

Volume 26, Number 8
Pages 851-898
April 16, 2001



MATT BLUNT

SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo 2000. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or "official" without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

MAT T BLUNT

Administrative Rules Division
James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

LYNNE C. ANGLE

•

EDITORS

BARBARA MCDUGAL

KATHREN CHOATE

•

ASSOCIATE EDITORS

CURTIS W. TREAT

SALLY L. REID

JAMES MCCLURE

•

PUBLISHING STAFF

CARLA HERTZING

WILBUR HIGHBARGER

SANDY SANDERS

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
PO Box 1767
Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://mosl.sos.state.mo.us/moreg/moreg.htm> and the CSR is <http://mosl.sos.state.mo.us/csr/csr.htm>. These web sites contain rulemakings and regulations as they appear in the Registers and CSR. These web sites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo 2000. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



IN THIS ISSUE:

FROM THIS ANGLE

News from Administrative Rules855

EMERGENCY RULES

Department of Public Safety
 Division of Fire Safety857
Department of Health
 Office of the Director857

PROPOSED RULES

Department of Economic Development
 Missouri Board of Occupational Therapy859
 Missouri Board for Respiratory Care860
Department of Natural Resources
 Clean Water Commission860
Department of Public Safety
 Office of the Director861
Department of Health
 Office of the Director862

ORDERS OF RULEMAKING

Office of Administration
 Personnel Advisory Board and Division of Personnel865
Department of Agriculture
 Weights and Measures865
Department of Conservation
 Conservation Commission866

Department of Economic Development

Missouri Board of Architects, Professional Engineers
 and Professional Land Surveyors866
 State Board of Barber Examiners866
 State Board of Cosmetology867
 State Board of Nursing867
 Missouri State Committee of Interpreters870
 Public Service Commission870

Department of Transportation

Missouri Highways and Transportation Commission871

Department of Natural Resources

Air Conservation Commission872

Department of Social Services

Child Support Enforcement876
 Division of Medical Services876

Department of Health

Division of Health Standards and Licensure876

BID OPENINGS

Office of Administration
 Division of Purchasing878

RULE CHANGES SINCE UPDATE879
EMERGENCY RULES IN EFFECT887
REGISTER INDEX889

Register Filing Deadlines	Register Publication	Code Publication	Code Effective
Dec. 29, 2000 Jan. 16, 2001	Feb. 1, 2001 Feb. 15, 2001	Feb. 28, 2001 Feb. 28, 2001	March 30, 2001 March 30, 2001
Feb. 1, 2001 Feb. 15, 2001	March 1, 2001 March 15, 2001	March 31, 2001 March 31, 2001	April 30, 2001 April 30, 2001
March 1, 2001 March 15, 2001	April 2, 2001 April 16, 2001	April 30, 2001 April 30, 2001	May 30, 2001 May 30, 2001
March 30, 2001 April 13, 2001	May 1, 2001 May 15, 2001	May 31, 2001 May 31, 2001	June 30, 2001 June 30, 2001
May 1, 2001 May 15, 2001	June 1, 2001 June 15, 2001	June 30, 2001 June 30, 2001	July 30, 2001 July 30, 2001
June 1, 2001 June 15, 2001	July 2, 2001 July 16, 2001	July 31, 2001 July 31, 2001	Aug. 30, 2001 Aug. 30, 2001
June 29, 2001 July 13, 2001	Aug. 1, 2001 Aug. 15, 2001	Aug. 31, 2001 Aug. 31, 2001	Sept. 30, 2001 Sept. 30, 2001
Aug. 1, 2001 Aug. 15, 2001	Sept. 4, 2001 Sept. 17, 2001	Sept. 30, 2001 Sept. 30, 2001	Oct. 30, 2001 Oct. 30, 2001
Aug. 31, 2001 Sept. 14, 2001	Oct. 1, 2001 Oct. 15, 2001	Oct. 31, 2001 Oct. 31, 2001	Nov. 30, 2001 Nov. 30, 2001

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

Missouri Depository Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Depository Documents Law (section 181.100, RSMo 2000), are available in the listed depository libraries, as selected by the Missouri State Library:

