

**U**nder 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."

**E**ntirely 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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

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

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

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

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

Proposed Amendment Text Reminder:  
**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 4—Wildlife Code: General Provisions

#### PROPOSED AMENDMENT

**3 CSR 10-4.135 Transportation.** The commission proposes to amend sections (1) and (2).

*PURPOSE: This amendment corresponds to rule changes in 3 CSR 10-7.431 and 3 CSR 10-7.455 requiring deer and turkeys to be labeled with the Telecheck confirmation number.*

(1) Wildlife legally taken by sport hunting and fishing may be possessed and transported into, within or out of this state as personal baggage of the taker, who has in his/her possession the required permit, or by other lawful possessor. **Except for deer and turkeys taken in Missouri, [P]persons** possessing wildlife taken by another

shall plainly label that wildlife with the full name, address and permit number of the taker and the date taken, except that Missouri limits shall apply on Missouri waters unless otherwise provided by reciprocal agreement. **Deer and turkeys reported in accordance with established procedures, when labeled with the full name, address, date taken, and Telecheck confirmation number of the taker, may be possessed, transported, and stored by anyone.** Wildlife legally taken and exported from another state or country may also be shipped into Missouri by common carrier.

(2) In addition to personal transportation, legally possessed commercial fish, frogs, deer hides, squirrel and rabbit pelts, and furbearers pelts and carcasses may be shipped by mail, express and freight, when truly labeled with the names and addresses of shipper and addressee, shipper's permit number **or Telecheck confirmation number**, as required, and the contents of each package. Wildlife breeders, taxidermists, fur dealers, tanners and fur buyers may ship according to regulations specifically provided for such permittees. Wildlife shall not be accepted for shipment unless the shipper shall have complied with the provisions of this rule.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 14, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 24, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 4—Wildlife Code: General Provisions

#### PROPOSED AMENDMENT

**3 CSR 10-4.136 Giving Away Wildlife.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment corresponds to rule changes in 3 CSR 10-7.431 and 3 CSR 10-7.455 requiring deer and turkeys to be labeled with the Telecheck confirmation number.*

Wildlife legally taken and possessed may be given to another only by the taker after completion of the day's fishing or hunt. Any wildlife given to another shall continue to be included in the daily limit of the taker for the day when taken. *[This w/]*Wildlife, **except deer and turkeys taken in Missouri**, shall be labeled with the full name, address and permit number of the taker, species and the date when taken. **Deer and turkeys taken in Missouri shall be labeled with the full name and address of the taker, the date taken, and the Telecheck confirmation number of the deer or turkey.** Wildlife received as a gift shall be included in the possession limit of the recipient.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 17, 1966, effective Dec. 31, 1966. For intervening*

history, please consult the *Code of State Regulations*. Amended: Filed Aug. 24, 2005.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.137 Wildlife Identification.** The commission proposes to amend provisions of this rule.

**PURPOSE:** This amendment corresponds to rule changes in 3 CSR 10-7.431 and 3 CSR 10-7.455 requiring deer and turkeys to be labeled with the Telecheck confirmation number.

The taker and/or possessor of any wildlife shall keep the wildlife separate or distinctly identifiable from wildlife taken or possessed by another. When not personally attended, the wildlife shall be plainly labeled with the full name and address of the taker and/or possessor, except as provided in 3 CSR 10-6.405, **3 CSR 10-7.431** and **3 CSR 10-7.455**.

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1964, effective Dec. 31, 1964. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 24, 2005.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.140 Possession, Storage and Processing.** The commission proposes to amend section (2).

**PURPOSE:** This amendment corresponds to rule changes in 3 CSR 10-7.431 and 3 CSR 10-7.455 requiring deer and turkeys to be labeled with the Telecheck confirmation number.

(2) All stored wildlife, **except deer and turkeys taken in Missouri**, shall be labeled with the owner's full name, address and permit number, as required, species and date of placing in storage. If taken in another state or country, it also shall bear the export certificate, if required. **Stored deer and turkeys taken in Missouri shall be labeled with the full name and address of the taker, the date taken, and the Telecheck confirmation number of the deer or turkey.**

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 14, 1970, effective Dec. 31, 1970. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 24, 2005.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.145 Preparing and Serving Wildlife.** The commission proposes to amend section (1).

**PURPOSE:** This amendment corresponds to rule changes in 3 CSR 10-7.431 and 3 CSR 10-7.455 requiring deer and turkeys to be labeled with the Telecheck confirmation number.

(1) Any person possessing wildlife legally may serve it in his/her home or camp, or deliver it in person to any place customarily engaged in serving food and, within seven (7) days of delivery, may have it prepared and served to him/her. The wildlife shall be labeled with the full name, address and, where required, permit number **or for deer and turkeys Telecheck confirmation number** of the person delivering it and this information, together with the species and number of wildlife and the date of delivery, shall be recorded by the recipient.

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 18, 1969, effective Dec. 31, 1969. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 24, 2005.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be

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

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.535 Trout.** The commission proposes to amend section (5).

*PURPOSE:* This amendment revises trout permit requirements for fishing during the expanded winter catch-and-release trout season at Maramec Spring Park and establishes the trout permit as a year-round requirement for fishing in Stone Mill Spring Branch.

(5) Permits: A trout permit, in addition to the prescribed fishing permit, is required to possess and transport trout except in areas where a daily fishing tag is required. A trout permit is required in addition to the prescribed fishing permit for fishing at:

(A) [Maramec Spring Trout Park,] Bennett Spring State Park, Montauk State Park and Roaring River State Park from 8:00 a.m. to 4:00 p.m. on Fridays, Saturdays and Sundays from the second Friday in November through the second Sunday in February.

(B) Maramec Spring Park from 8:00 a.m. to 4:00 p.m. daily from the second Friday in November through the second Sunday in February.

[(B)](C) Stone Mill Spring Branch in Pulaski County [from November 1 through February 28].

[(C)](D) Lake Taneycomo from the closed fishing zone seven hundred and sixty feet (760') below Table Rock Dam downstream to the Highway 65 bridge.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 24, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.115 Bullfrogs and Green Frogs.** The commission proposes to add paragraph (1)(B)13. and reletter the remaining paragraphs.

*PURPOSE:* This rule establishes provisions for harvesting bullfrogs and green frogs on Valley Water Mill Lake.

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, gig, longbow, snagging, snaring, grabbing or pole and line except as further restricted by this chapter.

(B) Only pole and line may be used to take frogs on the following areas:

1. Bridgeton (Kiwanis Lake)
2. Butler City Lake
3. Jennings (Koeneman Park Lake)
4. Kirkwood (Walker Lake)
5. Mineral Area College (Quarry Pond)
6. Overland (Wild Acres Park Lake)
7. Potosi (Roger Bilderback Lake)
8. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
9. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)
10. Sedalia (Clover Dell Park Lake, Liberty Park Pond)
11. Sedalia Water Department (Spring Fork Lake)
12. Warrensburg (Lion's Lake)
- 13. Watershed Committee of the Ozarks (Valley Water Mill Lake)**
- [13.]14. Wentzville (Community Club Lake)
- [14.]15. Windsor (Farrington Park Lake)

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed Oct. 9, 2003, effective March 30, 2004. Amended: Filed Oct. 8, 2004, effective March 30, 2005. Amended: Filed April 20, 2005, effective Sept. 30, 2005. Amended: Filed Aug. 24, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.125 Hunting and Trapping.** The commission proposes to add paragraph (1)(B)30. and renumber the remaining paragraph.

*PURPOSE:* This rule prohibits hunting at Valley Water Mill Lake.

(1) Hunting, under statewide permits, seasons, methods and limits, is permitted except as further restricted in this chapter and except for deer hunting as authorized in the annual *Fall and Turkey Hunting Regulations and Information* booklet. This publication is incorporated by reference. A copy of this booklet is published by and can be obtained from the Missouri Department of Conservation, PO Box

180, Jefferson City, MO 65102-0180. It is also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendment or additions.

(B) Hunting is prohibited on the following areas:

1. Thomas S. Baskett Wildlife Research and Education Center
2. Bethany (Old Bethany City Reservoir)
3. Bridgeton (Kiwanis Lake)
4. California (Proctor Park Lake)
5. Carthage (Kellogg Lake)
6. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake)
7. Dexter City Lake
8. Farmington (Giessing Lake, Hager Lake and Thomas Lake)
9. Hamilton City Lake
10. Harrisonville (North Lake)
11. Jackson (Rotary Lake)
12. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
13. James Foundation (Scioto Lake)
14. Jamesport City Lake
15. Lawson City Lake
16. Mexico (Lakeview Lake, Kiwanis Lake)
17. Mineral Area College (Quarry Pond)
18. Moberly (Rothwell Park Lake, Water Works Lake)
19. Mount Vernon (Williams Creek Park Lake)
20. Overland (Wild Acres Park Lake)
21. Potosi (Roger Bilderback Lake)
22. Rolla (Schuman Park Lake)
23. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
24. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)
25. Savannah City Lake
26. Sedalia (Clover Dell Park Lake)
27. Sedalia Water Department (Spring Fork Lake)
28. Springfield City Utilities (Lake Springfield)
29. Warrensburg (Lion's Lake)
30. Watershed Committee of the Ozarks (Valley Water Mill Lake)
31. Windsor (Farrington Park Lake)

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 24, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 30—Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects Chapter 1—Organization

#### PROPOSED AMENDMENT

**4 CSR 30-1.010 General Organization.** The board is proposing to amend sections (1) and (4).

*PURPOSE:* This rule is being amended to reflect the correct title of the board, to include landscape architects, and to correct the contact number.

(1) The intent and purpose of the Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects is to protect the inhabitants of this state in the enjoyment of life, health, peace and safety, and to protect their property from damage or destruction through dangerous, dishonest, incompetent or unlawful architectural, professional engineering, [or] land surveying or landscape architectural practice and generally to conserve the public welfare.

(4) Any person may contact the Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors, and Landscape Architects, P[.]O[.] Box 184, Jefferson City, MO 65102, [(314) 751-2334] (573) 751-0047 for information and/or application forms or to register a complaint involving the architectural, professional engineering, [or] land surveying, or landscape architectural professions.

*AUTHORITY:* sections 327.031 and 327.041, RSMo [1986] Supp. 2004. Original rule filed Dec. 10, 1975, effective Jan. 10, 1976. Amended: Filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Sept. 13, 1983, effective Dec. 11, 1983. Amended: Filed Feb. 13, 1987, effective April 26, 1987. Amended: Filed Aug. 18, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at [moapels@pr.mo.gov](mailto:moapels@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects Chapter 4—Applications

#### PROPOSED AMENDMENT

**4 CSR 30-4.070 Evaluation—Comity Applications—Engineers.** The board is proposing to amend the original purpose statement and sections (1)–(5).

*PURPOSE:* This rule is being amended to comply with Chapter 327, RSMo by changing the words “registration” and “registered” to “licensure” and “licensed.” All National Council of Examiners for Engineering and Surveying (NCEES) examination applicants are required to pay a fee directly to NCEES; therefore, section (5) is being amended to delete the word “not.”

*PURPOSE:* This rule insures that applicants for [registration] licensure as professional engineers meet the minimum requirements for initial [registration] licensure in Missouri.

(1) Any person applying for [registration] licensure as a professional engineer under section 327.381, RSMo who was originally [registered] licensed, or subsequently [registered] licensed, on or after April 13, 1984, in another state, territory or possession of the United States or in another country without being required to pass the NCEES examinations, that is, the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination, will be required to pass the NCEES examination(s) which he/she was not required to pass to attain his/her original or subsequent [registration(s)] licensure(s) except that if such person has been actively engaged in the practice of engineering for a period of fifteen (15) consecutive years immediately prior to the filing of his/her application for comity, such person shall not be required to take the NCEES Fundamentals of Engineering Examination.

