosophy, objectives and curriculum of nursing program;

[(S)] (T) Full-time faculty—Those individuals deemed by sponsoring institution to meet definition for full-time employment;

[(T)] (U) Generic—Initial educational program in nursing leading to entry-level licensure;

[(U)] (V) Governing body—Body authorized to establish, monitor policies and assume responsibility for the educational programs;

[(V)] (W) Graduate competency—Individual graduate behaviors;

[(W)] (X) Initial [accreditation] approval—[s/Status of a newly established school or program that has not graduated its first class and has not received other approval status;

[(X)] (Y) Minimum standards—Criteria which nursing programs shall meet in order to be approved by the board;

[(Y)] (Z) NCLEX-RN® examination—National Council Licensure Examination for Registered Nurses;

[(Z)] (AA) Observational experiences—Faculty planned learning experiences designed to assist students to meet course objectives by the observation of patients/clients;

[(AA)] (BB) Participatory observation—A planned clinical experience in which students under the direction of a faculty member, may participate in basic care activities, such as, assessment of vital signs, collection of data and assistance with activities of daily living where a registered nurse may or may not be present. Students shall have the skills appropriate to the experiences planned. Students may not participate in invasive or complex nursing activities beyond documented competencies without direct supervision of faculty member or preceptor;

[(BB)] (CC) Part-time faculty—Individuals deemed by the sponsoring institution to meet the definition for part-time employment;

[(CC)] (DD) Philosophy—A composite of the beliefs that the faculty accept as valid and is directly related to curriculum practices which may be noted as mission or goals of program;

[(DD)] (EE) Pilot program/project—Educational activity which has board approval for a limited time;

[(EE)] (FF) Preceptor—Registered professional nurse assigned to assist nursing students in an educational experience which is designed and directed by a faculty member;

[(FF)] (GG) Program—Course of study leading to a degree or diploma;

[(GG)] (HH) Requirement—[a] A mandatory condition that a school or program meets in order to comply with minimum standards;

[(HH)] (II) Sponsoring institution—The institution that is financially and legally responsible for the nursing program;

[(II)] (JJ) Statement of need—Current evidence of need for professional and practical nurses and of community support;

[(JJ)] (KK) Systematic evaluation plan—Written plan developed by faculty for comprehensive evaluation of all aspects of the program; and

[(KK)] (LL) Written agreement—Formal memorandum of understanding or contract between a nursing education program and a clinical site which designates each party's responsibilities for the education of nursing students.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Sept. 25, 1991, effective March 9, 1992. Amended: Filed Aug. 6, 1998, effective Feb. 28, 1999. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 200—State Board of Nursing Chapter 2—Minimum Standards for [Accredited] Approved Programs of Professional Nursing

PROPOSED AMENDMENT

4 CSR 200-2.010 [Accreditation] Approval. The board is proposing to amend sections (1)–(4). The board is also proposing to delete the forms that immediately follow the rule in the *Code of State Regulations*.

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(1) Generic programs granting diploma, associate degree or baccalaureate degree with a major in nursing shall obtain [accreditation] **approval** from the Missouri State Board of Nursing.

(A) Purposes of [Accreditation] Approval.

1. To promote the safe practice of professional nursing by setting minimum standards for schools preparing entry-level professional nurses.

2. To assure that educational requirements for admission to the licensure examination have been met and to facilitate endorsement in other states, territories, countries, or a combination of these.

3. To encourage continuing program improvement through self-study, evaluation and consultation.

4. To assist programs of professional nursing in developing and maintaining academic standards (didactic and clinical) that are congruent with current educational and nursing practice standards.

(B) Classification of [Accreditation] Approval.

1. Initial [accreditation] **approval** is the status granted a program of professional nursing until full [accreditation] **approval** is granted.

2. Full [accreditation] **approval** is the status granted a program of professional nursing after the program has graduated one (1) class and has met minimum standards.

3. Conditional [accreditation] **approval** is the status of a program that has failed to meet or maintain the regulations or requirements, or both, set by the board. This status is subject to the school or program conforming to the requirements set by the board.

(C) [Accreditation] Approval Process.

1. Requirements for initial [accreditation] approval.

A. An institution desiring to establish a program of professional nursing should send a letter of intent to the board at least three (3) months prior to the submission of a proposal. The letter of intent must include: the mission statement of the educational institution; [accreditation] **approval** status of the educational

institution; type and length of the nursing program proposed; and tentative budget plans including evidence of financial resources adequate for planning, implementing, and continuing the nursing program.

B. A program proposal shall be written and presented to the board by the administrator of the proposed program with or without faculty assistance. The proposal shall bear the signature of the administrator who shall meet the criteria in 4 CSR 200-2.060(2)(A) and shall be active in the position on a full-time basis at least nine (9) months and preferably one (1) year prior to the entry of the first class. Fourteen (14) copies of the proposal must be accompanied by the required application fee. [The] **The** proposal must be prepared following the reporting format and include each component as indicated in 4 CSR 200-2.010(1)(C). Board approval of the proposal with or without contingencies must be obtained no later than six (6) months prior to the anticipated opening date.

C. A proposal submitted shall contain the following information:

(I) Statement of need and feasibility study which includes:

(a) Documentation of the need for the nursing program with rationale for why the program should be established;

(b) Number of professional nursing and practical nursing programs in the area and potential effect on those nursing programs;

(c) Number and source of anticipated student population;

(d) Number and type (practical nurse, associate, diploma, and baccalaureate) of nurses available in service area;

(e) Number and type of employers in the service area including documentation that these employers need graduates of the proposed program, including projections of nursing staff needs;

(f) Documentation of community and economic development need and support for the proposed nursing program;

(g) Letters of support for the proposed nursing program; and

(h) Source of potential qualified administrator and faculty;

(II) Curriculum.

(a) Philosophy.

(b) Organizing framework.

(c) Graduate competencies.

(d) Curriculum sequence.

(e) Course objectives and descriptions including credit hours for all courses;

(III) Students.

(a) Number of students per class.

(b) Number of classes admitted per year.

(c) Admission criteria.

(d) Plans for progression and retention of students.

(e) Grievance procedure.

(f) Plan for emergency health care of nursing students;

(IV) Faculty.

(a) Number of full-time and part-time faculty.

(b) Qualifications of faculty.

(c) Position descriptions;

(V) Ancillary personnel.

(a) Position description.

(b) Number of full-time and part-time ancillary personnel;

(VI) Sponsoring institution.

(a) Evidence of authorization to conduct the program of professional nursing.

(b) [Accreditation] **Approval** status of the sponsoring institution.

(c) Description of the governing body and copies of the organizational charts of the sponsoring institution and of the program of professional nursing.

(d) Evidence of the financial stability and resources of the sponsoring institution and the program of nursing; and

(VII) Facilities.

(a) Description of education facilities (classrooms, library, offices, clinical skills laboratory, and other facilities).

(b) Description of available equipment and supplies for clinical development, list of library and learning resources and number of computers available for student use.

(c) Description of clinical sites that will provide educationally sound experience.

(d) A letter of intent from each proposed clinical site indicating that they are able to offer/provide the educational experiences necessary for student learning.

(D) Site Survey.

1. Prior to initial *[accreditation]* **approval** a representative from the board shall make an on-site survey to verify implementation of the proposal and compliance with 4 CSR 200-2.050-4 CSR 200-2.130.

(E) Board Decision.

1. Initial *[Accreditation]* **approval** will be granted if the site survey indicates the proposal has been implemented and the program is in compliance with 4 CSR 200-2.050-4 CSR 200-2.130 as determined by the board or its representative(s). Throughout the period of initial *[accreditation]* **approval**, the program will be evaluated annually. Upon graduation of the first class of students which has completed the entire program and receipt of results of the National Council Licensure Examination for Registered Nurses (NCLEX-RN[®] examination), the board will review—

A. The program's compliance with minimum standards during initial *[accreditation]* **approval**—including the program's adherence to the approved *[proposed]* **proposal** and changes authorized by the board;

B. Report of the on-site survey (if conducted);

C. Report of National Council Licensure Examination NCLEX[®] results (see 4 CSR 200-2.180(1)); and

D. Identification and analysis of student attrition rate.

2. After its review, the board will decide to continue initial *[accreditation]* **approval** for a period of not more than one (1) year, deny *[accreditation]* **approval** or grant full *[accreditation]* **approval**.

(2) Full *[Accreditation]* **Approval**.

(B) Five (5)-Year Survey. Each *[accredited]* **approved** program and each campus of each *[accredited]* **approved** program shall be surveyed every five (5) years from the first year of full *[accreditation]* **approval**. An on-site survey or a paper survey may be conducted. If a nursing program is accredited by a national recognized nursing accrediting body AND accredited by North Central Association for Schools and Colleges or the Coordinating Board for Higher Education, or the Accrediting Council for Independent Colleges and Schools, a five (5)-year on-site survey may be deferred. A paper review may be completed to include a self-study, recommendations of accrediting body, and attrition information as required by the board. Copies of correspondence regarding changes in accreditation status shall be submitted to the Board of Nursing immediately.

(3) Annual Registration.

(A) An application for annual registration shall be sent to each *[accredited]* **approved** program and each campus of each *[accredited]* **approved** program from the board. Failure to receive the application will not relieve the program of its obligation to register.

(B) A separate annual registration form and designated fee shall be submitted to the board for each *[accredited]* **approved** program and each campus of each *[accredited]* **approved** program prior to June 1.

(4) Removal of *[Accreditation]* **Approval**. A program's *[accreditation]* **approval** may be removed pursuant to section 335.071.3, RSMo, for noncompliance with minimum standards.

(B) A program which fails to correct identified deficiencies to the satisfaction of the board within a reasonable time shall, after notice and *[heating]* **hearing**, be removed from the board's listing of *[accredited]* **approved** programs.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. This version of rule filed April 20, 1973, effective May 1, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 200—State Board of Nursing Chapter 2—Minimum Standards for *[Accredited]* *Approved* Programs of Professional Nursing

PROPOSED AMENDMENT

4 CSR 200-2.020 Discontinuing and Reopening Programs. The board is proposing to amend section (2).

PURPOSE: This amendment changes the term "accredited" to "approval" as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(2) Program Reopening. The procedure for reopening a program of professional nursing is the same as for initial *[accreditation]* **approval** in 4 CSR 200-2.010(1)(C).

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. This version of rule filed April 20, 1973, effective May 1, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 2—Minimum Standards for [Accredited]
Approved Programs of Professional Nursing**

PROPOSED AMENDMENT

4 CSR 200-2.030 Change of Sponsorship. The board is proposing to amend sections (1) and (4) and delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(1) An institution assuming the sponsorship of an [accredited] approved program of professional nursing shall notify the board in writing within ten (10) working days after the change of sponsorship.

(4) Program documents shall be changed to indicate the appropriate sponsor. The board may issue a Certificate of [Accreditation] Approval indicating the change in sponsorship, if appropriate.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. This version of rule filed April 20, 1973, effective May 1, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 2—Minimum Standards for [Accredited]
Approved Programs of Professional Nursing**

PROPOSED AMENDMENT

4 CSR 200-2.050 Organization and Administration of an [Accredited] Approved Program of Professional Nursing. The board is proposing to amend the title of the rule.

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. This version of rule filed April 20, 1973, effective May 1, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 2—Minimum Standards for [Accredited]
Approved Programs of Professional Nursing**

PROPOSED AMENDMENT

4 CSR 200-2.110 Records. The board is proposing to amend subsection (2)(C).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(2) School Records.