Jefferson County Library PO Box 1486, 3021 High Ridge High Ridge, MO 63049-1486 (314) 677-8689	Learning Resources Center Mineral Area College PO Box 1000 Park Hills, MO 63601-1000 (573) 431-4593	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125
Jefferson College Library 1000 Viking Drive Hillsboro, MO 63050-2441 (314) 789-3951	Cape Girardeau Public Library 711 N. Clark Cape Girardeau, MO 63701-4400 (573) 334-5279	River Bluffs Regional Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151	Central Methodist College Smiley Memorial Library 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6292
St. Louis Public Library 1301 Olive St. St. Louis, MO 63103-2389 (314) 539-0376	Kent Library Southeast Missouri State University One University Plaza Cape Girardeau, MO 63701-4799 (573) 651-2757	Missouri Western State College Hearnes Learning Resources Ctr. 4525 Downs Drive St. Joseph, MO 64507-2294 (816) 271-5802	Library University of Missouri-Rolla 1870 Miner Circle Rolla, MO 65409-0060 (573) 341-4007
St. Louis University Law Library 3700 Lindell Blvd. St. Louis, MO 63108-3478 (314) 977-2756	Riverside Regional Library PO Box 389, 204 South Union St. Jackson, MO 63755-0389 (573) 243-8141	Library North Central Missouri College PO Box 111, 1301 Main Street Trenton, MO 64683-0107 (660) 359-3948	Kinderhook Regional Library 135 Harwood Ave. Lebanon, MO 65536-3017 (417) 532-2148
Eden Theological Seminary/ Webster University Eden/Webster Library 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri Southern State College Spiva Library 3950 East Newman Road Joplin, MO 64801-1595 (417) 625-9770	ESTEP Library Southwest Baptist University 1601 S. Springfield Street Bolivar, MO 65613-2597 (417) 326-5281
Thomas Jefferson Library University of Missouri-St. Louis 8001 Natural Bridge Road St. Louis, MO 63121-4499 (314) 516-5084	Charles F. Curry Library William Jewell College 500 College Hill Liberty, MO 64068-1896 (816) 781-7700	Missouri State Library 600 West Main, PO Box 387 Jefferson City, MO 65102-0387 (573) 751-3075	Barry-Lawrence Regional Library 213 6th St. Monett, MO 65708-2147 (417) 235-6646
Washington University Washington University Law Library Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6484	Ward Edwards Library Central Missouri State University 142 Edwards Library Warrensburg, MO 64093-5020 (660) 543-4149	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300	Kansas City Public Library 311 East 12th St. Kansas City, MO 64106-2454 (816) 701-3400	Elmer Ellis Library University of Missouri-Columbia 104 Ellis Library Columbia, MO 65211-5149 (573) 882-6733	West Plains Campus Library Southwest Missouri State University 123 N. Minnesota West Plains, MO 65775-3414 (417) 256-9865
Maryville University Library 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65201-7298 (573) 882-7083	Springfield-Greene County Library PO Box 737, 397 E. Central Springfield, MO 65801-0760 (417) 869-4621
St. Charles City-County Library Middendorf-Kredell Branch 2750 Hwy K O'Fallon, MO 63366-7859 (314) 978-7997	University of Missouri-Kansas City Miller Nichols Library 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-1281	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161	Meyer Library Southwest Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
Truman State University Pickler Memorial Library 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416			

HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are divided in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

FROM THIS ANGLE

We still need your help!!!

We have received numerous volunteers (and we thank you!!) – but we still need your thoughts either in paper (our mailing address is Administrative Rules Division, Office of Secretary of State, 600 West Main Street, PO Box 1767, Jefferson City, MO 65102; *via* E-mail (rulesa@sosmail.state.mo.us); fax (573-751-3032) or by telephone (573-751-4015) communication. Our preferred method is by volunteer participation in assisting us in the total rewrite of our rulemaking manual. If we do not receive sufficient volunteers, we will begin to recruit you to serve!

We also need your help with another matter!

We also would appreciate any thoughts you may have as they relate to how we may better serve *you*, our customer. If you have suggestions for improvement in our printed product, either Code or Register; or if you have suggestions for improvement of our website we want to hear from you! We are in the midst of looking at our products and processes and would appreciate your point of view.

For instance, we are in the planning stages of developing a searchable index for Code and Register.

Thank you in advance for taking the time to communicate with us.

One other small procedural update --

Did you know we will now accept your “sign off” on small typographical-type corrections *via* E-mail? You may E-mail us your confirmation and agreement of these small (non-substantive) type changes *via* our E-mail address. We hope this will assist you in accomplishing this task in a more time-efficient manner.

Option/guidelines for using numbers in the text of a rule.

You may choose whether you spell out numbers in a rule or just use the numeral. Although, we do ask that you consistently use the same pattern throughout the rule.

1) When using a numerical amount in a rule you may spell out the number from one to ten without using the figures in parentheses.

2) For numbers over ten, just use the figure, there is no need to spell it out unless the number is the first word of a sentence.

3) There is no need to spell out a dollar amount or a fractional amount.