(2) Any person applying for [registration] licensure as a professional engineer under section 327.381, RSMo who was originally [registered] licensed or subsequently [registered] licensed anytime prior to April 13, 1984, in another state, territory or possession of the United States or in another country without being required to pass at least an eight (8)-hour examination covering the mathematics and basic sciences (fundamentals of engineering), shall be required to take and pass the NCEES Fundamentals of Engineering Examination except that if such person has been actively engaged in the practice of engineering for a period of fifteen (15) consecutive years immediately prior to the filing of his/her application for comity, such person shall not be required to take the NCEES Fundamentals of Engineering Examination, providing he/she has already taken and passed at least an eight (8)-hour fundamentals of engineering examination.

(3) Any person applying for [registration] licensure as a professional engineer under section 327.381, RSMo who was originally [registered] licensed or subsequently [registered] licensed anytime prior to April 13, 1984, in another state, territory or possession of the United States or in another country without being required to pass at least an eight (8)-hour examination covering the theory and practice of engineering (principles and practice of engineering), shall be required to take and pass the NCEES Principles and Practice of Engineering Examination.

(4) When a comity applicant is required to take both the NCEES Fundamentals of Engineering Examination and the NCEES Principles and Practice of Engineering Examination, he/she may take the examinations on consecutive days, provided however, the applicant will not be [registered] licensed by comity until he/she passes both examinations in accordance with the provisions of section 327.241.3, RSMo.

(5) When an applicant for [registration] licensure by comity is required to take the NCEES Fundamentals of Engineering Examination and/or the NCEES Principles and Practice of Engineering Examination, the applicant shall [not] be required to pay an examination fee for either or both examinations. If the applicant fails to pass the required examination(s), he/she will be permitted unlimited reexaminations so long as notice of desire to retake is filed with the board on or before the filing deadline and so long as the applicant pays the required reexamination fee as is set forth in 4 CSR 30-6.020.

*AUTHORITY:* sections 327.041 and 327.381, RSMo Supp. [1998] 2004. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed April 7, 1999, effective Oct. 30, 1999. Amended: Filed Aug. 18, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects  
Chapter 4—Applications**

**PROPOSED AMENDMENT**

**4 CSR 30-4.090 Evaluation—Comity Applications—Landscape Architects.** The board is proposing to amend section (1).

*PURPOSE:* This rule is being amended to comply with Chapter 327, RSMo by changing the word “registration” to “licensure.”

(1) Individuals who are certified or licensed in another state or territory of the United States and have qualifications which are at least equivalent to the requirements for licensure as a landscape architect in this state may apply for [registration] licensure by comity.

*AUTHORITY:* sections 327.041 and 327.623, RSMo Supp. [2003] 2004. Original rule filed Oct. 30, 2002, effective April 30, 2003. Amended: Filed Sept. 8, 2003, effective March 30, 2004. Amended: Filed Aug. 18, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects  
Chapter 5—Examinations**

**PROPOSED AMENDMENT**

**4 CSR 30-5.050 Admission to Examination—Architects.** The board is proposing to amend section (1).

*PURPOSE* This rule is being amended to comply with Chapter 327, RSMo by changing the word “registration” to “licensure.”

(1) No person shall be admitted to the examination for [registration] licensure as an architect if s/he has an application pending for initial [registration] licensure in another state, unless the applicant has changed his/her residency to Missouri since filing the original application.

*AUTHORITY:* section 327.041, RSMo [1986] Supp. 2004. Original rule filed May 25, 1970, effective June 25, 1970. Amended: Filed Aug. 18, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects

##### Chapter 5—Examinations

#### PROPOSED AMENDMENT

**4 CSR 30-5.100 Passing of Part I Required—Engineers.** The board is proposing to amend section (1).

*PURPOSE:* This rule is being amended to comply with Chapter 327, RSMo by changing the word “registration” to “licensure.”

(1) No applicant for [registration] licensure as a professional engineer under section 327.221, RSMo shall be allowed to take part [two] II of the required examination without having first passed part I of that examination.

*AUTHORITY:* sections 327.041 and 327.131, RSMo Supp. 2004 and 327.151, 327.221 and 327.241, RSMo [1986] 2000. Original rule filed Aug. 5, 1971, effective Sept. 5, 1971. Amended: Filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Aug. 18, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after pub-

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#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 200—State Board of Nursing

##### Chapter 6—Intravenous Infusion Treatment Administration

#### PROPOSED RESCISSION

**4 CSR 200-6.010 Intravenous Fluid Treatment Administration.**

This rule defined intravenous fluid treatment, limited and defined the scope of intravenous fluid treatment that may be performed by intravenous certified licensed practical nurses and defined standards for a course of instruction.

*PURPOSE:* The board is proposing to rescind this rule and adopt additional rules to provide clarity for each aspect of intravenous fluid treatment administration.

*AUTHORITY:* section 335.017, RSMo 1994. Emergency rule filed Dec. 16, 1983, effective Dec. 26, 1983, expired April 24, 1984. Original rule filed Dec. 16, 1983, effective April 12, 1984. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 200—State Board of Nursing

##### Chapter 6—Intravenous Infusion Treatment Administration

#### PROPOSED RULE

**4 CSR 200-6.020 Definitions**

*PURPOSE:* This rule defines the terms used throughout this chapter.

(1) Administer—to carry out comprehensive activities involved in intravenous infusion treatment modalities that include, but are not limited to, the following: observing; performing; monitoring; discontinuing; maintaining; regulating; adjusting; documenting; assessing; diagnosing; planning; intervening; and evaluating.

(2) Board—the Missouri State Board of Nursing.

(3) Central venous catheter—a catheter that is advanced through the internal jugular vein, cephalic or basilic vein in the antecubital fossa, or subclavian vein, with the catheter tip terminating in the superior

vena cava. A central venous catheter may also be inserted into a femoral vein with the catheter tip then terminating in the inferior vena cava. Central venous catheters may be used to administer prescribed intravenous infusion treatment modalities or to perform prescribed intravenous infusion diagnostic procedures and include, but are not limited to, peripherally inserted central catheters (PICCs), external percutaneously placed central venous catheters, tunneled central venous catheters, and implanted central venous catheters with a portal reservoir.

(4) Cognitive and psychomotor instruction—the process of acquiring the knowledge and related physical activities associated with a specific skill or operation.

(5) Cognitive and psychomotor competency verification—the confirmation that an individual possesses the needed cognitive and psychomotor abilities to perform a specific procedure or skill.

(6) Delivery system—a product that allows for the intravenous administration of a drug or parenteral fluid. The delivery system may be integral or may have component parts, and includes all products used in the administration of intravenous infusion treatment modalities, from the solution container to the catheter.

(7) Initiate—the performance of activities involved in starting a prescribed intravenous infusion treatment modality.

(8) Injection/access port—a resealable cap or other component part designed to accommodate needles or needleless devices for the administration of solutions into the vascular system.

(9) Intermittent—an intravenous infusion treatment modality administered at prescribed intervals with periods of infusion cessation.

(10) Intravenous administration—prescribed intravenous infusion treatment modalities involving the venous system that may include, but are not limited to, the performance of such nursing interventions as the insertion of a peripheral needle or a peripheral catheter, the removal of venous blood, and/or the administration of an intravenous injection or parenteral fluid infusion.

(11) Intravenous bolus drug administration—the rapid, untimed administration of a discrete amount of a drug according to specific guidelines for administering such drug.

(12) Intravenous catheter or cannula—a hollow tube made of silastic, plastic, or metal used for accessing the venous system.

(13) Intravenous drug administration—any prescribed therapeutic or diagnostic substance delivered into the bloodstream via a vein including, but not limited to, medications, nutrients, contrast media, blood, blood products, or other fluid solutions.

(14) Intravenous infusion treatment modality—refers to a variety of means/methods utilized in the introduction of a prescribed substance and/or solution into an individual's venous system.

(15) Intravenous piggyback administration—a secondary infusion into an established patent primary intravenous line for the intermittent delivery of medications.

(16) Intravenous push drug administration—means the administration of a drug over a timed interval, generally at least one (1) minute, or according to specific guidelines for administering such drug.

(17) Licensed practical nurse (LPN)—a licensed practical nurse as defined in section 335.016, RSMo and licensed to practice in the state of Missouri and referred to as LPN throughout this chapter.

(18) Life threatening circumstances—refers to a physiologic crisis situation wherein prescribed drug administration via manual intravenous bolus or push drug administration is immediately essential to preserve respiration and/or heartbeat.

(19) Mid-line catheter—a catheter that is inserted into a vein in the antecubital fossa and then advanced three inches to twelve inches (3"–12") into the proximal upper arm.

(20) Needleless system—a substitute for a needle or other sharp access device, which may be available in blunt, recessed or valve designs.

(21) Packaged drug systems—use-activated containers which are compartmentalized and have pre-measured ingredients that form a solution when mixed.

(22) Parenteral nutrition—the intravenous administration of total nutritional needs for a patient who is unable to take appropriate amounts of food enterally.

(23) Peripheral venous catheter—a catheter that begins and terminates in a vein in an extremity (i.e., arm, hand, leg, or foot) or in a vein in the scalp.

(24) Policy—a written statement of a recommended course of action intended to guide decision making.

(25) Premixed drugs for intravenous administration—those drugs compounded or prepared by a pharmacy department, parenteral fluid or drug manufacturer, or mixed by a licensed registered professional nurse who possesses documented evidence of the necessary cognitive and psychomotor instruction by a licensed pharmacist.

(26) Procedure—a written statement of steps required to complete an action.

(27) Qualified practical nurses—for the purpose of this chapter, this term includes:

(A) Graduate practical nurses practicing in Missouri within the time frame as defined in 4 CSR 200-4.020(3);

(B) Practical nurses with temporary permits to practice in Missouri; and

(C) Practical nurses currently licensed to practice in Missouri, unless specifically stated otherwise within the text of the specific rule.

(28) Registered professional nurse (RN)—a registered professional nurse as defined in section 335.016, RSMo, and licensed to practice in the state of Missouri and referred to as RN throughout this chapter.

*AUTHORITY: sections 335.017 and 335.036, RSMo 2000. Original rule filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@pr.mo.gov. To be considered, comments must be received*

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

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 200—State Board of Nursing  
Chapter 6—Intravenous Infusion Treatment  
Administration**

**PROPOSED RULE**

**4 CSR 200-6.030 Intravenous Infusion Treatment Administration by Qualified Practical Nurses; Supervision by a Registered Professional Nurse**

*PURPOSE:* This rule sets forth the requirements for qualified practical nurses as defined in this chapter to participate in the administration of intravenous infusion treatment modalities.

(1) Qualified practical nurses shall only perform venous access and intravenous (IV) infusion treatment modalities according to the specific provisions of section 335.016, RSMo, 4 CSR 200-5.010, and this chapter. A qualified practical nurse shall only perform such activities under the direction and supervision of a registered professional nurse or a person licensed by a state regulatory board to prescribe medications and intravenous infusion treatments (hereinafter the “licensed prescriber”).

(2) Qualified practical nurses who perform venous access and intravenous infusion treatment modalities shall:

(A) Maintain accountability to the registered professional nurse or licensed prescriber who is directing and supervising the individual’s practical nursing care acts involving venous access and intravenous infusion treatment modalities;

(B) Maintain ongoing, documented, specialized knowledge, education, skills, training, judgment, and experience related to practical nursing care acts involving venous access and intravenous infusion treatment modalities;

(C) Ensure that appropriate, authorized prescriber orders for patient care involving venous access and intravenous infusion treatment modalities are in place before patient care is begun;

(D) Only engage in practical nursing care acts involving venous access and intravenous infusion treatment modalities that are within the individual’s authorized scope of practice as specified in section 335.016, RSMo, 4 CSR 200-5.010, and this chapter; and

(E) Only engage in practice consistent with lawful written policies and procedures of the individual’s employer as well as any state or federal laws applicable to the individual’s employer.