(C) The nursing program shall maintain records as required for [accreditation] approval.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 1999. This version of rule filed April 20, 1973, effective May 1, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 2—Minimum Standards for [Accredited]
Approved Programs of Professional Nursing**

PROPOSED AMENDMENT

4 CSR 200-2.120 Publications. The board is proposing to amend subsection (3)(A).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(3) The following information shall be given to the applicant in writing prior to admission:

(A) *[Accreditation]* **Approval** status as granted by the board (initial, full or conditional *[accreditation]* **approval** status);

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. This version of rule filed April 20, 1973, effective May 1, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 200—State Board of Nursing
Chapter 2—Minimum Standards for *[Accredited]*
Approved Programs of Professional Nursing**

PROPOSED AMENDMENT

4 CSR 200-2.180 Licensure Examination Performance. The board is proposing to amend subsections (2)(B) and (2)(C).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(2) The nursing program with a pass rate lower than eighty percent (80%) will—

(B) Second consecutive year—The program will be placed on conditional *[accreditation]* **approval** status. The program administrator will be required to appear before and present to the board an analysis of measures taken the first year, problems identified, and plans of correction; and

(C) The nursing program shall remain on “conditional *[accreditation]* **approval**” until they have two (2) consecutive years of pass rates of at least eighty percent (80%) or until the board removes *[accreditation]* **approval** pursuant to section 335.071.3, RSMo.

AUTHORITY: sections 335.036(2), (3), (4), (5) and (6) and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Sept. 1, 1998, effective Feb. 28, 1999. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.001 Definitions. The board is proposing to add new language in subsection (1)(A), reletter the remaining subsection accordingly, and amend the newly renumbered subsections (1)(B), (1)(G), (1)(J), (1)(U) and (1)(V).

PURPOSE: Pursuant to House Bill 343 of the 90th General Assembly, this amendment defines the terms “accredited” and “approved” and clarifies the term “approval” in order to comply with national standards.

(1) When used in 4 CSR 200-3, the following terms mean:

(A) **Accredited**—The official authorization or status granted by an agency for a program through a voluntary process;

[(A)] (B) *[Accredited]* **Approved**—Recognized by board as meeting or maintaining minimum standards for educational preparation of practical nurses;

[(B)] (C) **Administrator**—Registered professional nurse with authority and responsibility for administration of the program;

[(C)] (D) **Annual Report**—Report submitted annually by the administrator of the program that updates information on file with the board and validates continuing compliance with minimum standards;

[(D)] (E) **Board**—Missouri State Board of Nursing;

[(E)] (F) **Campus**—A separate geographic location with a separate student body and coordinator;

[(F)] (G) **Certificate of *[accreditation]* approval**—Document issued by the board to schools of nursing which have met minimum standards;

[(G)] (H) **Clinical experience**—Faculty planned and guided learning activities designed to meet course objectives or outcomes and to provide a nursing student with the opportunity to practice cognitive, psychomotor, and affective skills in the delivery of nursing care to an individual, group or community;

[(H)] (I) **Clinical skills laboratory**—Designated area where skills and procedures can be demonstrated and practiced;

[(I)] (J) **Conditional *[accreditation]* approval**—Status of a school or program that has failed to meet or maintain the regulations or requirements, or both, set by the board. This status is subject to the school or program conforming to the requirements and recommendations and within a time period set by the board;

[(J)] (K) **Coordinator**—Registered professional nurse with authority and responsibility for administration of the campus nursing program as delegated by the administrator of the nursing program;

[(K)] (L) **Curriculum**—Planned studies and learning activities designed to lead students to graduation and eligibility for application of licensure;

[(L)] (M) **Direct care**—A clinical experience in which patient care is given by the student under the direction of the faculty member or preceptor;

[(M)] (N) **Distance learning site**—A location separate from primary campus, where the offering of studies is delivered;

[(N)] (O) **Endorsement**—Process of acquiring licensure as a nurse based on original licensure by examination in another state, territory or country;

[(O)] (P) **Faculty**—Individuals designated by sponsoring institution with responsibilities for development, implementation and evaluation of philosophy, objectives and curriculum of nursing program;

[(P)] (Q) **Full-time faculty**—Those individuals deemed by sponsoring institution to meet definition for full-time employment;

[[Q]] (R) Generic—Initial educational program in nursing leading to entry-level licensure;

[[R]] (S) Governing body—Body authorized to establish, monitor policies and assume responsibility for the educational programs;

[[S]] (T) Graduate competency—Individual graduate behaviors;

[[T]] (U) Initial *[accreditation]* approval—Status of a newly established school or program that has not graduated its first class and has not received other approval status;

[[U]] (V) Minimum standards—Criteria which nursing programs shall meet in order to be *[accredited]* approved by the board;

[[V]] (W) NCLEX-PN® examination—National Council Licensure Examination for Practical Nurses;

[[W]] (X) Observational experiences—Faculty planned learning experiences designed to assist students to meet course objectives by the observation of patients/clients;

[[X]] (Y) Participatory observation—A planned clinical experience in which students under the direction of a faculty member, may participate in basic care activities, such as, assessment of vital signs, collection of data and assistance with activities of daily living where a registered nurse or licensed practical nurse may or may not be present. Students shall have the skills appropriate to the experiences planned. Students may not participate in invasive or complex nursing activities beyond documented competencies without direct supervision of faculty member or preceptor;

[[Y]] (Z) Part-time faculty—Individuals deemed by the sponsoring institution to meet the definition for part-time employment;

[[Z]] (AA) Philosophy—A composite of the beliefs that the faculty accepts as valid and is directly related to curriculum practices which may be noted as mission or goals of the program;

[[AA]] (BB) Pilot program/project—Educational activity which has board approval for a limited time;

[[BB]] (CC) Preceptor—Registered professional or licensed practical nurse assigned to assist nursing students in an educational experience which is designed and directed by a faculty member;

[[CC]] (DD) Program—Course of study leading to a diploma or certificate;

[[DD]] (EE) Requirement—a mandatory condition that a school or program meets in order to comply with minimum standards;

[[EE]] (FF) Sponsoring institution—The institution that is financially and legally responsible for the nursing program;

[[FF]] (GG) Statement of need—Current evidence of need for professional and practical nurses and of community support;

[[GG]] (HH) Systematic evaluation plan—Written plan developed by faculty for comprehensive evaluation of all aspects of the program; and

[[HH]] (II) Written agreement—Formal memorandum of understanding or contract between a nursing education program and a clinical site which designates each party's responsibilities for education of nursing students.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed March 25, 1993, effective Dec. 9, 1993. Amended: Filed Aug. 6, 1998, effective Feb. 28, 1999. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 200—State Board of Nursing Chapter 3—Practical Nursing

PROPOSED AMENDMENT

4 CSR 200-3.010 [Accreditation] Approval. The board is proposing to amend sections (1)–(4). The board is also proposing to delete the forms that immediately follow the rule in the *Code of State Regulations*.

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(1) Programs of practical nursing shall obtain *[accreditation]* approval from the Missouri State Board of Nursing.

(A) Purposes of *[Accreditation]* Approval.

1. To promote the safe practice of practical nursing by setting minimum standards for schools preparing entry level practical nurses.

2. To assure that educational requirements for admission to the licensure examination have been met and to facilitate endorsement in other states, territories, countries, or any combination of these.

3. To encourage continuing program improvement through self-study, evaluation and consultation.

4. To assist programs of practical nursing in developing and maintaining academic standards (didactic and clinical) that are congruent with current educational and nursing practice standards.

(B) Classification of *[Accreditation]* Approval

1. Initial *[accreditation]* approval—is the status granted a program of practical nursing until full *[accreditation]* approval is granted.

2. Full *[accreditation]* approval—is the status granted a program of practical nursing after the program has graduated one (1) class and has met minimum standards.

3. Conditional *[accreditation]* approval—is the status of a program that has failed to meet or maintain the regulations or requirements, or both, set by the board. This status is subject to the school or program conforming to the requirements set by the board.

(C) *[Accreditation]* Approval Process.

1. Requirements for initial *[accreditation]* approval.

A. An institution desiring to establish a program of practical nursing should send a letter of intent to the board at least three (3) months prior to the submission of a proposal. The letter of intent must include: the mission statement of the educational institution; *[accreditation]* approval status of the educational institution; type and length of the nursing program proposed; and tentative budget plans including evidence of financial resources adequate for planning, implementing, and continuing the nursing program.

B. A program proposal shall be written and presented to the board by the administrator of the proposed program with or without faculty assistance. The proposal shall bear the signature of the administrator who shall meet the criteria in 4 CSR 200-3.060(2)(A) and shall be active in the position on a full-time basis for at least nine (9) months and preferably, one (1) year prior to the entry of the first class. Fourteen (14) copies of the proposal must be accompanied by the required application fee. *[The]* The proposal must be prepared following the reporting format and include each component as indicated in 4 CSR 200-3.010(1)(C). Board approval of the proposal with or without contingencies must be obtained no later than six (6) months prior to the anticipated opening date.

C. A proposal submitted shall contain the following information:

(I) Statement of Need and feasibility study which includes:

- (a) Documentation of the need for the nursing program with rationale for why the program should be established;
- (b) Number of professional nursing and practical nursing programs in the area and potential effect on those nursing programs;
- (c) Number and source of anticipated student population;
- (d) Number and type (practical nurse, associate, diploma, and baccalaureate) of nurses available in service area;
- (e) Number and type of employers in the service area including documentation that these employers need graduates of the proposed program, including projections of nursing staff needs;
- (f) Documentation of community and economic development need and support for the proposed nursing program;
- (g) Letters of support for the proposed nursing program; and
- (h) Source of potential qualified administrator and faculty;

(II) Curriculum.

- (a) Philosophy.
- (b) Graduate competencies.
- (c) Curriculum sequence.
- (d) Course objectives and descriptions including credit hours/clock hours for all courses;

(III) Students.

- (a) Number of students per class.
- (b) Number of classes admitted per year.
- (c) Admission criteria.
- (d) Plans for progression and retention of students.
- (e) Grievance procedure.
- (f) Plan for emergency health care of nursing students;

(IV) Faculty.

- (a) Number of full-time and part-time faculty.
- (b) Qualifications of faculty.
- (c) Position descriptions;

(V) Ancillary personnel.

- (a) Position descriptions.
- (b) Number of full-time and part-time ancillary personnel;

(VI) Sponsoring institution.

- (a) Evidence of authorization to conduct the program of practical nursing.
- (b) **[Accreditation] Approval** status of the sponsoring institution.
- (c) Description of the governing body and copies of the organizational charts of the sponsoring institution and of the program of practical nursing.
- (d) Evidence of the financial stability and resources of the sponsoring institution and the program of nursing; and

(VII) Facilities.

- (a) Description of education facilities (classrooms, library, offices, clinical skills laboratory and other facilities).
- (b) Description of available equipment and supplies for clinical development, list of library and learning resources and number of computers available for student use.
- (c) Description of clinical sites that will provide educationally sound experiences.
- (d) A letter of intent from each proposed clinical site indicating that they are able to offer/provide the educational experiences necessary for student learning.

(D) Site Survey.

1. Prior to initial **[accreditation] approval** a representative from the board shall make an on-site survey to verify implementation of the proposal and compliance with 4 CSR 200-3.050-4 CSR 200-3.130.

(E) Board Decision.

1. Initial **[accreditation] approval** will be granted if the site survey indicates the proposal has been implemented and the program is in compliance with 4 CSR 200-3.050-4 CSR 200-3.130 as determined by the board or its representative(s). Throughout the period of initial **[accreditation] approval**, the program will be evaluated annually. Upon graduation of the first class to complete the entire program and receipt of results of the National Council Licensure Examination for Practical Nurses (NCLEX-PN[®] examination), the board will review—

A. The program's compliance with minimum standards during initial **[accreditation] approval** including the program's adherence to the approved proposal and changes authorized by the board;

B. Report of the on-site survey (if conducted);

C. Report of the National Council Licensure Examination NCLEX[®] results (see 4 CSR 200-3.180(1)); and

D. Identification and analysis of student attrition rate.

2. After its review, the board will decide to continue initial **[accreditation] approval** for a period of not more than one (1) year, deny **[accreditation] approval** or grant full **[accreditation] approval**.

(2) Full **[Accreditation] Approval**.

(B) Five (5)-Year Survey. Each **[accredited] approved** program and each campus of each **[accredited] approved** program shall be surveyed every five (5) years from the first year of full **[accreditation] approval**. An on-site survey or a paper survey may be conducted. If a nursing program is accredited by a nationally recognized nursing accrediting body and accredited by the North Central Association for Schools and Colleges or the Coordinating Board for Higher Education, or the Accrediting Council for Independent Colleges and Schools, a five (5)-year on-site survey may be deferred. A paper review may be completed to include a self-study, recommendations of accrediting body, attrition information as required by the board. Copies of correspondence regarding changes in accreditation status shall be submitted to the Board of Nursing immediately.