Also, did you know?! . . .

If it would be of any assistance to you, did you know we will E-mail you your specific rule for your ease in preparing your proposed rule revisions? Just give us a call


Lynne C. Angle
Director

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 40—Division of Fire Safety Chapter 6—Amusement Rides

EMERGENCY AMENDMENT

11 CSR 40-6.060 Director; Qualified Inspectors. The director is adding sections (3) and (4).

PURPOSE: The purpose of this amendment is to ensure that all amusement rides in Missouri obtain safety inspections this year.

EMERGENCY STATEMENT: The Division of Fire Safety finds that an immediate danger to the public health, safety and welfare exists. The legislature has found that amusement rides should be inspected annually to prevent the operation of unsafe rides and has mandated the annual safety inspection of all amusement rides in Missouri beginning January 1, 2001. Due to a shortage of certified amusement ride inspectors these safety inspections—which are necessary to protect the public from the risk of injury and death posed by unsafe amusement rides—cannot be performed on all amusement rides in Missouri this year. This emergency amendment will remedy this situation by temporarily expanding the pool of persons authorized to conduct amusement ride safety inspections, thereby providing for the necessary safety inspections to occur and the public to be protected from unsafe amusement rides. The scope of this amendment is limited to the circumstances creating the

emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. Emergency amendment filed March 16, 2001, effective March 26, 2001, expires June 26, 2001.

(3) Whenever an owner is required by law to have an amusement ride inspected by a qualified inspector, the inspection shall be performed by an inspector certified by the director pursuant to this rule, except as provided by subsection (4) of this rule.

(4) When an owner cannot engage a certified inspector to perform an inspection required by section 316.210, RSMo, within thirty days at a cost of less than \$125.00 per hour plus actual expenses, upon certification of this fact by the owner, the department may accept an inspection performed by:

(A) Any professional engineer licensed pursuant to section 327.381, RSMo, provided that the engineer has affixed his or her personal seal to the inspection; or

(B) The owner as a self-inspector, in which case the owner shall cause the amusement ride to be re-inspected by a certified inspector within sixty days after receiving notice from the department that a certified inspector is available to perform a re-inspection within thirty days at a cost of less than \$125.00 per hour plus actual expenses.

AUTHORITY: section 316.206, RSMo [Supp. 1998] 2000. Original rule filed March 1, 1999, effective Sept. 30, 1999. Emergency amendment filed March 16, 2001, effective March 26, 2001, expires June 26, 2001.

Title 19—DEPARTMENT OF HEALTH Division 10—Office of the Director Chapter 4—Coordinated Health Care Services

EMERGENCY RULE

19 CSR 10-4.030 National Interest Waiver Program

PURPOSE: This rule establishes the procedure for requesting an attestation from the Department of Health that an alien physician's work in an area or areas of the United States that have been designated as having a shortage of health care providers by the Secretary of Health and Human Services is in the public interest for the purpose of applying for a National Interest Waiver from the Immigration and Naturalization Service.

EMERGENCY STATEMENT: This emergency rule establishes the procedure for requesting an attestation from the Department of Health that an alien physician's work in an area or areas of the United States that have been designated as having a shortage of health care providers by the Secretary of Health and Human Services is in the public interest for the purpose of applying for a National Interest Waiver from the Immigration and Naturalization Service. The National Interest Waiver waives certain requirements of the Immigration and Nationality Act for physicians serving in Health Professional Shortage Areas or in a facility operated by the Department of Veteran Affairs and allows them to apply for permanent resident status. Absent this rule, the Department will be precluded from attesting that the work of any physician is in the public interest, thereby compromising the ability of the physician to continue to practice in the underserved area. As a result, the Department finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances

creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department believes this emergency amendment is fair to all interested persons and parties under the circumstances. The emergency rule was filed on March 26, 2001, effective April 9, 2001, and expires January 17, 2002.

(1) The following definitions shall be used in interpretation and enforcement of this rule:

(A) Department means the Missouri Department of Health;

(B) Director means the director of the Missouri Department of Health;

(C) Board means the Board of Registration for the Healing Arts, Missouri Department of Economic Development;

(D) Physician means an individual licensed and registered pursuant to Chapter 334, RSMo;

(E) Hospital means a facility licensed in the state of Missouri pursuant to Chapter 197, RSMo;

(F) Health Professional Shortage Area (HPSA) means an area or facility designated by the Secretary of Health and Human Services as having inadequate health care providers; and

(G) Approved practice site means the practice location for which the Department has issued the attestation of public interest.

(2) The department may provide attestations in support of a National Interest Waiver request for waiver to the job offer requirement that applies to alien second preference employment-based immigrant visa petitions.