(3) Registered professional nurses who direct and supervise qualified practical nurses in the performance of acts involving venous access and intravenous infusion treatment modalities shall:

(A) Provide appropriate direction and supervision for practical nursing care acts involving venous access and intravenous infusion treatment modalities that are within the qualified practical nurse’s authorized scope of practice as specified in section 335.016, RSMo, 4 CSR 200-5.010, and this chapter;

(B) Provide appropriate direction and supervision based on reasonable and prudent assessments, judgments, and decisions concerning the specialized knowledge, education, skills, training, judgment, and experience of the qualified practical nurse designated to perform specific acts involving venous access and intravenous infusion treatment modalities; and

(C) Only engage in direction, supervision and practice consistent with lawful, written policies and procedures of the individual’s employer and any state or federal laws applicable to the individual’s employer.

(4) Qualified practical nurses who have documented competency verification by the individual’s employer, but who are not IV-Certified according to these rules, may:

(A) Observe, monitor, and maintain pre-calculated intravenous parenteral fluid infusion flow rate including total parenteral nutrition, peripheral parenteral nutrition, blood, and blood products;

(B) Observe and monitor peripheral venous access sites for evidence of developing complications;

(C) Observe and monitor patient for evidence of adverse response to prescribed venous access and intravenous infusion treatment modalities;

(D) Remove indwelling peripheral venous access devices that do not exceed 3 inches (3”) in length, excluding mid-line catheters;

(E) Obtain blood and blood products from the blood bank in accordance with established blood bank protocol;

(F) Perform pre-transfusion blood and blood product cross-checking procedures at patient bedside with a registered professional nurse;

(G) Perform phlebotomy for the purpose of obtaining blood specimens for laboratory testing and/or donor collection; and

(H) Report and document actions taken and observations made.

(5) In addition to the functions and duties set forth in section (4), a graduate practical nurse who graduated after February 28, 1999 from a generic practical nursing program approved by the board, and IV-Certified licensed practical nurses who have documented competency verification by the individual’s employer, may:

(A) Calculate the flow of intravenous parenteral fluid infusions including total parenteral nutrition, peripheral parenteral nutrition, blood, and blood products;

(B) Initiate peripheral venous access sites using devices that do not exceed three inches (3”) in length, excluding mid-line catheters;

(C) Administer parenteral intravenous fluid infusions including total parenteral nutrition and peripheral parenteral nutrition through established, patent peripheral venous lines and central venous lines;

(D) Change peripheral venous administration set tubings and dressings;

(E) Administer premixed drugs and solutions through established, patent peripheral and central venous lines either by continuous infusion or intermittent intravenous piggyback methods;

(F) Maintain the patency of “locked” peripheral and central venous catheters with saline and/or heparin flush solutions; and

(G) Administer packaged drug systems containing diluent and drug through established, patent peripheral and central venous lines.

(6) In addition to the functions and duties set forth in sections (4) and (5), and with additional individualized education and experience that includes documented competency verification by the individual’s employer, IV-Certified licensed practical nurses may:

(A) Change central venous line administration set tubings and site dressings;

(B) Obtain blood specimens for laboratory testing from established central venous catheters, which includes implanted vascular access port devices that have already been accessed;

(C) Administer premixed pain medications via patient controlled analgesia pump (PCA), which includes assembling and programming of the pump;

(D) Administer premixed drugs that will infuse over a minimum of thirty (30) minutes via mechanical infusion devices, including, but not limited to, syringe pumps and disposable elastomeric devices; and

(E) Administer continuous or intermittent parenteral fluid infusions via electronic infusion pumps and controllers, which includes assembling and programming of the electronic infusion pump or controller.

(7) Graduate and licensed practical nurses shall NOT, under any condition, perform the following functions or duties:



(A) Administer anti-neoplastic drugs, commonly referred to as chemotherapy, via any intravenous infusion treatment modality.

(B) Begin the initial or sequential administration of a transfusion of whole blood or blood product including, but not limited to, serum albumin;

(C) Access the port reservoir of a central venous implanted vascular access port device;

(D) Perform an intravenous admixture in which a syringe/needle is used to add drug(s) to a parenteral fluid container, prior to the administration of the infusion;

(E) Add drug(s) to the fluid container of an existing intravenous infusion;

(F) Add drug(s) to an existing volume control set chamber;

(G) Administer drug(s) via the intravenous push or intravenous bolus mode of delivery except when life-threatening circumstances require such administration; and

(H) Remove a mid-line catheter or any type of central venous catheter.

*AUTHORITY: sections 335.017 and 335.036, RSMo 2000. Original rule filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 200—State Board of Nursing  
Chapter 6—Intravenous Infusion Treatment  
Administration**

**PROPOSED RULE**

**4 CSR 200-6.040 Venous Access and Intravenous Infusion Treatment Modalities Course Requirements**

*PURPOSE: This rule sets forth the minimum requirements for establishing and conducting a course of instruction for qualified practical nurse participants to become IV-Certified in the state of Missouri.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(1) A venous access and intravenous (IV) infusion treatment modalities course shall prepare the non IV-Certified qualified practical nurse to safely perform the functions and procedures inherent in selected intravenous infusion treatment modalities as set forth in this rule.

(2) Course providers shall only design and conduct a venous access and intravenous infusion treatment modalities course as specified in this rule. The course shall provide sufficient instruction for the following qualified practical nurse participants to become IV-Certified in Missouri:

(A) A practical nurse currently licensed to practice in Missouri;

(B) A practical nurse with a temporary permit to practice in Missouri;

(C) A graduate practical nurse of a non-Missouri practical nursing education program seeking licensure in Missouri;

(D) A graduate practical nurse completing a Missouri practical nursing education program prior to February 28, 1999 and seeking licensure in Missouri; or

(E) A federal employee who possesses a current license as a practical nurse in another state who is enrolling in a course provided by a federal facility located in Missouri.

(3) Curriculum.

(A) The curriculum of a venous access and intravenous infusion treatment modalities course shall include the following components:

1. Review of the Missouri Nursing Practice Act including the current venous access and intravenous infusion treatment modalities regulations;

2. Review of the policies and procedures of the clinical agency where practical experience is received;

3. Structure of the circulatory system including anatomical location and physiology of veins used for venous access;

4. Relationship between parenteral fluid treatment administration and the body's homeostatic and regulatory function with attention to the clinical manifestation of fluid and electrolyte imbalance and cellular physiology;

5. Principles of infection control in venous access and parenteral fluid administration;

6. Identification of various types of equipment used in venous access and parenteral fluid administration, with content related to criteria for use of each, and means of troubleshooting for malfunctions;

7. Principles and practices related to intravenous drug and/or fluid administration across the life span;

8. Nursing management of venous access and parenteral fluid administration procedures that are commonly used in patient care settings;

9. Procedure for obtaining venous access including appropriate equipment selection, psychological preparation of the patient, site selection, aseptic skin preparation, insertion and stabilization of the venous access device, application of dressing to insertion site, and documentation of procedure;

10. Maintenance of venous access site and parenteral fluid administration system components according to established current practices;

11. Monitoring venous access site for evidence of local complications, parenteral fluid infusion flow rate, and response to treatment;

12. Adjusting parenteral fluid flow rate in various clinical situations;

13. Procedure for removal of peripheral venous access device upon completion of the prescribed treatment or if suspected or confirmed complications arise;

14. Calculation of drug dosage and parenteral fluid administration flow rates; and

15. Principles of phlebotomy.

(B) The curriculum to be offered must be approved by the board.

1. The board has approved the most current edition of the *Venous Access and Intravenous Infusion Treatment Modalities Manual*, which is incorporated by reference herein, available from the University of Missouri Instructional Materials Laboratory (IML) as a standard curriculum. Copies of instructor and student manuals may be obtained by contacting the Instructional Materials Laboratory, College of Education, University of Missouri-Columbia,

1400 Rock Quarry Center, Columbia, MO 65211 or by phone at (800) 669-2465. This rule does not include any subsequent amendments or additions.

2. If the provider of a course chooses to develop its own curriculum, it must contain all of the components listed in subsection (3)(A)1.-5. of this rule and be submitted to the board for approval.

(C) A course shall, at a minimum, consist of:

1. Thirty (30) hours of classroom and skills laboratory instruction or its equivalent, (e.g., faculty-student interactive study); and

2. Eight (8) hours of supervised clinical practice, which must include at least one (1) successful performance of peripheral venous access and the initiation of an intravenous infusion treatment modality on an individual.

(D) There shall be written course outcomes that identify the expected competencies of the participant upon completion of the course.

(E) The course participant must complete a pretest(s) in pharmacology, anatomy and physiology, and asepsis to determine the participant's level of knowledge at the beginning of the course.

(F) All classroom and clinical instruction and practice must be supervised by a registered professional nurse designated by the provider and who meets the faculty qualifications as stated in section (4) of this rule.

#### (4) Faculty Qualifications and Responsibilities.

(A) Nursing faculty must hold a current undisciplined license or temporary permit to practice as a registered professional nurse in Missouri and have a minimum of two (2) years of clinical experience within the last five (5) years that included responsibility for performing venous access and intravenous infusion treatment modalities.

(B) All non-nurse faculty shall possess the professional preparation and qualifications to teach the specific content for which they are responsible.

(C) For the clinical component of the course, the maximum faculty to student ratio shall be one to three (1:3) for observational experiences and the performance of non-invasive procedures and functions. The faculty to student ratio must be one to one (1:1) during the performance of peripheral venous access and initiation of an intravenous infusion treatment modality on an individual.

(D) The course provider shall designate a registered professional nurse to be the course coordinator who shall be responsible for all aspects of the course.

#### (5) Classroom and Clinical Facilities.

(A) Classrooms shall be of sufficient size and contain the necessary equipment and teaching aids to implement the course.

(B) The clinical facilities utilized shall be sufficient to allow for appropriate implementation of the course and may include, but are not limited to, acute care, long-term care, ambulatory care, and community agencies that provide intravenous infusion treatment modalities.

(C) Faculty and course participants shall have access to the necessary intravenous treatment equipment and patients/clients receiving intravenous treatment modalities, including pertinent medical records.

(D) There shall be a signed written agreement between the course provider of the course and each cooperating clinical facility that specifies the roles, responsibilities, and liabilities of each party. This written agreement will not be required if the only clinical facility to be used is also the provider of the course.

(6) To successfully complete a venous access and intravenous infusion treatment modalities course for the purpose of becoming IV-Certified, the qualified participant shall:

(A) Achieve a minimum grade of eighty (80%) on a written final examination of no fewer than fifty (50) multiple choice items;

(B) Demonstrate clinical competency in the mastery of the course objectives; and

(C) Perform at least one (1) successful peripheral venous access and initiate an intravenous infusion treatment modality on an individual.

#### (7) Record Keeping.

(A) The provider of an approved course shall maintain records documenting each participant's attendance, scores, and competencies. These records shall be kept for a period of at least five (5) years. A copy of this record shall be provided to the course participant.

(B) The provider of an approved course shall award a certificate, using a form provided by the board, to each participant who successfully completes the course.

(C) Within thirty (30) days of a participant's successful completion of an approved course, the designated course coordinator shall submit the required participant information to the board on a form provided by the board.