(3) Annual Registration.

(A) An application for annual registration shall be sent to each **[accredited] approved** program and each campus of each **[accredited] approved** program from the board. Failure to receive the application will not relieve the program of its obligation to register.

(B) A separate annual registration form and designated fee shall be submitted to the board for each **[accredited] approved** program and each campus of each **[accredited] approved** program prior to June 1.

(4) Disciplinary Process.

(A) Removal of **[Accreditation] Approval**: A program's **[accreditation] approval** may be removed pursuant to section 335.071.3, RSMo, for noncompliance with minimum standards

(C) A program which fails to correct identified deficiencies to the satisfaction of the board within a reasonable time shall, after notice and hearing, be removed from the board's listing of **[accredited] approved** programs.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Jan. 29, 1974, effective Feb 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.020 Discontinuing and Reopening Programs. The board is proposing to amend section (2).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(2) Program Reopening. The procedure for reopening a program of practical nursing is the same as for initial [accreditation] approval in 4 CSR 200-3.010(1)(C).

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Jan. 29, 1974, effective Feb 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.030 Change in Sponsorship. The board is proposing to amend sections (1) and (4) and deleting the form that follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(1) An institution assuming the sponsorship of an [accredited] approved program of practical nursing shall notify the board in writing within ten (10) working days after the change of sponsorship.

(4) Program documents shall be changed to indicate the appropriate sponsor. The board may issue a Certificate of [Accreditation] Approval indicating the change in sponsorship, if appropriate.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Jan. 29, 1974, effective Feb 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.050 Organization and Administration of an [Accredited] Approved Program of Practical Nursing. The board is proposing to amend the title of the rule.

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Jan. 29, 1974, effective Feb 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.110 Records. The board is proposing to amend subsection (2)(C).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(2) School Records.

(C) The nursing program shall maintain records as required for [accreditation] approval.

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Jan. 29, 1974, effective Feb. 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.120 Publications. The board is proposing to amend subsection (3)(A).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(3) The following information shall be given to the applicant in writing prior to admission:

(A) [Accreditation] Approval status as granted by the board (initial, full or conditional [accreditation] approval status);

AUTHORITY: sections 335.036 and 335.071, RSMo [Supp. 1997] 2000. Original rule filed Jan. 29, 1974, effective Feb. 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 200—State Board of Nursing
Chapter 3—Practical Nursing**

PROPOSED AMENDMENT

4 CSR 200-3.180 Licensure Examination Performance. The board is proposing to amend subsections (2)(B) and (2)(C).

PURPOSE: This amendment changes the term “accredited” to “approval” as in accordance with the provisions of House Bill 343 of the 90th General Assembly.

(2) The nursing program with lower than eighty percent (80%) pass rate will—

(B) Second Consecutive Year—The program will be placed on conditional [accreditation] approval status. The program administrator will appear before and present to the board an analysis of measures taken the first year, problems identified and plans of correction; and

(C) The nursing program shall remain on “conditional [accreditation] approval” until it has two (2) consecutive years of pass rates of at least eighty percent (80%) or until the board removes [accreditation] approval pursuant to section 335.071.3, RSMo.

AUTHORITY: sections 335.036(2), (3), (4), (5) and (6)[, RSMo Supp. 1997] and 335.071, RSMo [1994] 2000. Original rule filed Sept. 1, 1998, effective Feb. 28, 1999. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Calvina Thomas, Executive Director, P.O. Box 656, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 232—Missouri State Committee of Interpreters
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 232-1.040 Fees. The committee is proposing to amend subsection (1)(B) and (1)(D), delete subsections (1)(E) and (1)(G) and renumber subsection (1)(F) to (1)(E).

PURPOSE: During the initial rulemaking process the committee used a licensee estimate of 600 applications for licensure based upon statistics from the prior legislative fiscal notes and the Missouri Commission for the Deaf. However, once the certification process began, the committee was able to identify approximately 400 individuals that were either actively engaged in interpreting or seeking education and training to become interpreters. This decline in anticipated applicants necessitates fee increases to cover current operating costs.

The committee determined a cost reduction was in order for subsection (1)(D) because an individual is likely to only spend 1 to 2 days interpreting in Missouri. Furthermore, the temporary license is very restrictive as a person can only obtain a temporary license once a year, which is valid for only 90 days.

Subsections (1)(E) and (1)(G) are being deleted pursuant to section 610.026, which states fees for copying records shall not exceed the actual cost of document search and duplication.

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

(B) Annual License Renewal Fee	\$ [60.00] 90.00
(D) Temporary License Fee	\$ [60.00] 25.00
[(E) Copy Cost (per page)]	\$ 0.50/
[(F)] (E) Insufficient Funds Check Fee	\$ 50.00
[(G) Research Fee (per hour)]	\$ 35.00/

AUTHORITY: section 209.328.2(2), RSMo [1994] 2000. Original rule filed Feb. 18, 1999, effective July 30, 1999. Amended: Filed Dec. 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 is estimated to cost private entities \$10,865 annually with a continuous annual increase of \$300 for the life of the rule. It is anticipated that the total annual cost will recur 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.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed amendment with the Missouri State Committee of Interpreters, Loree Kessler, 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**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 232 – Missouri State Committee of Interpreters

Chapter: 1 – General Rules

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 232-1.040 Fees

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate annual cost of compliance with the rule by the affected entities:
368	Annual License Renewal Increase @ \$30.00	\$11,040
5	Temporary License Fee Decrease @ \$35.00	-\$175.00
Total annual increase		\$10,865

III. WORKSHEET

Annual License Renewal Increase @ \$30.00

Temporary License Fee Decrease @ \$35.00

IV. ASSUMPTIONS

1. The committee anticipates 368 individuals will apply for annual license renewal during the first year of implementation of the amendment. Thereafter, the committee estimates an annual growth rate of 10 licensees. Therefore, this proposed amendment is estimated to cost private entities \$11,040 during the first year of implementation of this proposed amendment with a continuous annual increase of \$300.00 for the life of the rule.
2. The committee estimates that 5 individuals will apply for a temporary license annually. Since the committee is decreasing the cost of the temporary license, the individuals are estimated to save \$175.00 annually for the life of the rule.

3. Based on statements above, the committee estimates that total cost of these proposed amendments will be \$10,865 annually with a continuous annual increase of \$300.00 for the life of the rule. It is anticipated that the total annual cost will recur for the life, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 232—Missouri State Committee of Interpreters
Chapter 3—Ethical Rules of Conduct**

PROPOSED AMENDMENT

4 CSR 232-3.010 General Principles. The committee is proposing to add new language in sections (2) and (19) and renumber the remaining sections accordingly.

PURPOSE: This amendment requires an interpreter to maintain current certification and prohibits practicing interpreting when there is adverse action on the certification.

(2) An interpreter must maintain a current certification with the Missouri Commission for the Deaf as defined by section 209.285(3), RSMo.

[(2)] (3) For the purpose of these rules, a consumer shall be defined as any person, persons, or entity receiving interpreting services.

[(3)] (4) An interpreter shall not accept or continue an assignment if the interpreter does not possess the ability, education, training, experience, and qualifications as defined in section 209.285(3), RSMo.

[(4)] (5) An interpreter shall convey the content and affect of the source message transmitted, in a culturally and linguistically accurate manner, using the language or communication system most readily understood by the consumer.

(A) For the purpose of these rules, message shall mean the auditory or visual information that is to be interpreted into another language or communication system.

[(5)] (6) An interpreter shall not extend or lengthen an assignment for the sole purpose of financial gain.

[(6)] (7) An interpreter shall not misrepresent her/his licensure, ability, education, training, educational credentials, or certification as defined in section 209.285(3), RSMo.

[(7)] (8) The interpreter shall not interject personal opinion during an assignment or on matters pertaining to the assignment.

[(8)] (9) The interpreter shall safeguard any information obtained relating to an assignment. If an interpreting assignment is an event open to the public, the interpreter may disclose information regarding the location of the assignment and general nature of the event.

[(9)] (10) When an assignment is not an event open to the public, an interpreter shall not disclose information relating to the assignment to include location, nature of the assignment, or individuals present during the assignment without the written consent of the consumer.

(A) For the purpose of this rule, an interpreter may disclose the general location of an assignment for the purpose of contacting the interpreter, in the event of an emergency. However, the interpreter shall remain responsible for any unauthorized disclosure of information relating to an interpreting assignment.

(B) An interpreter may reveal such information as reasonably necessary to establish a claim or defense in a legal proceeding.

[(10)] (11) The interpreter shall not accept or continue an assignment when the objectivity or competency of the interpreter is or can reasonably be expected to be impaired because of an emotional, mental, psychological, or substance abuse disorder.

[(11)] (12) The interpreter shall not accept or continue an assignment if the interpreter's inability to remain neutral affects the interpretation.

[(12)] (13) The interpreter shall not accept or continue an interpreting assignment when the objectivity or competency of the interpreter is impaired because of the interpreter's familial, sexual, and/or emotional relationship with the consumer or consumer's family.

[(13)] (14) If the interpreter discovers a need to withdraw from an assignment, the interpreter shall advise the consumer.

[(14)] (15) An interpreter shall not delegate an assignment to a person who is not qualified or does not possess the appropriate certification, as defined in section 209.285(3), RSMo, for the service to be provided.

[(15)] (16) An interpreter shall not engage in an exploitive relationship with a consumer. For the purposes of these ethical rules of conduct, an exploitive relationship is any relationship between the interpreter and consumer that may take advantage of, or cause harm to, the consumer.

[(16)] (17) An interpreter shall maintain an appearance that does not interfere with the message as defined in 4 CSR 232-3.010(4)(A).

[(17)] (18) Within the limits of the law, and after receiving written consumer consent, an interpreter shall respond to all requests for information and correspondence from the committee.

(19) An interpreter shall not practice interpreting as defined in section 209.285(3), RSMo upon the lapse, expiration, suspension, or revocation of a certification.

AUTHORITY: section 209.328.1, RSMo [1994] 2000. Original rule filed Feb. 18, 1999, effective July 30, 1999. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed amendment with the Missouri State Committee of Interpreters, Loree Kessler, 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. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission**

**Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.010 Definitions. The commission is amending section (6), deleting sections (11) and (12), adding a new section (5) and section (21), and renumbering sections (5) through (20).

PURPOSE: This proposed amendment deletes and adds terms used in this chapter.

(5) Construction. The functional unit within the department which is responsible for administering all construction contracts awarded by the commission.

[[5]] (6) Contractor. The individual proprietorship, partnership, limited partnership, corporation, limited liability company, limited liability partnership, limited liability corporation or firm of whatever organizational form participating in a joint venture, undertaking performance of the work under the terms of a contract with the commission and acting directly or through his/her/its agents, employees or subcontractors.

[[6]] (7) Contractor performance review committee consists of the following: director of operations, chairperson; director of project development; *[division engineer, design; division engineer, construction; division engineer, bridge or authorized representative.] state design engineer; state construction engineer; state bridge engineer; or an authorized representative acting on behalf of any one of them.*

[[7]] (8) Contractor representative. A general partner, officer of a corporation or other proper term depending on the company or organization, as one having authority of position, stated in writing.

[[8]] (9) Department. The Missouri Department of Transportation/. (MoDOT).

[[9]] (10) District. One (1) of ten (10) geographic regions of Missouri established for administrative purposes within the department.

[[10]] (11) District engineer. The engineer in charge of a district.

[[11] *Division, or Division of Construction. The Division of Construction within the department.*

[[12] *Division engineer. Unless this term is used with reference to another division of the department, it means the division engineer of construction.]*

[[13]] (12) Mean. The sum of all of the individual contractor's ratings divided by the total number of ratings.

[[14]] (13) Nonresponsible contractor. A contractor determined by the commission to lack one (1) or more of the qualities associated with a responsible bidder or responsible contractor.