(A) The request must contain all of the following information and documentation and must be submitted in a single package with the documents presented in the order they are listed in paragraphs (2)(A)1.-9. Waiver requests which do not comply with these requirements will not be considered. Each request shall contain:

1. A written request from the physician that the department provide a letter that the physician's work in such an area, areas or facility is in the public interest;

2. A detailed written description of the service area, facility or population in which the physician will be working, including documentation of its designation as a Health Professional Shortage Area and the services currently being provided;

3. A letter from the board stating that the physician is licensed in good standing in Missouri;

4. A letter from the medical director of all hospitals at which the physician has privileges delineating the status of the privileges that were granted, when the privileges began and how the privileges may have changed over time along with an explanation for any changes;

5. A written statement from the physician's malpractice insurance carrier stating the claims made against the physician and the disposition of those claims;

6. A written statement from the city council or county commission, whose jurisdiction includes the physician's practice site, that the physician's services are required by and are in the interest of the community;

7. A written statement from the local public health agency, whose jurisdiction includes the physician's practice site, that the physician's services are required by and are in the interest of the community;

8. A copy of the physician's employment contract for the practice site for a period of no less than five (5) years; and

9. A written statement as to how the denial of the waiver will affect the provision of medical services in that community.

(3) No attestation shall be granted to any physician who fails to provide any of the information in paragraphs (2)(A)1.-9.

(4) No attestation shall be granted to any physician who does not have privileges at any hospital in Missouri.

(5) A physician must work at the approved practice site for a minimum of five (5) years. If the physician fails to comply with this section, the department shall report the physician to the Immigration and Naturalization Service and other agencies as necessary.

(6) A physician with a National Interest Waiver from Missouri, who wishes to transfer to another qualifying practice site in Missouri, may do so under the following circumstances:

(A) The physician must notify the department at least sixty (60) days prior to the proposed change. The notice must contain, at minimum the following:

1. All the information and documentation required in subsection (1)(A) of this rule; and

2. A detailed explanation as to the reason for the change.

(B) The physician retains sole responsibility for financial liabilities caused by the change in approved practice site.

(7) Physicians for whom the department provides public attestations shall supply the following to the department by February 1 of each year:

(A) Name;

(B) Address of the physician's present practice site(s);

(C) The number and characteristics of the patients served including:

1. Gender;

2. Age distributions; and

3. Payor source (Medicaid, Medicare, commercial insurance or self-pay);

(D) Letters of continued support from the medical director of all hospitals at which said physician has privileges;

(E) Letters of continued support from the local public health agency; and

(F) Letter from the board stating that the physician is licensed in good standing in Missouri.

AUTHORITY: section 191.411, RSMo 2000. Emergency rule filed March 27, 2001, effective April 9, 2001, expires Jan. 17, 2002. A proposed rule covering this same material is published in this issue of the Missouri Register.

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 205—Missouri Board of Occupational Therapy Chapter 4—Supervision

PROPOSED AMENDMENT

4 CSR 205-4.010 Supervision of Occupational Therapy Assistants and Occupational Therapy Assistant Limited Permit Holders. The board is proposing to amend subsection (3)(A).

PURPOSE: This amendment requires a supervisor to be licensed by the board as an occupational therapist and does not include limited permit holders.

(3) The supervising occupational therapist has the overall responsibility for providing the necessary supervision to protect the

health and welfare of the patient/client receiving treatment from an occupational therapy assistant and/or occupational therapy assistant limited permit holder. The supervising occupational therapist shall—

(A) Be licensed by the board as an occupational therapist, this shall not include a limited permit holder;

AUTHORITY: sections 324.050, 324.056, 324.065.2, 324.083 and 324.086, RSMo [Supp. 1997] 2000. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Amended: Filed March 14, 2001.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate as the board is merely implementing a biennial renewal.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Occupational Therapy, 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 205—Missouri Board of Occupational Therapy Chapter 4—Supervision

PROPOSED AMENDMENT

4 CSR 205-4.020 Supervision of Occupational Therapist Limited Permit Holders. The board is proposing new language in section (5) and renumbering the remaining section accordingly.

PURPOSE: This amendment adds the statement that occupational therapy limited permit holders shall not supervise occupational therapy assistants.

(5) Occupational therapy limited permit holders shall not supervise occupational therapy assistants.

[(5)] (6) The supervisor shall ensure the occupational therapist limited permit holder provides occupational therapy as defined in section 324.050, RSMo appropriate to and consistent with his/her education, training, and experience.