*AUTHORITY: sections 335.017 and 335.036, RSMo 2000. Original rule filed Sept. 1, 2005.*

*PUBLIC COST: This proposed rule will cost state agencies an estimated twelve thousand seven hundred seven dollars and thirty-four cents (\$12,707.34) during the first year of implementation of the rule and an estimated seven thousand eight hundred thirty-three dollars and eighty-seven cents (\$7,833.87) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will cost private entities an estimated eight thousand eleven dollars and thirty cents (\$8,011.30) during the first year of implementation of the rule and two thousand one hundred thirty dollars and eighty cents (\$2,130.80) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

Title 4 -Department of Economic Development

Division 200 - State Board of Nursing

Chapter 6 - Intravenous Treatment Administration

Proposed Rule - 4 CSR 200-6.040 Venous Access and Intravenous Infusion Treatment Modalities Course Requirements

Prepared July 1, 2005 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

During First Year of Implementation of the Rule

Affected Agency or Political Subdivision	Estimated Cost of Compliance During the First Year of Implementation
State Board of Nursing	\$12,707.34
<b>Total Cost of Compliance During the First Year of Implementation of the Rule</b>	<b>\$12,707.34</b>

Annually After First Year of Implementation of the Rule

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance After First Year of Implementation
State Board of Nursing	\$7,833.87
<b>Total Annual Cost of Compliance After First Year of Implementation of the Rule</b>	<b>\$7,833.87</b>

**III. WORKSHEET**

**ESTIMATE DURING THE FIRST YEAR OF IMPLEMENTATION**

**APPROVAL OF COURSE PROVIDERS**

The board anticipates corresponding with providers at least 6 times during the first year of implementation of this rule. The board anticipates receiving 35 letters outlining the programs intention of compliance with the new regulations, 25 letters discontinuing programs and 5 new proposals during the first year of implementation. The following estimates are based on that assumption.

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Letterhead	\$0.15	65	\$58.50
Forms (x4)	\$0.15	65	\$39.00
Envelopes	\$0.16	65	\$62.40
Postage	\$0.34	65	\$132.60
<b>Total expense and equipment cost</b>			<b>\$292.50</b>

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE	HOURLY SALARY	TIME PER PROPOSAL	COST PER PROVIDER	TOTAL COST
Education Administrator (course approval)	\$45,384.00	\$63,750.90	\$30.65	6 hours	\$183.90	\$7,355.87
Senior Office Support Assistant (course approval)	\$24,144.00	\$33,915.08	\$16.31	1 hour and 30 minutes	\$24.46	\$978.32
Office Support Assistant (course approval)	\$19,688.00	\$27,655.73	\$13.30	7 hours	\$93.07	\$3,722.89
Education Administrator (discontinuation of program)	\$45,384.00	\$63,750.90	\$30.65	15 minutes	\$7.66	\$191.56
Office Support Assistant (discontinuation of program)	\$19,688.00	\$27,655.73	\$13.30	30 minutes	\$6.65	\$166.20
<b>Total personal service costs</b>						<b>\$12,414.84</b>

It is estimated that the following staff time will be devoted on each application for the following duties:

**Education Administrator/RN VI** (6 hours and 15 minutes) - Create forms and letters to implement provisions of 4 CSR 200-6.040, notify currently approved programs of new rules and regulations; review letter/documents from the providers regarding plan for compliance; review of proposal for new providers; request and review annual reports, review letters from providers discontinuing course and provide feedback to inquires from providers and participants

**Senior Office Support Assistant** (1 hour and 30 minutes) - Assist with creation of forms and letters to implement provisions of 4 CSR 200-6.040 and provide feedback to inquires from providers and participants.

**Office Support Assistant** (7 hours and 30 minutes) - Prepare letters for notifying currently approved programs; enter information into the division's licensing system, assist with the creation of forms and letters to implement provisions of 4 CSR 200-6.040; prepare and mail letters of confirmation of IV certification; prepare and mail miscellaneous correspondence; update the board's provider listing and provide feedback to inquires from providers and participants.

**ANNUAL ESTIMATE AFTER THE FIRST YEAR OF IMPLEMENTATION APPROVAL OF NEW PROGRAMS AND REVIEW OF ANNUAL REPORTS**

The board anticipates corresponding with providers at least 6 times annually after the first year of implementation of the rule. The board anticipates receiving 5 new proposals and 35 annual reports on a yearly basis. The following estimates are based on that assumption.

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Letterhead (approval of new providers)	\$0.15	5	\$4.50
Envelope (approval of new providers)	\$0.16	5	\$4.80
Postage (approval of new providers)	\$0.34	5	\$10.20
Letterhead (review of annual reports)	\$0.15	35	\$31.50
Envelope (review of annual reports)	\$0.16	35	\$33.60
Postage (review of annual reports)	\$0.34	35	\$71.40
<b>Total expense and equipment cost</b>			<b>\$19.50</b>

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE	HOURLY SALARY	TIME PER APPLICATION	COST PER PROVIDER	TOTAL COST
Education Administrator (approval of new providers)	\$45,384.00	\$63,750.90	\$30.65	1 hour and 15 minutes	\$107.27	\$536.37
Office Support Assistant (approval of new providers)	\$19,688.00	\$27,655.73	\$13.30	30 minutes	\$6.65	\$33.24
Education Administrator (review of annual reports)	\$45,384.00	\$63,750.90	\$30.65	3 hours and 30 minutes	\$107.27	\$3,754.56
Office Support Assistant (review of annual reports)	\$19,688.00	\$27,655.73	\$13.30	7 hours and 30 minutes	\$99.72	\$3,490.21
<b>Total personal service costs</b>						<b>\$7,814.37</b>

It is estimated that the following staff time will be devoted on each application for the following duties:

**Education Administrator/RN VI** (9 hours and 30 minutes) - Review of proposal for new providers; request and review annual reports; confirm receipt of annual report and continuation of approval; review letters from providers discontinuing course and provide feedback to inquires from providers and participants.

**Office Support Assistant** (8 hours and 45 minutes) - Enter information into the division's licensing system; prepare and mail letters of confirmation of IV certification; prepare and mail miscellaneous correspondence; update the board's provider listing and provide feedback to inquires from providers and participants.

**IV. ASSUMPTIONS**

1. The above figures are based on the 60 currently licensed providers and 240 participants. The board anticipates 35 currently approved providers will submit proposals to comply with the new requirements and 25 providers will discontinue their programs. The board further anticipates receiving 5 new proposals annually.
2. The total cost 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.

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

Title 4 -Department of Economic Development

Division 200 - State Board of Nursing

Chapter 6 - Intravenous Treatment Administration

Proposed Rule - 4 CSR 200-6.040 Venous Access and Intravenous Infusion Treatment Modalities Course Requirements

Prepared July 1, 2005 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

**During First Year of Implementation of the Rule**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the amendment by affected entities during first year of implementation:
5	New Providers (Seeking Approval @ \$163.92)	\$819.60
35	Currently Approved Providers (Seeking Continued Approval @ \$163.92)	\$5,842.20
25	Currently Approved Providers (Discontinuing Programs @ \$53.98)	\$1,349.50
<b>Estimated Cost of Compliance During First Year of Implementation</b>		<b>\$8,011.30</b>

**Annually After First Year of Implementation of the Rule**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the amendment by affected entities annually after the first year of implementation:
40	Providers Maintaining Course Approval @ \$32.78)	\$1,311.20
5	New Providers (Seeking Approval @ \$163.92)	\$819.60
<b>Estimated Annual Cost of Compliance After the First Year of Implementation</b>		<b>\$2,130.80</b>

**III. WORKSHEET**

In order to estimate the cost to private entities for implementation of this rule, the board surveyed 5 providers currently approved to teach intravenous infusion therapy treatment administration to obtain their input for this fiscal note. The board time and money estimates related to the submission of documents for course provider approval, implementation of the course and maintenance of records. The data represented below is a summary of the information submitted. The providers are referred to by a specifically appointed number and will not be referred to by name.

Proposal of Course:

The board sought estimates pertaining specifically to cost to the author for writing the proposal and related materials; support staff salaries; purchasing instructional material or other learning resources; agreement and copying fees. The following estimates were provided.

	Writing the Proposal	Support Staff	Instructional Materials/Learning Resources	Clinical Agreement	Copying Fees
Provider 1	\$54.50	\$0.00	\$14.40	\$54.50	\$25.00
Provider 2	\$200.00	\$0.00	\$20.00	\$20.00	\$0.00
Provider 3	\$75.00	\$45.00	\$25.00	\$0.00	\$80.00
Provider 4	No Response	No Response	No Response	No Response	No Response
Provider 5	\$100.00	\$0.00	\$0.00	\$60.00	\$10.00
<b>AVERAGE</b>	<b>\$107.38</b>	<b>\$11.25</b>	<b>\$14.85</b>	<b>\$33.63</b>	<b>\$28.75</b>

Average Cost of Submitting the Proposal \$195.85

**Implementation of Course:**

The board sought estimates pertaining specifically to advertising and enrolling for the course; salaries for teaching the course including preparation time, development of materials to supplement standard curriculum (such as class schedule, handouts, quizzes/tests, etc., ) actual time spent in the classroom and clinical activities; purchasing and or leasing supplies, equipment (such as IV pumps), models and other learning resources; travel costs; support staff salaries; and copying and postage fees.

	Advertising/ Enrollment	Teaching Salaries	Purchasing and/or Leasing of Supplies	Support Staff Salaries	Copying and Postage Fees
Provider 1	\$10.00	\$335.00	\$27.00	\$21.00	\$5.00
Provider 2	\$50.00	\$200.00	\$875.00	\$21.00	\$0.00
Provider 3	\$0.00	\$0.00	\$200.00	\$0.00	\$30.00
Provider 4	\$3.00	\$360.00	\$100.00	\$2.00	\$4.00
Provider 5	\$0.00	\$400.00	\$700.00	\$0.00	\$40.00
<b>AVERAGE</b>	<b>\$12.60</b>	<b>\$259.00</b>	<b>\$380.40</b>	<b>\$8.80</b>	<b>\$15.80</b>

Average Cost of Implementing Course \$676.60

**Storage of Supplies and Maintain Records**

The board sought estimates pertaining specifically to storage of supplies and equipment and storage for maintaining records. The estimates provided below are based on annual costs.

	Storage of Supplies/ Equipment	Maintaining Records
Provider 1	\$0.00	\$0.00
Provider 2	\$0.00	\$0.00
Provider 3	\$1,500.00	\$1,500.00
Provider 4	\$10.00	\$10.00
Provider 5	\$0.00	\$0.00
<b>AVERAGE</b>	<b>\$302.00</b>	<b>\$302.00</b>

Average Cost of Maintaining Records \$604.00

In order to accurately estimate the fiscal impact to providers, the board sought estimates on the cost the provider could recover via enrollment fees.

	Cost of Proposing/Implementing/ Maintaining Course	Estimated Cost Recovered	Actual Costs
Provider 1	\$546.40	\$382.48	\$163.92
Provider 2	\$1,386.00	\$1,386.00	\$0.00
Provider 3	\$3,455.00	\$3,455.00	\$0.00

Provider 4	\$489.00	\$489.00	\$0.00
Provider 5	\$1,310.00	\$1,310.00	\$0.00
<b>AVERAGE</b>	<b>\$1,437.28</b>	<b>\$1,404.50</b>	<b>\$32.78</b>

**Actual Cost of Course                    \$32.78**

**CURRENTLY APPROVAL PROVIDERS SEEKING TO DISCONTINUE PROGRAM**

The board estimates that approximately 25 currently approval providers will submit letters to discontinue their programs. The board estimates it will take approximately 1 hour to prepare and mail a letter notifying the board of their intent. Based on the above data, the board estimates the average registered nurse hourly wage to be \$26.84 and support staff salary to be \$11.25. Based on this information, the board estimates the following costs associated with discontinuing a program.

	Preparation of Letter to the Board	Copying and Postage Fees
Estimated Cost	\$38.09	\$15.80

**Actual Cost of Course                    \$53.89**

**MAINTAINING COURSE APPROVAL**

The board estimates the following amount of time will be spent by the course coordinator to maintain approval of the program. Based on the above data, the board estimates the average registered nurse hourly salary to be \$26.84.