[[15]] (14) Notice of rating. Notice of the rating by the resident engineer in a contractor performance questionnaire or of the annual rating shall be sent by mailing a copy of the contractor performance questionnaire or of a writing containing the annual rating to the contractor at the contractor's address contained in its most recent contractor questionnaire required by the Missouri Standard Specifications for Highway Construction. The department will keep a written record of the persons to whom such notices of ratings were sent and of the address and date they were sent for a period of at least ten (10) years in the case of the contractor performance questionnaire and at least ten (10) years in the case of the notice of the annual rating, which record shall prove the mailing of the notice of rating. Further, it shall be presumed that a notice of rating sent by mail was received by the contractor on the second day, which is not a Sunday or holiday, after the day the written record states it was sent excepting only if a different date is shown by a delivery receipt of the United States Postal Service.

[[16]] (15) Principal. A person is a principal of a firm if s/he is an officer, director, owner, partner or other person with that firm who has primary management, supervisory or bidding duties or authority.

[[17]] (16) Resident engineer. The individual employed by the department and assigned to a district, holding that title, who is the department's representative assigned the immediate control and administration of a commission project awarded by contract to a contractor for construction. Whenever appropriate, it also refers to his/her designated representative.

[[18]] (17) Responsible bidder or responsible contractor. A contractor, or any contractor or firm which participates collectively in a joint venture, which is capable financially, skilled and has sufficient integrity, experience and resources of all kinds, to promptly complete a project awarded, to provide a satisfactory quality of work, in compliance with the contract, in cooperation with the department and others, and in a safe manner.

[[19]] (18) Sample. A statistical subset of the total number of contractors doing work for MoDOT during the rated year.

[[20]] (19) Specialty contractors. Those contractors who have performed eighty-five percent (85%) or more of their work in one specification area as set forth in Divisions 200-900 in the Missouri Standard Specifications for Highway Construction.

[[21]] (20) Standard deviation. The square root of the average difference between the individual ratings and their mean.

(21) State construction engineer. The registered professional engineer in charge of the construction unit within the department.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1998] 227.030 and 227.100, RSMo [1994] 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency amendment filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Amended: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999 effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.030 Rating Categories for Evaluating the Performance of a Contractor. The commission is amending section (1), amending subsection (1)(B), deleting subsection (1)(D), and amending section (4).

PURPOSE: This proposed amendment reflects the change from four (4) rating categories to three (3) and revises the criteria for contractor compliance.

(1) Contractors awarded commission projects shall be rated on the following [four (4)] **three (3)** basic categories:

(B) Contract compliance includes, but is not limited to, [public relations,] timely compliance, [frequency of complaints from the public, cooperation with others,] **compliance with traffic control, handling of traffic**, submittal of required documents, maintenance of the work site and adherence to environmental requirements; **and**

(C) Prosecution and progress includes, but is not limited to, proper planning and execution, achieving the progress schedule, coordinating subcontractors and timely completion; **and**.

[(D) Safety includes, but is not limited to, public safety, compliance with traffic control, handling of traffic and general work site safety;]

(4) For overall rating purposes, the categories are assigned importance factors as follows: quality of work, [thirty] **thirty-three and one-third percent [(30%)] (33.33%)**; contract compliance, [twenty] **thirty-three and one-third percent [(20%)] (33.33%)**; and prosecution and progress, [thirty] **thirty-three and one-third percent [(30%)] (33.33%)**; **and safety, twenty percent [(20%)]**.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1997] 227.030 and 227.100, RSMo [1994] **2000**. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency amendment filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998, Amended: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.040 Contractor Performance Questionnaire Used in Evaluating Contractor Performance. The commission is amending section (3) and (5).

PURPOSE: This proposed amendment eliminates "safety" as a separate evaluation category.

(3) The Contractor Performance Questionnaire contains questions that are assigned to the [four (4)] **three (3)** evaluation categories: quality of work; prosecution and progress; **and** contract compli-

ance[; and safety]. Not all questions will be applicable on any certain project and will, therefore, not be completed.

(5) A copy of the Contractor Performance Questionnaire may be obtained by submitting a written request to the following address: Missouri Department of Transportation, [Division of] Construction, P.O. Box 270, Jefferson City, MO 65102.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1998] 227.030 and 227.100, RSMo [1994] **2000**. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.050 Procedure and Schedule for Completing the Contractor Performance Questionnaire. The commission is amending section (2), section (3), and subsections (3)(A) and (3)(B).

PURPOSE: This proposed amendment revises the procedures and schedule which apply to the completion of the Contractor Performance Questionnaire.

(2) The Contractor Performance Questionnaire shall be completed in accordance with this chapter and with written instructions given the resident engineer by [the Division of Construction] **the Construction unit**. A copy of the current instructions may be obtained from the [division engineer] **state construction engineer**.

(3) Each Contractor Performance Report shall be completed [as an Annual Report or Final Report]. The report shall indicate its type of report. The following criteria govern each type of report and when it is complete:

(A) *Annual Report.* Annual reports shall be submitted on all projects that were active during the rated year[;] and [(B) This report] will be completed within thirty (30) days after final project acceptance, but shall be completed no later than January 15, whichever comes first. Prior reports on the same contract shall not bind or govern the completion of a final report.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1998] 227.030 and 227.100, RSMo [1994] 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 1, 2000.

PUBLIC COST: This proposed amendment is estimated to cost the Missouri Department of Transportation \$29,973 in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost less than \$500 in the aggregate to private entities, including small businesses.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 10 - Contractor Performance Rating to Determine Responsibility

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 7 CSR 10-10.050, Procedure and Schedule for Completing Contractor Performance Questionnaire

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision.	Estimated Cost in the Aggregate.
Missouri Department of Transportation	\$ 29,973

III. WORKSHEET

FY 2000:

<u>Automated Report Costs:</u>	<u>Hours</u>	<u>Cost</u>	<u>Yearly</u>
<u>Total</u>			
Construction Div. Develop Time			
Salary Grade 20	1	\$57	
FY 200 Automation Costs			\$57

Questionnaire Review Costs:

Review by Resident Eng. @ \$44.86/hr (2 hrs.)
Multiplied by 300 reports/year (89.72 x 300)

FY 200 Review Costs: \$29,916

Total Estimated Costs for FY2000 and Subsequent Years \$29,973

IV. ASSUMPTIONS

1. Any salary figures are based upon the present salaries of employees who will be involved in preparing, processing and reviewing the contractor performance reports.

2. The Department anticipates that as a result of this program, it will achieve an overall savings and cost reduction due to the improved construction of the state highway program. However, these savings and cost reduction figures cannot be estimated or quantified on an annual project basis, and so are not made an offset against the costs shown above.

3. Any other costs not identified in this fiscal note are unforeseeable and unquantifiable as the exact cost of the new automated system for the contractor rating system cannot be predicted.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.060 Explanation of Standard Deviation Rating System for all Contractors. The commission is amending section (3).

PURPOSE: This proposed amendment eliminates "safety" as a separate category for rating purposes.

(3) Overall and Category Ratings. On an annual basis, each contractor who has done work for the commission and which the commission has completed a Contractor Performance Questionnaire, shall be given a rating for each of the [four (4)] **three (3)** categories: quality of work, prosecution and progress[,] and contract compliance [and safety] as well as receiving an overall rating which combines the ratings of all of the [four (4)] **three (3)** categories.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1997] 227.030 and 227.100, RSMo [1994] 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Amended: Filed April 13, 1994, effective Oct. 30, 1994. Amended: Filed June 12, 1996, effective Jan. 30, 1997. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.070 Procedure for Annual Rating of Contractors. The commission is amending sections (1), (3), and (4); paragraph (4)(A)3.; and section (5).

PURPOSE: This proposed amendment eliminates "safety" as a separate category for rating purposes.

(1) Annual Rating of Contractors. The [Division of Construction] **Construction unit** shall be responsible for the determination of the annual ratings of contractors. The [Division of Construction] **Construction unit** will annually determine a contractor's overall and category performance rating for all con-

tracts on which work was performed during the period, January 1 through December 31. The ratings for the categories Quality, [Safety,] and Contract Compliance will be based on a weighted average of the dollar value of all work completed during the rated year on all contracts. The category, Prosecution and Progress, shall use contract dollar totals for determining the contractor's performance rating.

(3) Upon the [division's] **Construction unit's** annual rating of all contractors, the ratings shall be reviewed by the [division engineer] **state construction engineer**. Upon the [division's] **Construction unit's** approval, all contractors shall be notified in writing of their annual ratings. The [Division of Construction] **Construction unit** will act on each contractor or not, based on the overall and category rating the contractor receives. These actions may range from recognizing very outstanding performance, to recommending that a contractor be declared nonresponsible.

(4) Review Process. If the contractor disagrees with any particular response on the questionnaire and cannot resolve the dispute with the resident engineer, s/he may request in writing that the district engineer review the matter. Such request must be made to the district engineer within twenty-eight (28) days from the date of the mailing of the questionnaire form to the contractor. However, the contractor's representative shall first have discussed the questionnaire response with the resident engineer in order to resolve the dispute. Upon receiving the contractor's written request to review the particular area of discrepancy on the questionnaire, the district engineer shall review the matter and provide the contractor with a written response regarding the particular area of dispute between the contractor and the resident engineer. All reports shall be submitted to the [Division of Construction] **Construction unit** before, but no later than, February 15.

(A) "Unacceptable" Rating. No request for review to the committee or to the department regarding the contractors' performance ratings is permitted or is provided under this chapter, with the exception of contractors who receive an unacceptable performance rating.

1. The contractor must have received either an unacceptable category or overall performance rating and timely discussed the dispute with the resident engineer and made a timely written request for review by the district engineer of the particular rating on the questionnaire that the contractor disagrees with as provided in this chapter.

2. The contractor shall have ten (10) working days to request an informal hearing to review an unacceptable performance rating.

3. The contractor shall submit its request for an informal hearing to the following address: Missouri Department of Transportation, [Division of] Construction, P.O. Box 270, Jefferson City, MO 65102.

(5) No Further Commission Action. As to contractor performance ratings of which no review is requested or permitted under this rule, upon the determination by the [division] **Construction unit** regarding the annual ratings of all contractors and the approval of the chief engineer of the annual ratings, the ratings of the contractors shall become final for purposes of this chapter and the effect of a level of performance. No commission action is necessary regarding the annual ratings of the contractors.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1998] 227.030 and 227.100, RSMo [1994] 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec.

1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 1, 2000.

PUBLIC COST: This proposed amendment is estimated to cost the Missouri Department of Transportation \$1,587 in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost less than \$500 in the aggregate to private entities, including small businesses.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission**

**Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.080 Determination of Nonresponsibility. The commission is deleting section (1), amending section (2), and renumbering sections (2) and (3).

PURPOSE: This proposed amendment combines the probationary provisions for “overall” and “category” rating.

[(1) Overall Unacceptable Rating. Upon a contractor’s first occurrence of an unacceptable “overall” rating, the contractor shall be placed on probation by the commission. If a contractor is currently on probation and receives a second “overall” unacceptable rating, the contractor shall be declared nonresponsible and shall be suspended by the commission for a period of one (1) year. During this suspension period, no bids shall be accepted from the contractor. At the conclusion of the suspension period, the contractor shall be reinstated on a probationary status and will be allowed to bid on commission projects. Any contractor who has been previously suspended for unacceptable performance, has a current deficiency status, and receives a subsequent unacceptable overall rating shall be declared nonresponsible and shall be barred from bidding on any commission projects for a period of three (3) years. After this three (3)-year debarment has expired, the contractor may be reinstated on a probationary basis. Any deficiency status shall remain in effect until the contractor obtains an overall rating above the mean.]

[(2)](1) [Category] Unacceptable Category or Overall Rating. A contractor who receives an initial unacceptable [“category”] rating shall be placed on probation. Any contractor who is on probation and receives a second unacceptable [category] rating shall be declared nonresponsible and shall be suspended for a period of one (1) year. During this suspension period, no bids shall be accepted from the contractor. At the conclusion of this suspension period, the contractor shall be reinstated on a probationary basis and be allowed to bid on commission projects. Any contractor who has previously been suspended for unacceptable performance, has a current deficiency status, and receives a subsequent unacceptable [category] rating shall be declared nonresponsible and shall be barred from bidding on commission projects for a period of three (3) years. After the three (3)-year debarment period has

ended, the contractor may be reinstated on a probationary basis. Any deficiency status shall remain in effect until the contractor obtains an annual average category rating in all categories.