AUTHORITY: sections 324.050, 324.056, 324.065, 324.077, 324.083 and 324.086, RSMo [Supp. 1997] 2000. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Amended: Filed March 14, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Occupational Therapy, 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 255-1.040 Fees. The board is proposing to amend subsection (1)(C), delete subsection (1)(D), (1)(H), (1)(J), and renumber the remaining subsections accordingly.

PURPOSE: This rule is being amended to comply with the provisions of House Bill 343 of the 90th General Assembly and deletes the copying and research fees 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 by the Division of Professional Registration and are payable in the form of a cashier's check, personal check, or money order:

(C) Application for <i>[Temporary]</i> an Educational Permit	\$ 25.00
<i>[(D) Extension of Temporary Educational Permit]</i>	\$ 25.00/
<i>[(E)] (D) Endorsement to Another Jurisdiction</i>	\$ 15.00
<i>[(F)] (E) Duplicate License/Permit Fee</i>	\$ 10.00
<i>[(G)] (F) Replacement Wall-Hanging (Ornamental Certificate)</i>	\$ 15.00
<i>[(H) Copy Cost (per page)]</i>	\$ 0.50/
<i>[(I)] (G) Insufficient Funds Check Fee Charge</i>	\$ 50.00
<i>[(J) Research Fee (per hour)]</i>	\$ 35.00/
<i>[(K)] (H) Fingerprint Card Check—Amount Determined by the Missouri State Highway Patrol</i>	
<i>[(L)] (I) Biennial License Renewal Fee</i>	\$100.00
<i>[(M)] (J) Late Renewal Penalty Fee</i>	\$ 50.00
<i>[(N)] (K) Biennial Inactive License Renewal Fee</i>	\$ 30.00/.

AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.870, 334.880, 334.890 and 610.026, RSMo [Supp. 1999] 2000. Emergency rule filed June 25, 1998, effective July 6, 1998, expired Feb. 25, 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999, effective June 30, 2000. Amended: Filed March 14, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, PO Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants**

PROPOSED AMENDMENT

10 CSR 20-4.023 State Forty Percent Construction Grant Program. The commission proposes to amend sections (3), (7), (8), (11), and (14).

PURPOSE: This amendment allows public water supply districts wishing to construct wastewater treatment/collection systems to be

eligible for forty percent grants and corrects various grammatical errors. At present, the public water supply districts could not qualify for this grant program. The evidence supporting this proposed rulemaking per section 536.016, RSMo, lies in discussions with staff on numerous occasions and is in public record.

(3) Eligible Applicants.

(A) Eligible applicants must be a county, public sewer district, **public water supply district**, municipality or combination of the same.

(7) Project Selection Process. Priority will be based upon the priority system established in 10 CSR 20-4.010.

(D) The commission will select the highest rated projects for state grant assistance from state grant funds anticipated to be available during the upcoming fiscal year. However, if a fundable high priority project has not *[been]* submitted, **and obtained approval *[obtained]*** on all documents required for a state grant and obtained the primary source of funding (sixty percent (60%) local share) within two (2) years of being placed on the fundable list, it shall be removed from the fundable list *[on November 15 of the second year]*. All allocated grant funds will be recovered and combined with any available regular grant funds in the next Intended Use Plan.

(8) Application Requirements. Applicants must submit the documents listed in the following subsections (8)(A)–(D) to be considered for inclusion on the priority list. Some documents may be waived by the department if justified—

(C) Draft financial capability analysis prepared in accordance with *[paragraph (9)(B)4.]* **subsection (9)(D)** of this rule; and

(11) Architectural or Engineering Contracts. The following represents the minimum requirements for the architectural or engineering contracts:

(A) General requirements for subagreements are, that they—

1. Be necessary for and directly related to the accomplishment of the project work;
2. Be in the form of a bilaterally executed written agreement;
3. Be for monetary consideration;
4. Not be in the nature of a grant or gift;
5. State a time frame for performance;
6. State a cost which cannot be exceeded except by amendment; and
7. State provisions for payment; *and*.

(B) The nature, scope and extent of work to be performed during construction should include, but not be limited to, the following:

1. Preparing a plan of operation if required by the department and as defined in subsection (20)(A);
2. Preparing an operation and maintenance manual if required by the department and as defined in subsection (20)(B);
3. Assisting the recipient in bid letting;
4. Assisting the recipient *[subdivision]* in reviewing and analyzing construction bids and making recommendations for award; and
5. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department.

(14) Facility Planning. Facility plans or engineering reports must be in accordance with accepted engineering practices, **and** the current Waste Treatment Design Guide, 10 CSR 20-8.