	Faculty Changes	Clinical Site Changes	Completion/ Submission of Annual Report	Submission of Class Roster
Estimated Time	1 hour	1 hour	3 hours	1 hour

**Actual Cost of Course                    \$187.88**

**IV. ASSUMPTIONS**

1. In 1999 intravenous therapy was required to become part of the generic LPN educational programs in Missouri. LPNs who completed their education in Missouri prior to 1999 or who were licensed by endorsement from another state whose educational program did not include intravenous therapy, may seek IV certification from the board at some point in their nursing career. Therefore, the board is unable to provide an estimate of the number of LPNs who will seek such certification, when the certification will be sought or provide an accurate estimate of the fiscal impact to private entities.
2. The above figures were based on the board's estimate of 60 course provider and 240 participants.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 200—State Board of Nursing  
Chapter 6—Intravenous Infusion Treatment  
Administration**

**PROPOSED RULE**

**4 CSR 200-6.050 Approval Process for a Venous Access and Intravenous Infusion Treatment Modalities Course**

*PURPOSE:* This rule sets forth the approval process for a course provider to establish, maintain and discontinue a course of instruction for qualified practical nurse participants to become IV-Certified in the state of Missouri.

(1) To obtain initial approval of a venous access and intravenous infusion treatment modalities course, the course provider must submit a written proposal to the board.

(A) The proposal shall be written by and bear the original signature of a registered professional nurse who holds a current undisciplined license or temporary permit to practice as a registered professional nurse in Missouri.

(B) The proposal shall contain the following:

1. Name of course provider;
2. Course objectives;
3. Curriculum to be utilized including the method(s) of delivery and the number of classroom and clinical hours;
4. Faculty qualifications;
5. Name of designated course coordinator;
6. Description and location of classroom and clinical facilities to be utilized;
7. Copies of the agreement with the clinical facilities to be utilized;
8. Maximum faculty to student ratio in the clinical component;
9. Methods of participant evaluation used including final examination;
10. Qualifications/requirements of course participants;
11. Policy delineating successful completion of the course; and
12. Policy regarding records to be maintained.

(C) The board shall review the proposal and issue a letter to the course provider stating whether the program has been approved or denied. If the program is denied approval, the board shall state the specific reasons for its denial.

(2) Requirements for Maintaining Course Approval.

(A) The provider of an approved course shall comply with any subsequent changes in this rule beginning with the first course participants following the effective date of the rule change. The course provider shall submit a written report to the board specifying the manner in which it will comply with the rule change(s). The board must approve the submitted report prior to the entrance of the next course participants.

(B) The course provider must notify the board in writing of all changes in information that was submitted in its approved proposal. Changes must be approved by the board prior to implementation.

(C) The course provider must keep the board current as to the names of faculty and clinical facilities utilized.

(D) The course provider must submit an annual report to the board using the form provided by the board. Failure to submit the annual report will be cause for the board to withdraw its approval of the course.

(E) The board maintains the authority to randomly audit course providers for compliance with the requirements as stated in this chapter. This includes review of records on-site.

(4) Discontinuing an Approved Course.

(A) To discontinue an approved course, a letter bearing the signa-

ture of the course coordinator shall be submitted to the board stating:

1. The date after which the provider will no longer offer the approved course; and

2. The name and address of the custodian for the records required to be maintained for a five (5)-year period.

(B) The board shall issue a letter to the course provider confirming that the course has officially been discontinued.

(C) If a course provider desires to reestablish an approved venous access and intravenous infusion treatment modalities course after a course has been officially discontinued, a new proposal must be submitted as required by section (1).

*AUTHORITY:* sections 335.017 and 335.036, RSMo 2000. Original rule filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 200—State Board of Nursing  
Chapter 6—Intravenous Infusion Treatment  
Administration**

**PROPOSED RULE**

**4 CSR 200-6.060 Requirements for Intravenous Therapy Administration Certification**

*PURPOSE:* This rule specifies the processes by which practical nurses can be recognized as IV-Certified in the state of Missouri.

(1) A practical nurse who is currently licensed to practice in Missouri and who is not Intravenous (IV)-Certified in Missouri can obtain IV-Certification upon the successful completion of a board approved venous access and intravenous infusion treatment modalities course.

(A) Upon receipt of confirmation of successful completion of an approved course, the board shall issue a verification of IV-Certification letter stamped with the board seal.

(B) Upon receipt of the verification of IV-Certification letter from the board, the licensed practical nurse may engage in practical nursing care acts involving venous access and intravenous infusion treatment modalities as specified in the provisions of section 335.016, RSMo, 4 CSR 200-5.010, and this chapter.

(C) The practical nurse's next issued license shall state LPN IV-Certified.

(2) A practical nurse who is currently licensed to practice in another state or territory of the United States, who is an applicant for licensure by endorsement in Missouri and has been issued a temporary permit to practice in Missouri and is not IV-Certified in another state or territory can obtain IV-Certification upon successful completion of a board approved venous access and intravenous infusion treatment modalities course.



(A) Upon receipt of confirmation of successful completion of an approved course, the board shall issue a Verification of IV-Certification letter stamped with the board seal and stating the expiration date of the temporary permit.

(B) Upon receipt of the Verification of IV-Certification letter from the board, the individual may engage in practical nursing care acts involving venous access and intravenous infusion treatment modalities as specified in the provisions of section 335.016, RSMo, 4 CSR 200-5.010, and this chapter.

(C) When all other licensure requirements are met, the license issued will state LPN IV-Certified.

(D) If licensure requirements are not met by the expiration date stated on the Verification of IV-Certification letter and temporary permit, the individual must cease performing all practical nursing care acts including those related to intravenous infusion treatment administration.

(3) A practical nurse who is currently licensed to practice in another state or territory of the United States, who is an applicant for licensure by endorsement in Missouri and has been issued a temporary permit to practice in Missouri, and is IV-Certified in another state or territory of the United States, or who has completed a venous access and intravenous infusion treatment modalities course in another state or territory of the United States, can obtain IV-Certification in Missouri by:

(A) Contacting a provider of a board approved venous access and intravenous infusion treatment modalities course; and

(B) Requesting provider evaluation of venous access and intravenous infusion treatment modalities competency. The evaluating provider may:

1. Accept the applicant's federal or other state or territory's course as equivalent to Missouri's requirements;
2. Accept part of the curriculum taken in that state or territory and require the applicant to complete any deficiencies;
3. Require the applicant to complete an entire board approved venous access and intravenous infusion treatment modalities course; or

4. Require the applicant to achieve a minimum score of eighty percent (80%) on a written comprehensive examination of no less than fifty (50) multiple choice items and demonstrate the ability to initiate a peripheral vascular access and intravenous infusion treatment modality;

(C) Upon receipt of confirmation from an approved course provider that the practical nurse possesses the necessary venous access and intravenous infusion treatment modalities competencies, the board will issue a Verification of IV-Certification letter stamped with the board seal and stating the expiration date of the individual's temporary permit;

(D) Upon receipt of the Verification of IV-Certification letter from the board, the individual may engage in practical nursing care acts involving venous access and intravenous infusion treatment modalities as specified in the provisions of section 335.016, RSMo, 4 CSR 200-5.010, and this chapter;

(E) When all other licensure requirements are met, the license issued will state LPN IV-Certified;

(F) If licensure requirements are not met by the expiration date stated on the Verification of IV-Certification letter and temporary permit, the individual must cease performing all practical nursing care acts including those related to intravenous infusion treatment administration.

(4) Individuals who graduated from a board approved practical nursing program after February 28, 1999 are exempt from taking a separate venous access and intravenous infusion treatment modalities course to become IV-Certified.

(A) A graduate of such a practical nursing program may perform the functions and duties related to venous access and intravenous infusion treatment modalities as delineated in 4 CSR 200-6.030 until

s/he has received the results of the first licensure examination taken by the nurse or until ninety (90) days after graduation, whichever first occurs.

(B) Upon official notification of passing the licensure examination, the graduate practical nurse will be issued a Missouri license stating LPN IV-Certified.

(5) Graduate practical nurses as specified in section 4 CSR 200-6.040(2)(C) and (D) of this chapter who are seeking licensure by examination in Missouri and for whom the board has received confirmation of successful completion of an approved venous access and intravenous infusion treatment modalities course must meet all licensure requirements before a license stating LPN IV-Certified can be issued.

(6) If a qualified licensed practical nurse requests a license stating LPN IV-Certified prior to the next licensure renewal cycle, the procedure for obtaining a duplicate license as stated in 4 CSR 200-4.020 (14) shall be followed.

*AUTHORITY: sections 335.017 and 335.036, RSMo 2000. Original rule filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.240 Gas Utility Small Company Rate Increase Procedure.** This rule provided procedures for small gas utilities to obtain rate increases without the necessity of filing a formal rate increase request.

*PURPOSE: The commission is rescinding the current version of this rule and readopting a rewritten version of the rule, utilizing the same rule number, in a separate rulemaking action.*

*AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Aug. 19, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Secretary of the Commission,*

*Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RULE**

**4 CSR 240-3.240 Small Gas Utility Rate Case Procedure**

*PURPOSE: This rule provides procedures whereby small gas utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for general rate increases set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.*

(1) Notwithstanding the provisions of any other commission rule to the contrary, a gas utility serving three thousand (3,000) or fewer customers (small gas utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.

(2) A small gas utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's energy department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (5) of this rule. A small gas utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the energy department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the energy department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.

(3) At the time that a small gas utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the Office of the Public Counsel (public counsel).

(4) A small gas utility that provides service in multiple, noninter-connected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e.—plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.

(5) A small gas utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

(A) The amount of additional annual operating revenues being requested;

(B) The reason(s) for the requested increase in the utility's annual operating revenues;

(C) A statement acknowledging that the design of the utility's cus-

tomers rates will be reviewed as a part of the commission staff's audit of the request;

(D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;

(E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;

(F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;

(G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;

(H) A statement that the utility is current on the submission of its most recently required commission annual report;

(I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue; and

(J) A statement that the utility is in good standing with the Missouri secretary of state, if applicable.

(6) After a tracking file for a small gas utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (5) of this rule, and whether the statements required by subsections (5)(G)–(J) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(7) If the commission staff determines that a small gas utility's request for an increase in its annual operating revenues includes the information required by section (5) of this rule, and that the statements required by subsections (5)(G)–(J) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(8) If the commission staff determines that a small gas utility's request for an increase in its annual operating revenues does not include the information required by section (5) of this rule, or that any of the statements required by subsections (5)(G)–(J) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(9) For a situation such as that described in section (8) of this rule, the commission staff shall, within five (5) working days after the date that the small gas utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(10) For a situation such as that described in section (8) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small gas utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was

received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(11) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small gas utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of section (27) or (38) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of section (27) or (38), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(12) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports and the submission of its commission annual statement of operating revenue, and must remain in good standing with the Missouri secretary of state, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (27) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(13) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the company's request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(14) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same

time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(15) Within ten (10) days after the completion of its investigation and audit of a small gas utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

(A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;

(B) The staff's recommended customer rates and its supporting rate design workpapers;

(C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;

(D) The staff's recommendations regarding changes to the subject utility's service charges and fees;

(E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;

(F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;

(G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);

(H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;

(I) Draft revised tariff sheets reflecting the above staff recommendations; and

(J) A draft disposition agreement reflecting the above staff recommendations.

(16) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small gas utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(17) If negotiations between the commission staff, the small gas utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small gas utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(18) If negotiations between the commission staff, the small gas utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small gas utility rate case" for signature by representatives of the

utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(19) For a situation such as that described in either section (17) or (18) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small gas utility submits its tariff revisions to the commission.

(20) For a situation such as that described in section (18) of this rule, the small gas utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(21) For a situation such as that described in section (18) of this rule, the public counsel shall, within thirty (30) days after the date that the small gas utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (22) of this rule.