[(3)](2) Affiliates of the Contractor. Any probation, suspension or debarment of the contractor shall be equally applicable to all affiliates of the contractor.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1997] 227.030 and 227.100, RSMo [1994] 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission**

**Chapter 10—Contractor Performance Rating to
Determine Responsibility**

PROPOSED AMENDMENT

7 CSR 10-10.090 Reservation of Rights to Recommend or Declare Persons or Contractors Nonresponsible on Other Grounds. The commission is amending section (1).

PURPOSE: This proposed amendment reflects that the rating categories have changed from four (4) categories to three (3).

(1) Nothing in this chapter shall be construed to waive, limit or restrict the right of the chief engineer to recommend that a contractor be declared nonresponsible, if any individual rating on one (1) or more of the *[four (4)] three (3)* rating categories specified in 7 CSR 10-10.030 is so low that the chief engineer has cause to believe that the contractor cannot responsibly or competently perform contract work generally, or of a particular type or description. The commission reserves the right to declare nonresponsible any contractor which it finds to be incompetent or nonresponsible, with those terms and conditions governing the disqualification as it deems appropriate.

AUTHORITY: sections 226.020, [and] 226.130, [RSMo Supp. 1997] 227.030 and 227.100, RSMo [1994] 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expires June 29, 2001. Amended: Filed Dec. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution
Control Rules Specific to the Kansas City Metropolitan
Area**

PROPOSED AMENDMENT

10 CSR 10-2.260 Control of Petroleum Liquid Storage, Loading and Transfer. The commission proposes to amend the rule Purpose and section (8); renumber and amend sections (2), (3), (4), (5), and (6); add new section (1) and subsections (5)(D), (6)(B), (8)(C) and (8)(D); delete sections (7), (9), (10) and subsections (2)(E) and (5)(C); and remove the forms following the rule in the *Code of State Regulations*. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

PURPOSE: This proposed amendment is seeking to clarify rule language for consistency and make this rule as parallel as possible with 10 CSR 10-5.220 Control of Petroleum Liquid Storage, Loading and Transfer. There are changes in the pressure-vacuum valve requirement on certain tanks involved in gasoline transfer, to standardize the valves that will give more reductions in volatile organic compound emissions. The other changes to this rule concern the removal of the forms and changes to the Tank Truck Tightness Test and sticker requirements. The forms are being removed from the rule to give both industry and the department increased flexibility to amend forms more quickly. The Tank Truck Tightness Test requirements are being changed from the state standard to a more stringent federal standard to give delivery vessel operators increased flexibility at storage terminals. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the Kansas City Ozone Maintenance Plan adopted February 3, 1998, Section 175A of the Clean Air Act, the April 11, 2000, letter from the U.S. Environmental Protection Agency to the Missouri Governor, and the August 22, 2000, letter from the Missouri Governor to the U.S. Environmental Protection Agency. Both the Kansas City Ozone Maintenance Plan and Section 175A of the Clean Air Act include contingency provisions, which were triggered by violations of the one-hour ozone standard in 1995 and 1997. As requested in the U.S. Environmental Protection Agency letter, the Governor's letter makes a commitment to implement several emission control strategies, including the control requirements encompassed by this regulation, and to revise the Maintenance Plan accordingly.

PURPOSE: This [regulation further controls evaporative hydrocarbon] rule restricts volatile organic compound emissions from the handling of petroleum liquids in three specific areas[—]: petroleum storage tanks with a capacity greater than forty thousand gallons, the loading of gasoline into delivery vessels and the

transfer of gasoline from delivery vessels into stationary storage containers. Exemptions are provided for facilities [loading less than or equal to six hundred thousand gallons of gasoline per month and for] that make transfers [made] into stationary storage containers of certain sizes and types. This [regulation] rule is required in order to reduce hydrocarbon emissions in the Kansas City metropolitan area [which] that contribute to the formation of [oxidants] ozone.

(1) Definitions.

(A) CARB—California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, CA 95812.

(B) Department—Missouri Department of Natural Resources, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102.

(C) Staff director—Director of the Air Pollution Control Program of the Department of Natural Resources, or a designated representative.

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

[(1) Application]

[(A) This regulation shall apply only in Clay, Jackson and Platte Counties.

[(B) Definitions as specified in this regulation may be found in 10 CSR 10-6.020.]

(2) Applicability. This rule shall apply throughout Clay, Jackson and Platte Counties.

[(2)] (3) Petroleum Storage Tanks.

(A) No owner or operator of petroleum storage tanks shall cause or permit the storage in any stationary storage tank of more than forty thousand (40,000) gallons['] capacity of any petroleum liquid having a true vapor pressure of one and one-half (1.5) pounds per square inch absolute (1.5] psia) or greater at ninety degrees Fahrenheit (90°F), unless the storage tank is a pressure tank capable of maintaining working pressures sufficient at all times to prevent volatile organic compound (VOC) vapor or gas loss to the atmosphere or is [designed or will be built and] equipped with one (1) of the following vapor loss control devices:

1. A floating roof, consisting of a pontoon type, double-deck type or internal floating cover or external floating cover, that [which shall] rests on the surface of the liquid contents and is equipped with a closure seal(s) to close the space between the roof edge and tank wall. Storage tanks with external floating roofs shall meet the additional following requirements:

A. The storage tank [has been] shall be fitted with either—

(I) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(II) A closure or other device [which] approved by the staff director that controls VOC emissions with an effectiveness equal to or greater than a seal required under part [(2)](3)(A)1.A.(I) [and approved by the director] of this rule;

B. All seal closure devices shall meet the following requirements:

(I) There are no visible holes, tears or other openings in the seal(s) or seal fabric;

(II) The seal(s) is intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(III) For vapor-mounted primary seals, the accumulated area of gaps exceeding 0.32 [cm] centimeters, one-eighth inch (1/8") width, between the secondary seal and the tank wall shall not exceed 21.2 cm² per meter of tank diameter (1.0 in² per [ft.] foot of tank diameter);

C. All openings in the external floating roof, except for automatic bleeder vents, rim space vents and leg sleeves *[are]* shall be equipped with—

(I) Covers, seals or lids in the closed position except when the openings are in actual use; and

(II) Projections into the tank which remain below the liquid surface at all times;

D. Automatic bleeder vents *[are]* shall be closed at all times except when the roof is floated off or landed on the roof leg supports;

E. Rim vents *[are]* shall be set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting; and

F. Emergency roof drains *[are provided with]* shall have slotted membrane fabric covers or equivalent covers which cover at least ninety percent (90%) of the area of the opening;

2. A vapor recovery system with all storage tank gauging and sampling devices gas-tight, except when gauging or sampling is taking place. The vapor disposal portion of the vapor recovery system shall consist of an adsorber system, condensation system, **incinerator** or equivalent vapor disposal system that processes the vapor and gases from the equipment being controlled; *[and]* or

3. Other equipment or means of equal efficiency for purposes of air pollution control as *[may be]* approved by the **staff** director.

(B) Control equipment described in paragraph *[(2)](3)(A)1.* of **this rule** shall not be *[permitted]* **allowed** if the *[gasoline or]* petroleum liquid *[stored]* **other than gasoline** has a true vapor pressure of 11.1 psia or greater at ninety degrees Fahrenheit (90°F). All storage tank gauging and sampling devices shall be *[built so as to be]* gas-tight except when gauging or sampling is *[to take]* taking place.

(C) **Owners and operators of [P]petroleum storage tanks** subject to this section *[must keep complete]* shall **maintain written** records of *[routine and unscheduled]* maintenance (**both routine and unscheduled**) **performed on the tanks, all repairs [and of all] made, the results of all tests [conducted. Also to be recorded are] performed and** the type and *[quantities]* **quantity** of petroleum liquid[s] stored in *[affected storage tanks]* **them. The [R]records shall be [kept] maintained** for two (2) years and *[shall be]* made available to the **staff** director upon request.

(D) This section shall not apply to petroleum storage tanks **which—**

1. *[Where petroleum or condensate is stored, processed, treated, or a combination of these,] Are used to store processed and/or treated petroleum or condensate when it is stored, processed and/or treated at a drilling and production installation prior to custody transfer;*

2. *[That c]Contain a petroleum liquid with a true vapor pressure less than 27.6 [kilo pascals] kilopascals (kPa) (4.0 psia) at ninety degrees Fahrenheit (90°F) [—*

A. *Are of welded construction; and*

B. *Presently possess a metallic-type shoe seal, a liquid-mounted liquid-filled-type seal or other closure device of demonstrated equivalence approved by the director];*

3. *Are [O]of welded construction, and equipped with a metallic-type shoe primary seal and have a shoe-mounted secondary seal or closure devices of demonstrated equivalence approved by the staff director; or*

4. *[Which a]Are used to store waxy, heavy pour crude oil.*

[(E) Any owner or operator of a petroleum liquid storage tank who must install a secondary seal or equivalent in order to achieve compliance, shall meet the applicable increments of progress contained in the following schedule:

1. *Submit final plans for the emission control system before December 15, 1980;*

2. *Award contracts for the emission control system before February 1, 1981;*

3. *Initiate on-site construction or installation of the emission control equipment before April 15, 1981;*

4. *Complete on-site construction or installation of the emission control equipment before August 15, 1981; and*

5. *Achieve final compliance before October 1, 1981.]*

[(3)] (4) Gasoline Loading.

(A) No owner or operator of a gasoline loading installation or delivery vessel shall cause or permit the loading of gasoline into any delivery vessel from *[any]* a loading installation unless the loading installation is equipped with a vapor recovery system or *[its]* equivalent. **This system or system equivalent shall be approved by the staff director and the delivery vessel [is] shall be in compliance with [sub]section [(5)(A)](6) of this [regulation] rule.**

(B) Loading shall be accomplished in a manner that the displaced vapors and air will be vented only to the vapor recovery system. Measures shall be taken to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected. The vapor disposal portion of the vapor recovery system shall consist of one (1) of the following:

1. An adsorber system, condensation system, **incinerator** or equivalent vapor disposal system that processes the vapors and gases from the equipment being controlled and limits the discharge of VOC into the atmosphere to *[0.30 grams] ten (10) milligrams* of VOC vapor per *[gallon] liter* of gasoline loaded;

2. A vapor handling system that directs the vapor to a fuel gas system; or

3. Other equipment of an efficiency equal to or greater than paragraph *[(3)](4)(B)1.* or 2. of **this rule** if approved by the **staff** director.

(C) Owners *[or]* and operators of loading installations subject to this section shall *[keep]* **maintain** complete records documenting the number of delivery vessels loaded and their owners. **The [R]records shall be [kept] maintained** for two (2) years and *[shall be]* made available to the **staff** director upon request.

(D) This section shall not apply to loading installations whose average monthly throughput of gasoline is less than or equal to one hundred twenty thousand (120,000) gallons when averaged over the most recent calendar year, provided that the installation loads gasoline by submerged loading.

1. To maintain *[their]* the exemption, these installations shall submit to the **staff** director **on a form supplied by the department** by February 1 of each year, a report stating gasoline throughput for each month of the previous calendar year. *[The report form is found in section (10) of this rule.] After the effective date of this rule, any revision to the department supplied forms will be presented to the regulated community for a forty-five (45) day comment period.*

2. Delivery vessels purchased after the effective date of this rule shall be Stage I equipped.

3. A loading installation that fails to meet the requirements of the exemption for one (1) calendar year shall not qualify for the exemption again.

4. To maintain the exemption owners or operators shall maintain records of gasoline throughput and gasoline delivery.

5. Delivery vessels operated by an exempt installation shall not deliver to Stage I controlled tanks unless the delivery vessel is equipped with and employs Stage I controls.

[(4) Gasoline Transfer.