(A) The most reasonable environmentally sound and implementable waste management alternatives must be studied and evaluated. Proposed waste treatment management plans and practices shall provide for the **most** cost-effective technology that can treat

wastewater and nonexcessive I/I to meet the applicable NPDES requirements.

(B) An I/I analysis must be included which indicates whether the sewer system is affected by excessive I/I, and if [so] it is, include an analysis which determines the cost-effective solution to the excessive I/I.

AUTHORITY: section 644.026, RSMo [Supp. 1998] 2000. Original rule filed April 2, 1990, effective Nov. 30, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed March 13, 2001.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will hold a public hearing on this proposed amendment beginning at 9:00 a.m. May 23, 2001. The public hearing will be held at the Capitol Plaza Hotel, 415 W. McCarty, Jefferson City, Missouri. Those wishing to speak at the public hearing should send a written request to speak to the secretary, Missouri Clean Water Commission, PO Box 176, Jefferson City, MO 65102, or by fax at (573) 526-1146, by 5:00 p.m., May 16, 2001. Written comments will also be accepted until 5:00 p.m., June 6, 2001.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 4—Grants

PROPOSED AMENDMENT

10 CSR 20-4.043 Hardship Grant Program. The commission proposes to amend sections (2)–(4).

PURPOSE: This amendment broadens the methodology for determining unemployment criteria. The evidence supporting this proposed rulemaking per section 536.016, RSMo, lies in the public hearing testimony on March 15, 2000.

(2) Grants may be matched with state revolving fund direct loans or state direct loans as described in 10 CSR 20-4.041, Direct Loan Program, in the amount necessary to finance the total eligible costs of the project. Hardship grants may be matched with funds from other funding agencies or other programs administered by the Department of Natural Resources. The hardship grant amount shall not exceed the amount necessary to reduce user rates including debt (revenue and general obligation bonds or other debt instrument directly supporting the project) and operation, maintenance and replacement costs in line with the affordability criteria in section (1) of this rule.

(3) Eligible applicants are incorporated rural communities, water and sewer districts which, in November of the fiscal year the application is made for assistance, meet the following criteria:

(D) The most recent unemployment rate as reported by the Missouri Department of Labor and Industrial Relations [or, if] exceeds by at least one (1) percentage point the most recent monthly national unemployment rate provided by the Bureau of Labor Statistics. If individual project data is not available, the most recent county unemployment rate, exceeds by at least one (1) percentage point the most recent monthly national unemployment rate provided by the Bureau of Labor Statistics [or, in]. In the situation where census information is not available, other sources of information regarding per capita income may be used if approved

by the department. Applicants may also be eligible if the hardship grant is funded solely from state funds and the average of three (3) consecutive months of unemployment data in the year the application is filed exceeds by at least one (1) percentage point the most recent national unemployment rate provided by the Bureau of Labor Statistics;

(4) Grant Requirements.

(E) Applicants receiving matching SRF loan assistance of less than fifteen percent (15%) of the eligible project cost must meet the document submittal requirements of 10 CSR 20-4.040 SRF General Assistance Regulation, and if the project is funded with federal funds, the federal general grant regulations at 40 CFR part 31, which this rule incorporates by reference, and other rules that apply to subrecipients of federal grants and federal crosscutting authorities.

(G) Eligible projects and project requirements are those listed in 10 CSR 20-4.041[(1)–(9)] Direct Loan Program and 10 CSR 20-4.040(1), (2), (7)(B)–(E), (7)(G), (9), (10)(B), (11)–(13), (14)(A) and (B), (15)–(25) SRF General Assistance Regulation.

AUTHORITY: sections 644.026 and 644.101, RSMo [Supp. 1998] 2000. Original rule filed Nov. 3, 1997, effective July 30, 1998. Amended: Filed June 24, 1999, effective March 30, 2000. Amended: Filed March 13, 2001.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will hold a public hearing on this proposed amendment beginning at 9:00 a.m. May 23, 2001. The public hearing will be held at the Capitol Plaza Hotel, 415 W. McCarty, Jefferson City, Missouri. Those wishing to speak at the public hearing should send a written request to speak to the secretary, Missouri Clean Water Commission, PO Box 176, Jefferson City, MO 65102, or by fax at (573) 526-1146, by 5:00 p.m., May 16, 2001. Written comments will also be accepted until 5:00 p.m., June 6, 2001.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 30—Office of the Director Chapter 2—Driving While Intoxicated Records

PROPOSED AMENDMENT

11 CSR 30-2.010 Collection. The director proposes to amend section (5), delete sections (7) and (8), and renumber the remaining sections accordingly, and remove Appendix F from the Code of the Regulations.