(22) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small gas utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(23) If the commission orders that a local public hearing is to be held, the small gas utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed.

At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(24) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small gas utility rate case are needed and, if so, the anticipated date for such changes to be made.

(25) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (24) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small gas utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(26) Failure of the public counsel to timely file the pleadings required by sections (21), (22) or (25) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small gas utility's tariff revisions and the related disposition agreement.

(27) Except as otherwise provided for in this rule, a written disposition agreement regarding a small gas utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(28) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small gas utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small gas utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (29) through (34) below.

(29) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small gas utility's pending rate case, to act as the arbitrator.

(30) If the commission approves a request for arbitration, the small gas utility may participate in the arbitration hearing either with or without the assistance of counsel.

(31) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(32) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(33) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small gas utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(34) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(35) In the event that the small gas utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(36) In the event that an agreement regarding the disposition of a requested increase in a small gas utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) For a situation such as that described in section (36) of this rule, the commission staff will send a written notice to the small gas utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(38) A small gas utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

*AUTHORITY: section 386.410, RSMo 2000. Rescinded and readopted: Filed Aug. 19, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register. Comments should include a reference to Commission Case No. AX-*

*2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.330 Sewer Utility Small Company Rate Increase Procedure.** This rule provided procedures for small sewer utilities to obtain rate increases without the necessity of filing a formal rate increase request.

*PURPOSE: The commission is rescinding the current version of this rule and readopting a rewritten version of the rule, utilizing the same rule number, in a separate rulemaking action.*

*AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Aug. 19, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RULE**

**4 CSR 240-3.330 Small Sewer Utility Rate Case Procedure**

*PURPOSE: This rule provides procedures whereby small sewer utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for general rate increases set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.*

(1) Notwithstanding the provisions of any other commission rule to the contrary, a sewer utility serving eight thousand (8,000) or fewer customers (small sewer utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.

(2) A small sewer utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's water and sewer department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (6) of this rule. A small sewer utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the water and sewer department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the water and sewer department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.

(3) At the time that a small sewer utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the Office of the Public Counsel (public counsel).

(4) A small sewer utility that also operates a water system may submit a request for an increase in only its sewer service annual operating revenues; provided, however, that the commission staff and the public counsel are authorized to also review the earnings status of subject utility's water system operations in making their determination of whether an increase in the utility's sewer service annual operating revenues is warranted.

(5) A small sewer utility that provides service in multiple, noninterconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e.—plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.

(6) A small sewer utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

(A) The amount of additional annual operating revenues being requested;

(B) The reason(s) for the requested increase in the utility's annual operating revenues;

(C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;

(D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;

(E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;

(F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;

(G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;

(H) A statement that the utility is current on the submission of its most recently required commission annual report;

(I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue;

(J) A statement that the utility is current on the payment of any required fees administered by the Missouri Department of Natural Resources (MDNR); and

(K) A statement that the utility is in good standing with the Missouri secretary of state, if applicable.

(7) After a tracking file for a small sewer utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (6) of this rule, and whether the statements required by subsections (6)(G)–(K) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(8) If the commission staff determines that a small sewer utility's request for an increase in its annual operating revenues includes the information required by section (6) of this rule, and that the statements required by subsections (6)(G)–(K) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(9) If the commission staff determines that a small sewer utility's request for an increase in its annual operating revenues does not include the information required by section (6) of this rule, or that any of the statements required by subsections (6)(G)–(K) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(10) For a situation such as that described in section (9) of this rule, the commission staff shall, within five (5) working days after the date that the small sewer utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(11) For a situation such as that described in section (9) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small sewer utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(12) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small sewer utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of section (28) or (39) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of section (28) or (39), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(13) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission

assessments, the submission of its commission annual reports, the submission of its commission annual statement of operating revenue and the payment of its MDNR fees, and must remain in good standing with the Missouri secretary of state, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (28) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(14) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the company's request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(15) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(16) Within ten (10) days after the completion of its investigation and audit of a small sewer utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

(A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;

(B) The staff's recommended customer rates and its supporting rate design workpapers;

(C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;

(D) The staff's recommendations regarding changes to the subject utility's service charges and fees;

(E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject

utility;

(F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;

(G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);

(H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;

(I) Draft revised tariff sheets reflecting the above staff recommendations; and

(J) A draft disposition agreement reflecting the above staff recommendations.

(17) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small sewer utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(18) If negotiations between the commission staff, the small sewer utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small sewer utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(19) If negotiations between the commission staff, the small sewer utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small sewer utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission.

A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(20) For a situation such as that described in either section (18) or (19) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small sewer utility submits its tariff revisions to the commission.

(21) For a situation such as that described in section (19) of this rule, the small sewer utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(22) For a situation such as that described in section (19) of this rule, the public counsel shall, within thirty (30) days after the date that the small sewer utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small sewer utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(24) If the commission orders that a local public hearing is to be held, the small sewer utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(25) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small sewer utility rate case are needed and, if so, the anticipated date for such changes to be made.

(26) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (25) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small sewer utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(27) Failure of the public counsel to timely file the pleadings required by section (22), (23) or (26) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small sewer utility's tariff revisions and the related disposition agreement.

(28) Except as otherwise provided for in this rule, a written disposition agreement regarding a small sewer utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(29) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small sewer utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small sewer utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (30) through (35) below.

(30) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small sewer utility's pending rate case, to act as the arbitrator.

(31) If the commission approves a request for arbitration, the small sewer utility may participate in the arbitration hearing either with or without the assistance of counsel.

(32) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one (1) of the parties based upon the evidence and commission precedent.

(33) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(34) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small sewer utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(35) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions



regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(36) In the event that the small sewer utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) In the event that an agreement regarding the disposition of a requested increase in a small sewer utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) For a situation such as that described in section (37) of this rule, the commission staff will send a written notice to the small sewer utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(39) A small sewer utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

*AUTHORITY:* section 386.410, RSMo 2000. Original rule filed August 16, 2002, effective April 30, 2003. Rescinded and readopted: Filed Aug. 19, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the *Missouri Register*. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure.** This rule provided procedures for small steam heating

utilities to obtain rate increases without the necessity of filing a formal rate increase request.

*PURPOSE:* The commission is rescinding the current version of this rule and readopting a rewritten version of the rule, utilizing the same rule number, in a separate rulemaking action.

*AUTHORITY:* section 386.250 and 393.140, RSMo 2000 and 393.291 RSMo Supp. 2003. Original rule filed Sept. 22, 2003, effective April 30, 2004. Rescinded: Filed Aug. 19, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the *Missouri Register*. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RULE**

**4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure**

*PURPOSE:* This rule provides procedures whereby small steam heating utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for a general rate increase request as set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(1) Notwithstanding the provisions of any other commission rule to the contrary, a steam heating utility serving one hundred (100) or fewer customers (small steam heating utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.

(2) A small steam heating utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's energy department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (5) of this rule. A small steam heating utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the energy department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the energy department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.

(3) At the time that a small steam heating utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the Office of the Public Counsel (public counsel).

(4) A small steam heating utility that provides service in multiple, noninterconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e.—plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.

(5) A small steam heating utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

(A) The amount of additional annual operating revenues being requested;

(B) The reason(s) for the requested increase in the utility's annual operating revenues;

(C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;

(D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;

(E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;

(F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;

(G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;

(H) A statement that the utility is current on the submission of its most recently required commission annual report;

(I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue; and

(J) A statement that the utility is in good standing with the Missouri secretary of state, if applicable.

(6) After a tracking file for a small steam heating utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (5) of this rule, and whether the statements required by subsections (5)(G)–(J) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(7) If the commission staff determines that a small steam heating utility's request for an increase in its annual operating revenues includes the information required by section (5) of this rule, and that the statements required by subsections (5)(G)–(J) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(8) If the commission staff determines that a small steam heating utility's request for an increase in its annual operating revenues does not include the information required by section (5) of this rule, or that any of the statements required by subsections (5)(G)–(J) of this rule are not accurate, the staff will return the request to the subject utility

along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(9) For a situation such as that described in section (8) of this rule, the commission staff shall, within five (5) working days after the date that the small steam heating utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(10) For a situation such as that described in section (8) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small steam heating utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(11) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of section (29) or (40) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of section (29) or (40), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(12) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports and the submission of its commission annual statement of operating revenue, and must remain in good standing with the Missouri secretary of state, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (29) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(13) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on typical commercial and industrial customers' bills, to each of its customers and to each provider of gas service or electric service in the area of the request. The notice, which must be approved by the commission staff prior to

being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' and gas and electric service providers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the subject utility's revenue increase request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(14) Any customer, gas service provider or electric service provider that responds to the notice required by section (13) of this rule in a timely manner shall be entitled to copies of all filings subsequently made in the case, with the possible exception of any information deemed to be confidential or proprietary, and may participate in any conferences or hearings therein.

(15) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(16) In compliance with commission rule 4 CSR 240-2.090, the small steam heating utility shall make the following information available to the commission staff and the public counsel for the purpose of their investigation of the subject utility's request for an increase in its annual operating revenues:

- (A) All financial records;
- (B) All billing and sales data; and
- (C) All customer information.

(17) Within ten (10) days after the completion of its investigation and audit of a small steam heating utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

(A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;

(B) The staff's recommended customer rates and its supporting rate design workpapers;

(C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on typical commercial and industrial customers;

(D) The staff's recommendations regarding changes to the subject utility's service charges and fees;

(E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;

(F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;

(G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);

(H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;

(I) Draft revised tariff sheets reflecting the above staff recommendations; and

(J) A draft disposition agreement reflecting the above staff recommendations.

(18) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small steam heating utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(19) If negotiations between the commission staff, the small steam heating utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small steam heating utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(20) If negotiations between the commission staff, the small steam heating utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small steam heating utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(21) For a situation such as that described in either section (19) or (20) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small steam heating utility submits its tariff revisions to the commission.

(22) For a situation such as that described in section (20) of this rule, the small steam heating utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the

subject utility's tariff revisions and the impact of those rates on typical commercial and industrial customers' bills, to each of its customers and to each provider of gas service or electric service in the area of the request. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers and the gas and electric service providers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' and gas and electric service providers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(23) For a situation such as that described in section (20) of this rule, the public counsel shall, within thirty (30) days after the date that the small steam heating utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (24) of this rule.

(24) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small steam heating utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(25) If the commission orders that a local public hearing is to be held, the small steam heating utility shall mail written notice of that hearing to each of its customers and to each provider of gas service or electric service in the area of the request, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(26) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small steam heating utility rate case are needed and, if so, the anticipated date for such changes to be made.

(27) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (26) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small steam heating utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(28) Failure of the public counsel to timely file the pleadings required by section (23), (24) or (27) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small steam heating utility's tariff revisions and the related disposition agreement.

(29) Except as otherwise provided for in this rule, a written disposition agreement regarding a small steam heating utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(30) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small steam heating utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small steam heating utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (31) through (36) below.

(31) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small steam heating utility's pending rate case, to act as the arbitrator.

(32) If the commission approves a request for arbitration, the small steam heating utility may participate in the arbitration hearing either with or without the assistance of counsel.

(33) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(34) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(35) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small steam heating utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(36) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions

regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(37) In the event that the small steam heating utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) In the event that an agreement regarding the disposition of a requested increase in a small steam heating utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(39) For a situation such as that described in section (38) of this rule, the commission staff will send a written notice to the small steam heating utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(40) A small steam heating utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

*AUTHORITY: section 386.410, RSMo 2000. Original rule filed Sept. 22, 2003, effective April 30, 2004. Rescinded and readopted: Filed Aug. 19, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RESCISSION**

**4 CSR 240-3.635 Water Utility Small Company Rate Increase Procedure.** This rule provided procedures for small water utilities to

obtain rate increases without the necessity of filing a formal rate increase request.