(A) No owner or operator of a stationary storage tank or delivery vessel shall cause or permit the transfer of gasoline from any delivery vessel into any stationary storage tank with a capacity greater than two thousand (2000)

gallons unless the storage tank is equipped with a submerged fill pipe and a vapor recovery system or other system of an equal vapor control efficiency if approved by the director and the delivery vessel is in compliance with subsection (5)(A) of this regulation. Stationary storage tanks with a capacity of two hundred fifty to two thousand (250–2000) gallons shall be equipped with a submerged fill pipe.

1. The vapor recovery system shall collect no less than ninety percent (90%) by volume of the vapors displaced from the stationary storage tank during gasoline transfer and return the vapors via a vapor-tight return line to the delivery vessel.

2. The vapor recovery system shall be constructed to ensure that the vapor-tight return line is connected before gasoline can be transferred into the stationary storage tank.

3. A delivery vessel may be refilled within Platte, Jackson and Clay Counties only at installations complying with provisions of section (3).

4. This section shall not be construed to prohibit safety valves or other devices required by governmental safety regulations.

(B) The provisions of subsection (4)(A) shall not apply to the following:

1. Stationary storage tanks having a capacity less than or equal to two thousand (2000) gallons used exclusively for the fueling of implements of agriculture;

2. Stationary storage tanks having a capacity less than or equal to two thousand (2000) gallons installed prior to June 12, 1986; and

3. Transfer made to storage tanks equipped with floating roofs or their equivalent.

(C) The owners or operators of stationary storage tanks subject to this section shall keep records documenting the number of delivery vessels unloaded and their owners. Records shall be kept for two (2) years and shall be made available to the director upon request.]

(5) Gasoline Transfer.

(A) No owner or operator of a gasoline storage tank or delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a gasoline storage tank with a capacity greater than two thousand (2,000) gallons unless—

1. The storage tank is equipped with a submerged fill pipe extending unrestricted to within six inches (6") of the bottom of the tank, and not touching the bottom of the tank, or the storage tank is equipped with a system that allows a bottom fill condition;

2. All storage tank caps and fittings are vapor-tight when gasoline transfer is not taking place; and

3. Each storage tank is vented via a conduit that is:

A. At least two inches (2") inside diameter;

B. At least twelve feet (12') in height above grade; and

C. Equipped with a pressure/vacuum valve that is CARB certified at three inches water column pressure/eight inches water column vacuum (3"wcp/8"wcv) except when the owner or operator provides documentation that the system is CARB certified for a different valve and will not function properly with a 3"wcp/8"wcv valve.

(B) Stationary storage tanks with a capacity of two hundred fifty to two thousand (250–2,000) gallons shall also be equipped with a Stage I vapor recovery system and the delivery vessels to these tanks shall be in compliance with section (6) of this rule.

1. The vapor recovery system shall collect no less than ninety percent (90%) by volume of the vapors displaced from the stationary storage tank during gasoline transfer and shall return the vapors via a vapor-tight return line to the delivery

vessel. After the effective date of this rule, all coaxial systems shall be equipped with poppeted fittings.

2. A delivery vessel shall be refilled only at installations complying with the provisions of section (4) of this rule.

3. This section shall not be construed to prohibit safety valves or other devices required by governmental regulations.

(C) The owner or operator of stationary storage tanks subject to this section shall keep records documenting the vessel owners and number of delivery vessels unloaded by each owner. Records shall be kept for two (2) years and shall be made available to the staff director within five (5) days of a request. The owner or operator shall retain on-site copies of the loading ticket, manifest or delivery receipt for each grade of product received, subject to examination by the staff director upon request. If a delivery receipt is retained rather than a manifest or loading ticket, the delivery ticket shall bear the following information: vendor name, date of delivery, quantity of each grade, point of origin, and the manifest or loading ticket number. The required retention on-site of the loading ticket, manifest or delivery receipt shall be limited to the four (4) most recent records for each grade of product.

(D) The provisions of subsection (5)(B) of this rule shall not apply to transfers made to storage tanks equipped with floating roofs or their equivalent.

(E) The provisions of subsections (5)(A)–(D) of this rule shall not apply to stationary storage tanks having a capacity less than or equal to two thousand (2,000) gallons used exclusively for the fueling of implements of agriculture or were installed prior to June 12, 1986.

[(5)] (6) Gasoline Delivery Vessels.

(A) No owner or operator of a gasoline delivery vessel shall operate or use a gasoline delivery vessel which is loaded or unloaded at an installation subject to sections [(3)](4) or [subsection (4)(A)](5) of this rule unless [the delivery vessel is]—

1. The delivery vessel is [T]tested annually to demonstrate compliance with the test method specified in 40 CFR part 63, subpart R, section 63.425(e); [that it will sustain a pressure change of no more than seven hundred fifty (750) pascals (3 in. of H₂O) in five (5) minutes when pressurized to a gauge pressure of four thousand five hundred (4500) pascals (18 in. of H₂O) or evacuated to a gauge pressure of fifteen hundred (1500) pascals (6 in. of H₂O). Testing of delivery vessels that have rubber hoods shall take place in the time period of January 1 through May 30 of each year, and shall be in accordance with the test procedure specified in 10 CSR 10-6.030(14)(B). Testing of delivery vessels that have aluminum hoods shall take place in the time period of January 1 through December 31 of each year and shall be in accordance with the test procedures specified in 10 CSR 10-6.030(14)(B).]

2. [Upon successful completion of the leak test, t/The owner or operator [shall] obtains the completed test results signed by a representative of the testing facility upon successful completion of the leak test. Blank test certification application forms for the test results will be provided to the testing facilities by the [director] department. [The leak test application form is found in section (10) of this rule.] After the effective date of this rule, any revision to the department supplied forms will be presented to the regulated community for a forty-five (45)-day comment period. The owner or operator shall send a copy of the signed successful test results to the staff director. The staff director, upon receipt of acceptable test results, shall issue, upon receipt of acceptable test results,] an official sticker to the owner or operator[.];

3. [This] The Missouri sticker [shall be] is placed on the upper left portion of the back end of the vessel[.]; [An owner or operator of a gasoline delivery vessel who can demon-

strate to the satisfaction of the director that the vessel has passed a current annual leak test in another state shall be deemed to have satisfied the requirements of this paragraph, where the other state's leak test program must be subject to the same gauge pressure requirements and test procedures as specified in this paragraph; and]

[2.] 4. The delivery vessel is [R]repaired by the owner or operator and retested within fifteen (15) days of testing if it does not meet the leak test criteria of subsection [(5)](6)(A) of this [regulation] rule; and

5. A copy of the vessel's current Tank Truck Tightness Test results are kept with the delivery vessel at all times and made immediately available to the staff director upon request.

(B) An owner or operator of a gasoline delivery vessel who can demonstrate to the satisfaction of the staff director that the vessel has passed a current annual leak test in another state shall be deemed to have satisfied the requirements of paragraph (6)(A)1. of this rule, if the other state's leak test program requires the same gauge pressure and test procedures as the test specified in paragraph (6)(A)1. of this rule. The owner or operator shall apply for a Missouri sticker and display the Missouri sticker on the upper left portion of the back end of the delivery vessel.

[(B)] (C) Owners [or] and operators of gasoline delivery vessels shall [keep] maintain written records of all tests and maintenance performed on the vessels. The records shall be maintained for [not less than] two (2) years and [these records shall be] made available to the staff director upon request.

[(C)] Any owner or operator of a delivery vessel subject to this regulation shall be in compliance by January 1, 1981, with the exception of the annual testing certification and recordkeeping requirements in subsection (5)(A), which shall be met by July 2, 1990.]

(D) This section shall not be construed to prohibit safety valves or other devices required by governmental [safety] regulations.

[(6)] (7) Owner/Operator Compliance. The owner or operator of a vapor recovery system subject to this [regulation] rule shall—

(A) [Design and o]perate the vapor recovery system and the gasoline loading equipment in a manner that prevents—

1. Gauge pressure from exceeding four thousand five hundred (4,500) pascals (eighteen inches (18") [in.] of H₂O) in the delivery vessel;

2. A reading equal to or greater than one hundred percent (100%) of the lower explosive limit (LEL), measured as propane[)] at two and one-half (2.5) centimeters from all points on the perimeter of a potential leak source when measured by the method referenced in 10 CSR 10-6.030(14)(E) during loading or transfer operations; and

3. Visible liquid leaks during loading or transfer operation;

(B) Repair and retest within fifteen (15) days, a vapor recovery system that exceeds the limits in [sub]section [(6)](A)(7) of this [regulation] rule; and

(C) [Keep] Maintain written records of inspection reports, enforcement documents, gasoline deliveries, routine and unscheduled maintenance and repairs and [of] all results of tests conducted. The [R]records shall be [kept] maintained for two (2) years and [shall be] made available to the staff director upon request.

[(7)] The staff director, at any time, may monitor a delivery vessel or vapor recovery system by the method referenced in subsection (8)(A) to confirm continuing compliance with section (5) or (6) of this regulation.]

(8) Testing and Monitoring Procedures and Reporting.

(A) Testing and monitoring procedures to determine compliance with section [(5)](6) of this rule and confirm the continuing exist-

ence of leak-tight conditions shall be [as described in] conducted using the method referenced in 10 CSR 10-6.030(14)(B).

(B) Testing procedures to determine compliance with paragraph [(3)](4)(B)1. of this rule shall be [as described in] conducted using the method referenced in 10 CSR 10-6.030(14)(A).

(C) The staff director, at any time, may monitor a delivery vessel, vapor recovery system or gasoline loading equipment by a method determined by the staff director to confirm continuing compliance with this rule.

(D) An annual staff director-approved back pressure blockage test and/or air-to-liquid test may be required. Additional testing may also be required by the staff director in order to determine proper functioning of vapor recovery equipment.

[(9)] Compliance.

(A) Compliance with this rule by each affected loading installation with an average monthly throughput of gasoline greater than six hundred thousand (600,000) gallons, when averaged over the most recent calendar year, shall be achieved according to the following schedule:

1. By October 1, 1979—submit to the director the final control plan;

2. By March 1, 1980—initiate on-site construction or installation of control equipment; and

3. By April 15, 1981—achieve final compliance.

(B) Compliance with this regulation by each affected loading installation with an average monthly throughput equal to or greater than one hundred twenty thousand (120,000) and equal to or less than six hundred thousand (600,000) gallons of gasoline, when averaged over the most recent calendar year, shall be achieved according to the following schedule:

1. By September 12, 1985—submit to the director the final control plan;

2. By March 12, 1986—initiate on-site construction or installation of control equipment; and

3. By August 12, 1986—achieve final compliance.

(C) Compliance with section (4) of this regulation shall be achieved according to the following schedule:

1. By October 1, 1986—submit to the director the final control plan;

2. By March 1, 1987—initiate on-site construction or installation of control equipment; and

3. By December 31, 1987—achieve final compliance.

[(10)] Appendix A. Official Forms.

(A) Delivery Vessel Pressure Test Certification Application.

(B) Request for Exemption Form.]