PURPOSE: The purpose of this amendment is to eliminate the requirement of the court clerk's signature when records of convictions are filed electronically.

(5) An approved record of conviction form, at the discretion of the director of the Department of Public Safety, may be either a manual reporting form or an automated reporting method or form. [Unless otherwise specified, the form] Records of conviction generated by the courts in paper format will be forwarded to the Missouri State Highway Patrol. Those records reported in an electronic format will be submitted to the Department of Revenue. Once processed, the Department of Revenue will forward records of conviction reported electronically to the Missouri State Highway Patrol. When reporting records of con-

viction for traffic offenses in an electronic format, the name of the court clerk is not required. Instead, courts shall use their originating agency identifier (ORI) number. The format of the record of conviction form, either paper or electronic shall be substantially the same as set forth and shown in these regulations and the form shall be used as applicable and disposition information shall be reported in accordance with the requirements of the form. The Department of Revenue, in order to maintain file integrity, may return to the originating court any record that is not submitted in the correct format, reported erroneously, or which does not contain sufficient data.

[(7)] *The clerk of the court which orders any person to participate in an alcohol- or drug-related education/rehabilitation program shall forward a record of the person's participation and completion or noncompletion of the program to the Missouri State Highway Patrol, General Headquarters, P.O. Box 1408, Jefferson City, MO 65102, within fifteen (15) days of completion or noncompletion. The record shall be forwarded upon a record of program participation form as shown in Appendix F.*

[(8)] *No person who has had his/her driver's license administratively suspended by the Department of Revenue under the provisions of sections 302.500-302.540 shall have that license reinstated until s/he has participated in and successfully completed an alcohol- or drug-related traffic offender education or rehabilitation program which meets or exceeds minimum standards approved by the Department of Public Safety except the Department of Revenue may waive the requirement upon completion of a comparable program or upon good cause shown. The Department of Revenue, within fifteen (15) days of receipt, shall forward a record of the participation and completion by the person of the program upon an approved program participation form to the Missouri State Highway Patrol, P.O. Box 1408, Jefferson City, MO 65102, along with a copy of the citation and complaint filed by the officer. The Missouri State Highway Patrol shall include this information in the Missouri Uniform Law Enforcement System (MULES) records.]*

[(9)] (7) All agencies in the state of Missouri authorized by law to enforce the provisions of chapters 302 and 577, RSMo or any other law of this state, or county or municipal ordinance regulating the operation of motor vehicles, shall use only those uniform traffic tickets or uniform complaint and summonses currently approved for use by the Missouri Supreme Court.

[(10)] (8) Any uniform traffic ticket or complaint and summons submitted to the court shall clearly show the police department name and originating agency identifier (ORI) number in the upper left-hand corner and the unique traffic ticket number in the upper right-hand corner on the front side of each page.

[(11)] (9) The Missouri State Highway Patrol shall serve as the central repository for the assignment of a unique number to every traffic ticket and complaint and summons issued for use in the state of Missouri by any court, law enforcement agency or other issuing authority. Every court, law enforcement agency or other issuing authority desirous of ordering uniform traffic tickets, prior to submission of each order of traffic tickets or complaint and summonses to a supplier or vendor, must contact the Missouri State Highway Patrol, General Headquarters, P./O./ Box 1408, Jefferson City, MO 65102, [(314)] (573) 751-3313, extension 185 or 189, in order that a set of unique numbers can be assigned to each set to be ordered.

AUTHORITY: sections 302.225 and 577.001-577.051, RSMo [1986] 2000. Original rule filed Jan. 13, 1983, effective April 11, 1983. Amended: Filed Dec. 4, 1984, effective May 11, 1985. Amended: Filed Aug. 15, 1986, effective Jan. 29, 1987. Amended: Filed March 13, 2001.

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

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

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

**Title 19—DEPARTMENT OF HEALTH
Division 10—Office of the Director
Chapter 4—Coordinated Health Care Services**

PROPOSED RULE

19 CSR 10-4.030 National Interest Waiver Program

PURPOSE: This rule establishes the procedure for requesting an attestation from the Department of Health that an alien physician's work in an area or areas of the United States that have been designated as having a shortage of health care providers by the Secretary of Health and Human Services is in the public interest for the purpose of applying for a National Interest Waiver from the Immigration and Naturalization Service.