*PURPOSE: The commission is rescinding the current version of this rule and readopting a rewritten version of the rule, utilizing the same rule number, in a separate rulemaking action.*

*AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Aug. 19, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED RULE**

**4 CSR 240-3.635 Small Water Utility Rate Case Procedure**

*PURPOSE: This rule provides procedures whereby small water utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for general rate increases set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.*

(1) Notwithstanding the provisions of any other commission rule to the contrary, a water utility serving eight thousand (8,000) or fewer customers (small water utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.

(2) A small water utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's water and sewer department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (6) of this rule. A small water utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the water and sewer department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the water and sewer department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.

(3) At the time that a small water utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the Office of the Public Counsel (public counsel).

(4) A small water utility that also operates a water system may submit a request for an increase in only its water service annual operating revenues; provided, however, that the commission staff and the public counsel are authorized to also review the earnings status of subject utility's water system operations in making their determination of whether an increase in the utility's water service annual operating revenues is warranted.

(5) A small water utility that provides service in multiple, noninter-connected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e.—plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.

(6) A small water utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

(A) The amount of additional annual operating revenues being requested;

(B) The reason(s) for the requested increase in the utility's annual operating revenues;

(C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;

(D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;

(E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;

(F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;

(G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;

(H) A statement that the utility is current on the submission of its most recently required commission annual report;

(I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue;

(J) A statement that the utility is current on the payment of any required fees administered by the Missouri Department of Natural Resources (MDNR); and

(K) A statement that the utility is in good standing with the Missouri secretary of state, if applicable.

(7) After a tracking file for a small water utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (6) of this rule, and whether the statements required by subsections (6)(G)–(K) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(8) If the commission staff determines that a small water utility's request for an increase in its annual operating revenues includes the information required by section (6) of this rule, and that the state-

ments required by subsections (6)(G)–(K) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(9) If the commission staff determines that a small water utility's request for an increase in its annual operating revenues does not include the information required by section (6) of this rule, or that any of the statements required by subsections (6)(G)–(K) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(10) For a situation such as that described in section (9) of this rule, the commission staff shall, within five (5) working days after the date that the small water utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(11) For a situation such as that described in section (9) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small water utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(12) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small water utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of sections (28) or (39) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of sections (28) or (39), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(13) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports, the submission of its commission annual statement of operating revenue and the payment of its MDNR fees, and must remain in good standing with the Missouri secretary of state, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (28) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to

submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(14) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the company's request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(15) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(16) Within ten (10) days after the completion of its investigation and audit of a small water utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

(A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;

(B) The staff's recommended customer rates and its supporting rate design workpapers;

(C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;

(D) The staff's recommendations regarding changes to the subject utility's service charges and fees;

(E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;

(F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;

(G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);

(H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;

(I) Draft revised tariff sheets reflecting the above staff recommendations; and

(J) A draft disposition agreement reflecting the above staff recommendations.

(17) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small water utility and the public counsel shall notify the staff of their posi-

tions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(18) If negotiations between the commission staff, the small water utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small water utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(19) If negotiations between the commission staff, the small water utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small water utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(20) For a situation such as that described in either section (18) or (19) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small water utility submits its tariff revisions to the commission.

(21) For a situation such as that described in section (19) of this rule, the small water utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for

the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(22) For a situation such as that described in section (19) of this rule, the public counsel shall, within thirty (30) days after the date that the small water utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small water utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(24) If the commission orders that a local public hearing is to be held, the small water utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(25) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small water utility rate case are needed and, if so, the anticipated date for such changes to be made.

(26) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (25) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small water utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(27) Failure of the public counsel to timely file the pleadings required by section (22), (23) or (26) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small water utility's tariff revisions and the related disposition agreement.

(28) Except as otherwise provided for in this rule, a written disposition agreement regarding a small water utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period

shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(29) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small water utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small water utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (30) through (35) below.

(30) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small water utility's pending rate case, to act as the arbitrator.

(31) If the commission approves a request for arbitration, the small water utility may participate in the arbitration hearing either with or without the assistance of counsel.

(32) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(33) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(34) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small water utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(35) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(36) In the event that the small water utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) In the event that an agreement regarding the disposition of a requested increase in a small water utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement



to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) For a situation such as that described in section (37) of this rule, the commission staff will send a written notice to the small water utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(39) A small water utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

*AUTHORITY: section 386.410, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded and readopted: Filed Aug. 19, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register. Comments should include a reference to Commission Case No. AX-2005-0363. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. No public hearing is scheduled.*

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 5—General Program Procedures**

**PROPOSED AMENDMENT**

**9 CSR 10-5.206 Report of Events.** The department proposes to amend subsection (2)(B).

*PURPOSE: This amendment will add provisions for providers to use the department's "on call" system for reporting events after business hours and to notify a legal guardian and parents under certain circumstances. These provisions first appeared in the Missouri Register on April 1, 2005, as part of the proposed rule under this number, but were inadvertently removed in the order of rulemaking.*

(2) This section applies to event notification and reporting requirements for employees of providers, as defined under section 630.005, RSMo. Facilities, programs and services that are operated by the Department of Mental Health are regulated by the department's operating regulations and are not included in this definition, because this rule does not apply to Department of Mental Health operated facilities.

(B) It is the responsibility of the provider to [notify]—

**1. Notify** the department with a written or verbal report of all events reportable under this regulation involving consumers as identified on the report form. For those events requiring immediate notification, if a verbal report, it will be followed up in writing on the

report form and faxed or otherwise transmitted to arrive within one (1) business day to the appropriate department office. All other events not requiring immediate notification shall be provided in writing on the report form in the time frame specified on the report form.

**2. Notify the department using the department's "on call" system after 5:00 p.m. or on weekends/holidays for those events on the report form requiring immediate department notification, and any event resulting in extensive property damage or major disruption of the program or service the consumer receives; and**

**3. Within twenty-four (24) hours of knowledge of an event that requires immediate department notification, verbally notify the legal guardian or parent (if consumer is a minor) of the specifics regarding the event. The provider shall also communicate that the event has been reported to the department. The only exception to this verbal notification is if the parent(s) or legal guardian is the suspected primary person involved that forms the basis for the reported event. If the provider is unable to verbally contact the guardian/parent, the provider shall document on the report form all efforts made to comply.**

*AUTHORITY: sections 630.005, 630.020 and 630.655, RSMo 2000 and 630.165, and 630.167 RSMo Supp. 2004. Original rule filed March 1, 2005, effective Oct. 30, 2005. Amended: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Michelle Yahniq, Office of the General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air Pollution  
Control Rules Specific to the St. Louis Metropolitan  
Area**

**PROPOSED AMENDMENT**

**10 CSR 10-5.510 Control of Emissions of Nitrogen Oxides.** The commission proposes to amend subsection (5)(A). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda Website, [www.dnr.mo.gov/regs/regagenda.htm](http://www.dnr.mo.gov/regs/regagenda.htm).

*PURPOSE: This proposed amendment simply adds another test method that determines nitrogen oxide (NO<sub>x</sub>) emission rates to the list of acceptable emission test methods. By including the new method in the rule, industries will not need to request agency approval to use the alternate method. The evidence supporting the need for this*

*proposed rulemaking, per section 536.016, RSMo, is a rule comment form dated September 22, 2004 that suggests adding this test method.*

(5) Test Methods.

(A) Compliance Testing. Initial compliance for all units subject to subsections (3)(A), (3)(C), (3)(D), (3)(E) or (3)(G) of this rule shall be determined through a stack test performed prior to the implementation date under section (1) of this rule except those units complying with the provisions of subsection (5)(B) of this rule. After the initial stack test, stack tests shall be required every three (3) years to determine compliance except for units complying with the provisions of subsection (5)(B) of this rule. The following test methods shall be used for all stack tests:

1. 40 CFR Part 60 Appendix A, Method 7, 7A, 7C, 7D or 7E shall be used to determine NO<sub>x</sub> concentrations in stack gases;

2. 40 CFR Part 60 Appendix A, Method 1A, 2, 2A, 2B, 2C, 2D, 2F, 2G, or 2H shall be used to determine the exit velocity of stack gases;

3. 40 CFR Part 60 Appendix A, Method 3 or 3A shall be used to determine carbon dioxide, oxygen, excess air and molecular weight of stack gases;

4. 40 CFR Part 60 Appendix A, Method 4 shall be used to determine moisture content of stack gases from applicable stationary sources; *for*

5. *40 CFR Part 60 Appendix A, Method 20 may be used to determine NO<sub>x</sub> concentrations for stationary combustion turbines.*

5. 40 CFR Part 60 Appendix A, Method 19 shall be used to determine (calculate or compute) NO<sub>x</sub> (heat input specific) emission rates (pound per mmmBtu); and

6. For stationary combustion turbines, 40 CFR Part 60 Appendix A, Method 20 may be used to determine NO<sub>x</sub> concentrations.

*AUTHORITY: section 643.050, RSMo [Supp. 1998] 2000. Original rule filed July 15, 1999, effective Feb. 29, 2000. Amended: Filed Aug. 26, 2005.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., December 8, 2005. The public hearing will be held at the University Plaza Hotel, Colorado Room, 333 John Q. Hammonds Parkway, Springfield, 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 (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., December 15, 2005. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.030 State Sales Tax Rule Apply.** This rule indicated the applicability of state sales tax rules and interpreted and applied section 94.540.1, RSMo 1986.

*PURPOSE: This rule is being rescinded because section 32.087.7, RSMo, has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 520-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.045 Seller Entitled.** This rule indicated that the timely payment of taxes entitled the seller to a deduction and interpreted and applied section 144.140, RSMo 1986.

*PURPOSE: This rule is being rescinded because regulation 12 CSR 10-104.030 has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.055 Determining Which Tax Applies.** This rule aided in determining the place of business where the sale was consummated for city tax purposes and interpreted and applied section 94.540.5, RSMo 1986.

*PURPOSE: This rule is being rescinded because regulation 12 CSR 10-117.100 has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1978. C.S.T. regulation 540-4A originally filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.065 Items Taken from Inventory.** This rule provided that the taxpayer was liable for city sales tax where items purchased under a resale exemption were subsequently withdrawn from inventory.

*PURPOSE: This rule is being rescinded because regulation 12 CSR 10-117.100 has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-5A originally filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.072 Metered and Nonmetered Natural Gas Sales.** The purpose of this rule was to clarify the incidence of local tax on the sale of natural and propane gas.

*PURPOSE: This rule is being rescinded because regulation 12 CSR 10-117.100 has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. Original rule filed Oct. 15, 1985, effective Jan. 26, 1986. Rescinded: Filed Aug. 26, 2005.*

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

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

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

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.085 Motor Vehicles.** This rule provided that sellers engaged in selling motor vehicles were not liable for and should not collect the tax and interpreted and applied section 94.560, RSMo 1986.

*PURPOSE: This rule is being rescinded because section 32.087.13, RSMo, has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 560-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 5—City Sales Tax, Transportation Sales Tax and  
Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.090 Mobile Homes.** This rule indicated that sellers of mobile homes were subject to tax.

*PURPOSE: This rule is being rescinded because section 32.087.13, RSMo, has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 560-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE****Division 10—Director of Revenue****Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax****PROPOSED RESCISSION**

**12 CSR 10-5.095 Over-the-Road Trailers.** This rule indicated that purchasers of over-the-road trailers were subject to city sales tax of the city in which they resided and interpreted and applied sections 94.560 and 144.070, RSMo 1986.