AUTHORITY: section 643.050, RSMo [1986] 2000. Original rule filed Jan. 15, 1979, effective June 11, 1979. Amended: Filed Oct. 15, 1979, effective March 13, 1980. Amended: Filed March 13, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 2, 1984, effective May 11, 1985. Amended: Filed Feb. 4, 1986, effective May 29, 1986. Amended: Filed Sept. 1, 1987, effective Dec. 24, 1987. Amended: Filed Nov. 27, 1989, effective May 24, 1990. Amended: Filed May 15, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 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 cost \$50,630 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will

begin at 9:00 a.m., February 6, 2001. The public hearing will be held at the Governor Hotel State Office Building, 300 Madison Street, Grand Ballroom, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., February 13, 2001. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 2 - Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

Type of Rulemaking: Amendment

Rule Number and Name: 10 CSR 10-2.260 - Control of Petroleum Liquid Storage, Loading and Transfer

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:
418	Gasoline Retail Stations	\$50,630
152	Petroleum Delivery Companies	No additional costs

III. WORKSHEET

Total # of Stations ¹	418
Cost for approved Husky brand Pressure/Vacuum valves	\$ 87.21
Cost for approved OPW brand Pressure/Vacuum valves	\$ 74.29
Average	\$ 80.75
Cost @ 3per station ⁴	\$ 242.25
Total cost if zero compliant with 3 @ each station	\$101,260.50
Percent of stations presently compliant ²	50%
Estimated cost	\$ 50,630.25
Increased Inspection and Maintenance costs ³	\$ 0.00

IV. ASSUMPTIONS

1. The amount of retail gasoline stations in 1996 was 488 and currently is at 418. The assumption follows that the amount of stations would stay at the present level, as fewer, larger facilities are the current trend.
2. There is more than 50% compliance with regard to the pressure/vacuum valve requirement in the affected area, so 50% was used.
3. All of the stations have Pressure/Vacuum valves. CARB approved or not, so it is assumed that there are no increased inspection and maintenance costs due to this rulemaking.
4. Gasoline stations commonly share ventilation between tanks where only one pressure/vacuum valve is used. Some choose to have a pressure/vacuum valve on each tank. At the most, the majority of station will have three tanks, and for this purpose, three pressure/vacuum valves per station was used for this estimate.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 15—Division of Aging
Chapter 9—Certification

PROPOSED AMENDMENT

13 CSR 15-9.010 General Certification Requirements. The division proposes to amend the Purpose statement, amend sections (1), (2), (4), (6), (7), (9), (12) and (13), delete sections (10) and (14), and renumber sections (11) through (16) accordingly, and delete the forms that follow the rule in the *Code of State Regulations*.

PURPOSE: This proposed amendment is to update this rule for clarity and to insure compliance with current federal definitions and procedures, and to include current regulatory references.

PURPOSE: This rule sets forth application procedures and general certification requirements for nursing facilities certified under the Title XIX (Medicaid) program and skilled nursing facilities under Title XVIII (Medicare), and procedures to be followed by nursing facilities when requesting a nurse staffing waiver [and requirements for notification of residents of right to appeal prior to transfer].

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.

(1) Definitions.

[(A)] Alternate remedy, a sanction as a result of non-compliance with federal regulations imposed upon a facility participating in the Medicare or Medicaid program, as provided by federal statute, including denial of payment for new admissions.]

[(B)] (A) Certification[,] means the determination by the Division of Aging or the Health Care Financing Administration that a skilled nursing or intermediate care facility (SNF/ICF) is in compliance with all federal requirements and is approved to participate in the Medicaid or Medicare programs.

[(C)] Credible allegation of compliance letter, a letter submitted by a provider to the division, following a determination by the division that a facility is out of compliance with one (1) or more level A requirements, which indicates the facility has taken measures to correct the level A deficiencies and requests that a revisit be done.

[(D)] Denial of payment for new admissions, an alternate remedy recommended to the Division of Medical Services by the Division of Aging by which the facility shall not admit new Medicaid residents for a period of time specified by the division not to exceed a date six (6) months from the date of survey.]

[(E)] (B) Distinct part[, a unit within a facility organized and operated to give a distinct type of care within a larger organization rendering other levels of care.] means a portion of an institution or institutional complex that is certified to provide SNF or NF services. [This unit] A distinct part must be physically [identifiable and be organized and operated distinguishably from the rest of the] distinguishable from the larger institution and must consist of all beds within [that unit—such as] the designated area. The distinct part may be a separate building, floor, wing, ward, hallway or several rooms at one end of a hall or one side of a corridor.

[(F)] (C) Division[,] means the Division of Aging (DA), Missouri Department of Social Services.

[(G)] (D) HCFA[,] means the Health Care Financing Administration section of the United States Department of Health and Human Services (HHS).

[(H)] (E) ICF/MR[,] means intermediate care facility for mentally retarded.

[(I)] Level A requirement, a major requirement contained in 42 CFR chapter IV, part 483, subpart B with which a Medicaid- or Medicare-certified facility must be in compliance in order to be initially certified or remain certified.]

[(J)] (F) Medicaid[,] means Title XIX of the federal Social Security Act.

[(K)] (G) Medicare[,] means Title XVIII of the federal Social Security Act.

[(L)] (H) Nursing facility (NF)[,] means an SNF or ICF licensed under Chapter 198, RSMo which has signed an agreement with the Department of Social Services to participate in the Medicaid program and which is certified by the Division of Aging.

[(M)] Reasonable assurance period, a period of between sixty and one hundred eighty (60–180) days during which a facility decertified from participating in the Medicaid or Medicare program, or both, must maintain compliance before it can be reconsidered for participation in the program from which decertified.]

[(N)] (I) Skilled nursing facility (SNF)[,] means an SNF licensed under Chapter 198, RSMo which has a signed agreement with the HCFA to participate in the Medicare program and which has been recommended for certification by the Division of Aging.

[(O)] (J) Title XVIII[,] means the Medicare program as provided for in the federal Social Security Act.

[(P)] (K) Title XIX[,] means the Medicaid program as provided for in the federal Social Security Act.

(2) An operator of an SNF or ICF licensed by the division wishing to be certified as a provider of skilled nursing services under the Title XVIII (Medicare) or NF services under the Title XIX (Medicaid) program of the Social Security Act or an operator of a facility wishing to be certified as an ICF/MR facility under Title XIX shall submit application materials to the division as required by federal law and shall comply with standards set forth by the United States Department of HHS in 42 CFR chapter IV, part 483, subpart B for nursing homes and 42 CFR chapter IV, part 483, subpart [D] I for ICF/MR facilities, as appropriate.

(A) For Medicaid, the application shall include:

1. Form HCFA 671, Long Term Care Facility Application for Medicare and Medicaid;
2. Form HCFA 1513, Disclosure of Ownership and Control Interest Statement; and
3. Form DA-113, Bed Classification for Licensure and Certification by Category.

(B) For Medicare, the application shall include:

1. Form HCFA 671, Long Term Care Facility Application for Medicare and Medicaid;
2. [Form HCFA 1513, Disclosure of Ownership and Control Interest Statement] Form HCFA 855, Health Care Provider/Supplier Application;
3. Expression of Intermediary Preference Form;
- 3.4. Form DA-113, Bed Classification for Licensure and Certification by Category;
- 4.5. [Two (2)] Three (3) copies of form HCFA 1561, Health Insurance Benefit Agreement;
- 5.6. Two (2) copies of form HCFA 2572, Statement of Financial Solvency; and
- 6.7. Three (3) copies of form HHS 690, Assurance of Compliance.

(D) All SNFs or NFs [licensed and certified prior to October 1, 1995 shall submit to the division the initial

certification fee of one thousand dollars (\$1,000) prior to October 1, 1995. Subsequently, in order to maintain certification in the Medicaid or Medicare program(s), all SNFs or NFs certified to participate in the Medicaid or Medicare program(s) shall submit to the division an annual certification fee of one thousand dollars (\$1,000) prior to October 1 of each year. If the fee is not received by that date each year, a late fee of fifty dollars (\$50) per month shall be payable to the division. If payment of any fees due is not received by the division by the time the facility license expires or by December 31 of that year, whichever is earlier, the division shall notify the Division of Medical Services and the Health Care Financing Administration recommending termination of the Medicaid or Medicare agreement as denial of license will occur as provided in 13 CSR 15-10.010 and section 198.022, RSMo.

(4) Any facility certified for participation as an NF in the Title XIX Medicaid program wishing to participate in the Title XVIII Medicare program shall submit an application signed and dated to the division's central office. The division will recommend Medicare certification to the HCFA effective the date the application material is received by the division or a subsequent date if requested by the provider, provided the facility was in compliance with all federal and state regulations for SNFs at the last survey conducted by the division and provided the facility's application is complete **and has been approved by the Medicare fiscal intermediary.**

(6) For newly certified facilities, the facility will be certified for either Medicare or Medicaid participation effective the date the facility receives a license at the proper level or the date the facility *[administrator has signed an acceptable plan of correction for deficiencies cited at the survey] achieves substantial compliance with the federal participation requirements,* whichever is the later date. *[The facility shall be in compliance with state and federal regulations at the initial certification survey conducted by the division.]* The application shall be completed. *[and, f] For certification in the Title XVIII (Medicare) program, the Medicare fiscal intermediary must approve the application and the HCFA must concur with the division's recommendation.*

(7) The division shall conduct federal surveys *[for both the initial and recertification purposes]* in SNFs, NFs and ICF/MR facilities, utilizing regulations and procedures contained in—

(A) *The State Operations Manual (SOM) (HCFA Publication 7);*

(B) *The [Health Standards and Quality] Survey and Certification* Regional letters received by the division from the HCFA regional office in Kansas City;

(D) For ICF/MR facilities, federal regulation 42 CFR chapter IV, part 483, subpart *[D] I.*

(9) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program wishes to *[reduce or increase the number of beds in the facility which are certified,] change the size or location of its distinct part, it must submit a written request [shall be submitted] to the [Licensure/c]Certification [u]Unit or the ICF/MR Unit of the division [or the ICF/MR unit of the Department of Social Services], as applicable. The request shall specify the room numbers involved, the number of beds in each room and the [effective date] facility fiscal year end date. [Bed increases shall be limited to two (2) increases per facility fiscal year. Requests for bed decreases or changes in location may be made at any time. Prior to approval of the request, the request shall be reviewed and approved by the appropriate division regional office and the facility shall complete and*

sign a new] The request must include a floor diagram of the facility and a signed DA-113 form, Bed Classification for Licensure and Certification by Category. A facility is allowed two (2) changes in the size of its distinct part during the facility fiscal year. This may be two (2) increases or one (1) increase and one (1) decrease. It may not be two (2) decreases. The first change can be done only at the beginning of the fiscal year and the second change can be done effective at the beginning of a calendar quarter within that fiscal year. All requests must be submitted to the Licensure/Certification Unit or the ICF/MR Unit of the division at least forty-five (45) days in advance. Any facility wishing to eliminate its distinct part to go to full certification may do so effective at the beginning of the next fiscal year with forty-five (45) days notice. The distinct part may be reestablished only at the beginning of the next fiscal year. A facility may change the location of the distinct part with thirty (30) days notice to the Licensure/Certification Unit or the ICF/MR Unit of the division.

[(10) If a facility certified to participate in the Title XIX (Medicaid) program wishes to decertify a bed(s) for a temporary period to assist a resident(s) who is applying for benefits under the division of assets provision of the federal Catastrophic Health Care Act of 1988, a written request shall be submitted to the licensure/certification unit of the division. The request shall specify the room number(s) and number of beds per room and that the purpose is to implement the division of assets provision of the Medicare Catastrophic Health Care Act. It shall also specify that the decrease is temporary and shall indicate the beginning and ending date of the temporary period. The beds decertified need not be contiguous.]

[(11)](10) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program undergoes a change of operator, the new operator shall submit an application as specified in section (2) of this rule. The application shall be submitted within five (5) working days of the change of operator. For applications made for the Title XIX (Medicaid) program, the division shall provide the application to the Division of Medical Services of the Department of Social Services so that a provider agreement can be negotiated and signed. For applications made for the Title XVIII (Medicare) program, the division shall provide the application to the HCFA. Certification status will be retained unless or until formally denied.

[(12)](11) If it is determined by the division that a facility certified to participate in Medicaid or Medicare does not comply with federal regulations at the time of a federal survey, complaint investigation or state licensure inspection, [a revisit will be conducted approximately forty (40) days following the completion of the federal survey, complaint investigation or state licensure inspection to determine if the facility has achieved compliance if the facility submits to DA a credible allegation of compliance letter. The credible allegation of compliance letter must be received by the division within thirty-five (35) days of the completion date of the survey. If the facility is not in compliance with federal regulations following the revisit or had not submitted a credible allegation of compliance letter within thirty-five (35) days of the survey completion date, the division shall take enforcement action as provided in sections 198.026 and 198.067, RSMo, and in 42 U.S.C. 1396(r). This includes decertification and the alternate remedies as given in sections 1819(h) and 1919(h) of the Social Security Act. If a facility has been found out of compliance with any of the level A requirements, quality of care, quality of life, residents' rights, and resident behavior and facility practices on three

(3) consecutive surveys, the alternate remedies, denial of payment for new admissions and state monitoring will automatically be imposed and will continue until the facility has demonstrated to the satisfaction of the state that it is in compliance with federal requirements and that it will remain in compliance.] **the division shall utilize regulations and procedures contained in the following sources which are incorporated by reference in this rule:**

- (A) 42 CFR chapter IV, part 431, subpart D;
- (B) 42 CFR chapter IV, part 442;
- (C) 42 CFR chapter IV, subparts E and F;
- (D) Sections 1819(h) and 1919(h) of the Social Security Act;
- (E) 42 U.S.C. 1396(r);
- (F) *The State Operations Manual* (SOM) (HCFA Publication 7);
- (G) **Survey and Certification Regional Letters;**
- (H) Sections 198.026 and 198.067, RSMo; and
- (I) 13 CSR 70-10.015 and 13 CSR 70-10.030.