(1) The following definitions shall be used in interpretation and enforcement of this rule:

(A) Department means the Missouri Department of Health;

(B) Director means the director of the Missouri Department of Health;

(C) Board means the Board of Registration for the Healing Arts, Missouri Department of Economic Development;

(D) Physician means an individual licensed and registered pursuant to Chapter 334, RSMo;

(E) Hospital means a facility licensed in the state of Missouri pursuant to Chapter 197, RSMo;

(F) Health Professional Shortage Area (HPSA) means an area or facility designated by the Secretary of Health and Human Services as having inadequate health care providers; and

(G) Approved practice site means the practice location for which the department has issued the attestation of public interest.

(2) The department may provide attestations in support of a National Interest Waiver request for waiver to the job offer requirement that applies to alien second preference employment-based immigrant visa petitions.

(A) The request must contain all of the following information and documentation and must be submitted in a single package with the documents presented in the order they are listed in paragraphs (2)(A)1.-9. Waiver requests which do not comply with these requirements will not be considered. Each request shall contain:

1. A written request from the physician that the department provide a letter that the physician's work in such an area, areas or facility is in the public interest;

2. A detailed written description of the service area, facility or population in which the physician will be working, including documentation of its designation as a Health Professional Shortage Area and the services currently being provided;

3. A letter from the board stating that the physician is licensed in good standing in Missouri;

4. A letter from the medical director of all hospitals at which the physician has privileges delineating the status of the privileges that were granted, when the privileges began and how the privileges may have changed over time along with an explanation for any changes;

5. A written statement from the physician's malpractice insurance carrier stating the claims made against the physician and the disposition of those claims;

6. A written statement from the city council or county commission, whose jurisdiction includes the physician's practice site, that the physician's services are required by and are in the interest of the community;

7. A written statement from the local public health agency, whose jurisdiction includes the physician's practice site, that the physician's services are required by and are in the interest of the community;

8. A copy of the physician's employment contract for the practice site for a period of no less than five (5) years; and

9. A written statement as to how the denial of the waiver will affect the provision of medical services in that community.

(3) No attestation shall be granted to any physician who fails to provide any of the information in paragraphs (2)(A)1.-9.

(4) No attestation shall be granted to any physician who does not have privileges at any hospital in Missouri.

(5) A physician must work at the approved practice site for a minimum of five (5) years. If the physician fails to comply with this section, the department shall report the physician to the Immigration and Naturalization Service and other agencies as necessary.

(6) A physician with a National Interest Waiver from Missouri, who wishes to transfer to another qualifying practice site in Missouri, may do so under the following circumstances:

(A) The physician must notify the department at least sixty (60) days prior to the proposed change. The notice must contain, at minimum the following:

1. All the information and documentation required in subsection (1)(A) of this rule; and

2. A detailed explanation as to the reason for the change; and

(B) The physician retains sole responsibility for financial liabilities caused by the change in approved practice site.

(7) Physicians for whom the department provides public attestations shall supply the following to the department by February 1 of each year:

(A) Name;

(B) Address of the physician's present practice site(s);

(C) The number and characteristics of the patients served including:

1. Gender;

2. Age distributions; and

3. Payor source (Medicaid, Medicare, commercial insurance or self-pay);

(D) Letters of continued support from the medical director of all hospitals at which said physician has privileges;

(E) Letters of continued support from the local public health agency; and

(F) Letter from the board stating that the physician is licensed in good standing in Missouri.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions \$3,000 annually in the aggregate. See detailed fiscal note for assumptions.

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 Harold Kirbey, Chief, Health Care Access and Assessment, 912 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

AUTHORITY: section 191.411, RSMo 2000. Emergency rule filed March 27, 2001, effective April 9, 2001, expires Jan. 17, 2002. Original rule filed March 27, 2001.

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: **Title 19 -- Missouri Department of Health**

Division: **Division 10 -- Office of the Director**

Chapter: **Chapter 4 -- Coordinated Health Care Services**

Type of Rule Making: **PROPOSED RULE**

Rule Number and Name: **19 CSR 10-4.030 National Interest Waiver Program**

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DOH	\$3,000 annually

III. WORKSHEET

Department of Health

The expected number of application is an average of 30 per year. Each application will have to be reviewed and verified. In addition there will be a cost associated with the tracking of participants and verification of compliance. The applications processed at an estimated cost of \$100 each, for a total annual cost of \$3,000. 5 hours per application at \$18.25 per hour and \$8.75 in supplies expended per application.

30 applications	30 applications	150 hours	\$2,737.50
x \$8.75 supplies	x 5 hours	x \$18.25	+ \$262.50
\$262.50 for supplies	150 hours	\$2,737.50	\$3,000.00

IV. ASSUMPTIONS

The fiscal impact on public agencies is associated with printing, data management, computer and related expenses. Program could be implemented using staff currently dedicated to J-1 Visa Program.