[(13)](12) If a facility certified to participate in the Medicaid Title XIX or Title XVIII Medicare program has been decertified as a result of noncompliance with the federal [regulations] requirements, the facility can be readmitted [only when the reasons for the decertification no longer exist, there is reasonable assurance that they will not recur and all state and federal statutory and regulatory requirements are fulfilled. If the facility operator requests readmission of the facility into certified status, the operator shall submit a letter to the division alleging that the reasons for the decertification no longer exist. If the information provided in the letter is sufficient, a revisit will be conducted by the division staff, concentrating on the areas that caused the decertification action. If the facility has achieved compliance, a time frame referred to as reasonable assurance period, will be established. The reasonable assurance period will be between sixty and one hundred eighty (60–180) days and will be determined based upon the provider's compliance history and correction of deficiencies on which decertification was based. For Title XIX Medicaid, the reasonable assurance period will be set by the division. For Title XVIII Medicare, it will be set by the HCFA. The facility shall maintain compliance without recurrence of the deficiencies which were the basis for decertification during the reasonable assurance period. Division staff will monitor the facility to assure the facility maintains compliance. Just prior to the end of the reasonable assurance period, the division shall conduct a full federal survey. If the facility is found not in compliance or does not maintain compliance during the reasonable assurance period, the decertification shall remain in effect.] **to the Medicaid program by submitting an application for initial participation in the Medicaid program, and must also comply with all federal participation requirements. The effective date of participation will be the date the facility is found in substantial compliance with all federal requirements.**

[(14) If a facility certified to participate in the Title XIX Medicaid or Title XVIII Medicare program has been placed under an alternate remedy as a result of noncompliance with federal regulations, the alternate remedy can be lifted only if the facility has corrected all level A deficiencies. To request a revisit, the facility shall submit a credible allegation of compliance letter to the division. If the letter is approved, a revisit will be conducted by division staff. If it has been determined that for Title XIX Medicaid, compliance has been achieved with all level A requirements, the division will lift the alternate remedy; for Title XVIII Medicare, the results of the revisit will be submitted to the

HCFA for a decision. For a facility that is Medicare/Medicaid-certified, the HCFA decision is binding for both Medicare and Medicaid. If the facility fails to achieve compliance, the division will proceed with decertification actions as specified in sections 1819(h) and 1919(h) of the Social Security Act and sections (12) and (13) of this rule.]

[(15)](13) If a change in the administrator or the director of nursing of a facility occurs, the facility shall provide written notice to the division's central office at the time of the change. The notice shall indicate the effective date of the change, the identity of the new director of nursing or administrator and a copy of his/her license or the license number. A change of administrator is also part of the licensure application process; therefore, the information shall be submitted as a notarized statement by the operator in accordance with section 198.018, RSMo.

[(16)](14) An NF may request a waiver of nurse staffing requirements to the extent the facility is unable to meet the requirements including the areas of twenty-four (24)-hour licensed nurse coverage, the use of a registered nurse for eight (8) consecutive hours, seven (7) days per week and the use of a registered nurse as director of nursing.

(A) Requests for waivers shall be made in writing to the deputy director, Division of Aging.

(B) Requests for waivers will be considered only from facilities licensed under Chapter 198, RSMo, as ICFs which do not have a nursing pool agency that is within a fifty (50) miles, within state boundaries, and which can supply the needed nursing personnel.

(C) The division shall consider each request for a waiver and shall approve or disapprove the request in writing within thirty (30) working days of receipt or, if additional information is needed, shall request from the facility the additional information or documentation within ten (10) working days.

(D) Approval of a nurse waiver request shall be based on an evaluation of whether the facility has been unable, despite diligent efforts—including offering wages at the community prevailing rate for nursing facilities—to recruit the necessary personnel. Diligent effort shall mean prominently advertising for the necessary nursing personnel in a variety of local and out-of-the-area publications, including newspapers and journals within a fifty (50)-mile radius, and which are within state boundaries; contacts with nursing schools in the area; and participation in job fairs. The operator shall submit evidence of the diligent effort including:

1. Copies of newspapers and journal advertisements, correspondence with nursing schools and vocational programs, and any other relevant material;

2. If there is a nursing pool agency within fifty (50) miles which is within state boundaries and the agency cannot consistently supply the necessary personnel on a per-diem basis to the facility, the operator shall submit a letter from the agency so stating;

3. Copies of current staffing patterns including the number and type of nursing staff on each shift and the qualifications of licensed nurses;

4. A current form HCFA 672, Resident Census and Conditions of Residents;

5. Evidence that the facility has a registered nurse consultant required under 13 CSR 15-14.042(36)(B) and evidence that the facility has made arrangements to assure registered nurse involvement in the coordination of the assessment process as required under 42 CFR 20(c)(1)(ii);

6. Location of the nurses' stations and any other pertinent physical feature information the facility chooses to provide;

7. Any other information deemed important by the facility including personnel procedures, promotions, staff orientation and evaluation, scheduling practices, benefit programs, utilization of

supplemental agency personnel, physician-nurse collaboration, support services to nursing personnel and the like; and

8. For renewal requests, the information supplied shall show diligent efforts to recruit appropriate personnel throughout the prior waiver period. Updates of prior submitted information in other areas are acceptable.

(E) In order to meet the conditions specified in federal regulation 42 CFR 483.30, the following shall be considered in granting approval:

1. There is assurance that a registered nurse or physician is available to respond immediately to telephone calls from the facility for periods of time in which licensed nursing services are not available;

2. There is assurance that if a facility requesting a waiver has, or admits after receiving a waiver, any acutely ill or unstable residents requiring skilled nursing care, the skilled care shall be provided in accordance with state licensure rule 13 CSR 15-14.042(6); and

3. The facility has not received a Class I notice of noncompliance in resident care within one hundred twenty (120) days of the waiver request or the division has not conducted an extended survey in the facility within one (1) year of the waiver request. Any facility which receives a Class I notice of noncompliance in resident care or an extended survey while under waiver status will not have the waiver renewed unless the problem has been corrected and steps have been taken to prevent recurrence. If a facility received more than one (1) Class I notice of noncompliance in resident care during a waiver period, the Division of Aging will consider revocation of the waiver.

(F) The facility shall cooperate with the Division of Aging in providing the proper documentation. For renewal requests, the request and proper documentation shall be submitted to the Division of Aging at least forty-five (45) days prior to the ending date of the current waiver period. If any changes occur during a waiver period that affect the status of the waiver, a letter shall be submitted to the deputy director of institutional services within ten (10) days of the changes. The request for a waiver or renewal of a waiver shall be denied if the facility fails to abide by these previously mentioned time frames.

(G) If a waiver request is denied, the division shall notify the facility in writing and within twenty (20) days, the facility shall submit to the division a written plan for how the facility will recruit the required personnel. If appropriate personnel are not hired within two (2) months, the division shall initiate enforcement proceedings.

AUTHORITY: sections 208.151 and 536.021, RSMo [Supp. 1997] 2000. Emergency rule filed Sept. 18, 1990, effective Oct. 1, 1990, expired Jan. 25, 1991. Original rule filed Nov. 2, 1990, effective June 10, 1991. Amended: Filed June 3, 1993, effective Dec. 9, 1993. Amended: Filed Feb. 1, 1995, effective Sept. 30, 1995. Amended: Filed May 11, 1998, effective Nov. 30, 1998. Amended: Filed Nov. 27, 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 the Division of Aging, Richard C. Dunn, Director, P.O. Box 1337, Jefferson City, MO 65102-1337. To be considered, comments must be received within thirty days after publication in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 40—Comprehensive Emergency Medical
Services Systems Regulations

PROPOSED RULE

19 CSR 30-40.302 Emergency Medical Services Regions and Committees

PURPOSE: This rule identifies the counties that are included in each of the six (6) emergency medical services regions and establishes the requirements for the appointment of members to each of the six (6) regional committees.

(1) The following identifies the counties that shall be included in each of the six (6) emergency medical services (EMS) regions.

(A) The Central EMS region shall include the counties of Adair, Audrain, Benton, Boone, Callaway, Camden, Chariton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Knox, Lewis, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Osage, Pettis, Phelps, Pulaski, Putnam, Ralls, Randolph, Saline, Schuyler, Scotland, Shelby, and Sullivan.

(B) The Kansas City EMS region shall include the counties of Bates, Caldwell, Carroll, Cass, Clay, Clinton, Henry, Jackson, Johnson, Lafayette, Platte, and Ray.

(C) The Northwest EMS region shall include the counties of Andrew, Atchison, Buchanan, Davies, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway, and Worth.

(D) The St. Louis EMS region shall include the counties of Franklin, Jefferson, Lincoln, Pike, St. Charles, St. Louis, Warren, and St. Louis City.

(E) The Southeast EMS region shall include the counties of Bollinger, Butler, Cape Girardeau, Carter, Crawford, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Saint Francois, Sainte Genevieve, Scott, Stoddard, Washington, and Wayne.

(F) The Southwest EMS region shall include the counties of Barry, Barton, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclède, Lawrence, McDonald, Newton, Oregon, Ozark, Polk, St. Clair, Shannon, Stone, Taney, Texas, Vernon, Webster, and Wright.

(2) Each of the six (6) EMS regional committees shall consist of no more than fifteen (15) members, appointed by the director of the Department of Health.

(3) The committees should include representation from emergency medical technicians-basic, emergency medical technicians-paramedic, registered nurses with expertise in emergency medicine, firefighter/emergency medical technicians, trauma surgeons, physicians with expertise in emergency medicine, trauma nurse coordinators from designated trauma centers, emergency medical response agencies, ground ambulance service managers, EMS training entities, pediatric hospitals or physicians/registered nurses with expertise in pediatric care, emergency medical dispatchers, air ambulance services, physicians with expertise in EMS medical direction, local health departments, hospital administrators, medical examiners or coroners, and EMS consumers.

AUTHORITY: sections 190.102 and 190.185, RSMo 2000. Original rule filed Dec. 1, 2000.

PUBLIC COST: The public entity cost for this proposed rule is estimated at \$66,600 annually. It is anticipated that the total aggregate cost will recur each year for the life of the rule. 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health, Lois Kollmeyer, Director, Division of Health Standards and Licensure, P.O. Box 570, 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: 19-Department of Health

Division: 30-Division of Health Standards and Licensure

Chapter: 40-Comprehensive Emergency Medical Services Systems Regulations

Type of Rulemaking: Proposed Rule

Rule Number and Name: 19 CSR 30-40.302 Emergency Medical Services regions and committees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Health	\$66,600.00 annually
Total	\$66,600.00 annually

III. WORKSHEET

Six (6) emergency medical services regional committees **times** 15 members per committee **times** 4 meetings per year for each committee **times** \$185.00 travel expenses per committee member **equals** \$66,600.00 annually.

IV. ASSUMPTIONS

This rule establishes 6 emergency medical services regional committees.

Each of the 6 emergency medical services regional committees will meet 4 times each year and each committee will have 15 members.

The travel expenses for each committee member for each meeting is estimated at \$65.00 for a hotel room, \$45.00 for meals, and \$75.00 for mileage.

This rule does not increase the cost to any other political subdivision in the state.

If there was more than one method to calculate a cost, the most expensive method was used.

All costs are based on approximations and estimations by the department.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The aggregated cost does not include an annual rate for inflation.