*PURPOSE: This rule is being rescinded because section 32.087.13, RSMo, has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 560-3 was originally filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 8, 1976, effective Dec. 11, 1976. Rescinded: Filed Aug 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE****Division 10—Director of Revenue****Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax****PROPOSED RESCISSION**

**12 CSR 10-5.100 Delinquent Tax.** This rule provided that delinquent city sales tax could be collected in the same manner as state sales tax.

*PURPOSE: This rule is being rescinded because section 32.087.7, RSMo, has superseded this rule.*

*AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 570-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE****Division 10—Director of Revenue****Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax****PROPOSED RESCISSION**

**12 CSR 10-5.500 Other Entity Defined.** This rule defined the term other entity as used in the transportation sales tax act.

*PURPOSE: This rule is being rescinded because section 32.085(4), RSMo has superseded this rule.*

*AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 600-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE****Division 10—Director of Revenue****Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.510 Sales Tax Rules Apply.** This rule provided that state sales tax and city sales tax rules also apply to transportation sales tax and interpreted and applied sections 94.605.7 and 94.605.8, RSMo 1986.

*PURPOSE: This rule is being rescinded because section 32.087.7, RSMo, has superseded this rule.*

*AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 615-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled: Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.525 Tax Imposed.** This rule prescribed that the transportation sales tax was imposed on sellers and interpreted and applied sections 94.605.7 and 94.610, RSMo 1986.

*PURPOSE: This rule is being rescinded because regulations 12 CSR 10-103.555 and 12 CSR 10-117.100 have superseded this rule.*

*AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 610-1 originally filed as C.S.T. regulation 520-1 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 5—City Sales Tax, Transportation Sales Tax and Public Mass Transportation Tax**

**PROPOSED RESCISSION**

**12 CSR 10-5.530 Seller Not Entitled.** This rule provided that untimely filing precluded taking the timely filing discount and interpreted and applied section 144.140, RSMo 1986.

*PURPOSE: This rule is being rescinded because regulation 12 CSR 10-104.030 has superseded this rule.*

*AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 615-2 originally filed as C.S.T. regulation 540-2 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE**

**Division 10—Director of Revenue**

**Chapter 24—Drivers License Bureau Rules**

**PROPOSED AMENDMENT**

**12 CSR 10-24.300 Commercial Drivers License Written Examinations.** The director proposes to amend sections (1) and (5), add a new section (9), renumber the remaining sections accordingly, and amend the newly renumbered section (15).

*PURPOSE: This amendment is a result of federal legislation effective September 30, 2005, that requires school bus applicants to pass a written test.*

(1) The following shall be the types of written examinations for Class A, Class B and Class C licenses:

(F) Passenger Vehicle Test—this examination shall consist of twenty (20) questions which shall include, but not be limited to, questions concerning loading and unloading procedures, proper use of emergency exits, proper responses to emergency situations, proper procedures at railroad crossings and drawbridges and proper braking procedures; *[and]*

(G) Double/Triple Trailer Test—this examination shall consist of twenty (20) questions which shall include, but not be limited to, questions concerning procedures for assembly and hookup of units, proper placement of heaviest trailer, handling and stability characteristics of double/triple combinations and potential traffic problems of double/triple combinations./.; *and*

(H) School Bus Test—this examination shall consist of twenty (20) questions which shall include, but not be limited to, questions concerning loading and unloading of passengers, emergency exits procedures for safely evacuating passengers, and state and federal laws and regulations related to safely traversing highway rail grade crossings.

(5) In order to obtain an H endorsement, the applicant must take and successfully complete the Hazardous Materials Test. In order to retain an H endorsement, upon renewal **or transfer**, the holder must take and successfully complete the Hazardous Materials Test. **In addition to the required written test, all H endorsement applicants must have an approved security threat assessment to obtain or retain the endorsement, pursuant to requirements of the USA Patriot Act.**

**(9) In order to obtain an S endorsement, the applicant must take and successfully complete the school bus written test.**

[[9]] (10) An applicant who has taken and successfully completed both the Tank Vehicle Test and the Hazardous Materials Test shall be entitled to obtain an X endorsement.

[[10]] (11) Successful completion of a test requires a score of at least eighty percent (80%) on each test taken.

[[11]] (12) If an applicant does not successfully complete any written examination required in this rule, s/he immediately may retake the examination, however the examiner administering the examination shall have discretion to require the applicant to return for a retake at a later date.

[[12]] (13) Written examinations shall be available at all Missouri State Highway Patrol examination stations.

[[13]] (14) The Missouri State Highway Patrol, in conjunction with the director of revenue, at their discretion, may administer the written examinations required in this rule to selected groups at locations other than Missouri State Highway Patrol examination stations.

[[14]] (15) Any person who practices or attempts to practice any fraud or deception while taking any test required in this rule, or who takes the test for another, or who in any way falsifies any information in a test required in this rule shall not be licensed to operate a commercial motor vehicle **or non-commercial motor vehicle** for a period of one (1) year after the director discovers the falsification.

*AUTHORITY:* sections 302.010, 302.233, 302.272, 302.273, 302.700 and 302.735, RSMo Supp. [2001] 2004 and 302.765, RSMo 2000. Original rule filed March 5, 1990, effective June 11, 1990. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 31, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**PROPOSED AMENDMENT**

**12 CSR 10-24.325 License Denial for Suspension, Revocation, Disqualification or Cancellation.** The director proposes to amend section (1).

*PURPOSE:* This amendment is a result of federal legislation effective September 30, 2005, that requires a check of the National Driver Register for every driver license and permit applicant.

(1) Every [commercial driver's license applicant applying] applicant for a Missouri driver['s] license **or permit, including applicants for renewal or transfer**, shall be checked through the National Driver Register and other records available to the director to determine the person's license status in all states. [Every non-commercial driver's license applicant age seventeen (17) or older who is required to complete a new driver's license application must be checked through the National Driver Register as well, except for a noncommercial driver's license applicant holding a valid noncommercial Missouri driver's license and upgrading or downgrading to a noncommercial classification (Class E or Class F) or an applicant applying for a motorcycle permit when he or she has a valid Missouri noncommercial driver's license.]

*AUTHORITY:* sections 302.060, 302.600 and 302.740 [Supp. 1997] 2000 and 302.171, RSMo [1994] Supp. 2004 and 49 CFR 383.73(a). Emergency rule filed June 20, 1990, effective June 30, 1990, expired Oct. 27, 1990. Emergency rule filed Oct. 26, 1990, effective Nov. 5, 1990, expired March 4, 1991. Original rule filed June 20, 1990, effective Dec. 31, 1990. Amended: Filed Dec. 14, 1993, effective July 10, 1994. Amended: Filed March 27, 1998, effective Sept. 30, 1998. Amended: Filed Aug. 31, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 101—Sales/Use Tax—Nature of Tax**

**PROPOSED AMENDMENT**

**12 CSR 10-101.600 Successor Liability.** The director proposes to amend section (1) and add an additional annotation.

*PURPOSE:* This amendment reflects a clarification of the law resulting from a Supreme Court opinion and updates the annotations attached with this rule in the *Code of State Regulations*.

(1) In general, any purchaser of substantially all of a business or stock of goods of a business is liable for the seller's tax liability. The purchaser is required to withhold **and remit to the department** sufficient purchase money to pay the seller's tax liability upon the purchase of the business or stock of goods. The purchaser is relieved of liability by receiving from the seller a receipt from the director of revenue showing that the taxes have been paid.

*AUTHORITY: sections 144.150 and 144.270, RSMo 2000. Original rule filed Nov. 9, 2000, effective May 30, 2001. Amended: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**PROPOSED AMENDMENT**

**12 CSR 10-103.220 Resale.** The director proposes to amend subsection (4)(H) and update the annotations attached with this rule in the *Code of State Regulations*.

*PURPOSE: This amendment reflects a clarification of the law resulting from a Supreme Court opinion.*

(4) Examples.

(H) A [business] professional baseball team gives [away free] promotional baseballs to the first ten thousand (10,000) customers. The [business] team should not pay tax on the purchase of the baseballs because tax is collected and remitted on the sale of the tickets.

*AUTHORITY: sections 144.010(9) and 144.615(6), RSMo Supp. 2004 and 144.150, 144.270 and 144.705, RSMo [1994] 2000. Original rule filed Sept. 27, 2000, effective March 30, 2001. Amended: Filed Aug. 26, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 19—Energy Assistance**

**PROPOSED AMENDMENT**

**13 CSR 40-19.020 Low Income Home Energy Assistance Program.** The Family Support Division is amending subsection (1)(D) to remove coal and replace with kerosene, amending the monthly income ranges contained in the LIHEAP Income Ranges Chart immediately following subsection (3)(D) of this rule, amending subsection (4)(C) to remove military personnel not living in the home as being ineligible household members; amending subsection (4)(F) to remove use of kerosene in the home as being ineligible, amending section (5) to omit the geographic location as a base for payment level, making only one payment level for the whole state.

*PURPOSE: This amendment adjusts the monthly income amounts on the LIHEAP Income Ranges Chart to reflect changes made in the Federal Poverty Guidelines and to adjust other minor areas for eligibility determination.*

(1) Definitions.

(D) Home energy heat will be defined as electricity, fuel oil, natural gas, propane (tank or cylinder), wood or [coal] kerosene used as the source for heating a residential home.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of a LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

## LIHEAP INCOME RANGES CHART

## Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	\$0-187	\$188-375	\$376-563	\$564-751	\$752-935
2	\$0-253	\$254-507	\$508-761	\$762-1,015	\$1,016-1,263
3	\$0-318	\$319-637	\$638-956	\$957-1,275	\$1,276-1,590
4	\$0-383	\$384-767	\$768-1,151	\$1,152-1,535	\$1,536-1,917
5	\$0-449	\$450-899	\$900-1,349	\$1,350-1,799	\$1,800-2,244
6	\$0-514	\$515-1,029	\$1,030-1,544	\$1,545-2,059	\$2,060-2,571
7	\$0-580	\$581-1,161	\$1,162-1,742	\$1,743-2,323	\$2,324-2,898
8	\$0-645	\$646-1,291	\$1,292-1,937	\$1,938-2,583	\$2,584-3,225
9	\$0-710	\$711-1,421	\$1,422-2,132	\$2,133-2,843	\$2,844-3,552
10	\$0-776	\$777-1,553	\$1,554-2,330	\$2,331-3,107	\$3,108-3,879
11	\$0-841	\$842-1,683	\$1,684-2,525	\$2,526-3,367	\$3,368-4,206
12	\$0-907	\$908-1,815	\$1,816-2,723	\$2,724-3,631	\$3,632-4,533
13	\$0-972	\$973-1,945	\$1,946-2,918	\$2,919-3,891	\$3,892-4,860
14	\$0-1,038	\$1,039-2,077	\$2,078-3,116	\$3,117-4,155	\$4,156-5,188
15	\$0-1,103	\$1,104-2,207	\$2,208-3,311	\$3,312-4,415	\$4,416-5,515
16	\$0-1,168	\$1,169-2,337	\$2,338-3,506	\$3,507-4,675	\$4,676-5,842
17	\$0-1,234	\$1,235-2,469	\$2,470-3,704	\$3,705-4,939	\$4,940-6,169
18	\$0-1,299	\$1,300-2,599	\$2,600-3,899	\$3,900-5,199	\$5,200-6,496
19	\$0-1,365	\$1,366-2,731	\$2,732-4,097	\$4,098-5,463	\$5,464-6,823
20	\$0-1,430	\$1,431-2,861	\$2,862-4,292	\$4,293-5,723	\$5,724-7,150

## LIHEAP INCOME RANGES CHART

## Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	\$0-199	\$200-399	\$400-599	\$600-799	\$800-997
2	\$0-267	\$268-535	\$536-803	\$804-1,071	\$1,072-1,337
3	\$0-335	\$336-671	\$672-1,007	\$1,008-1,343	\$1,344-1,676
4	\$0-403	\$404-807	\$808-1,211	\$1,212-1,615	\$1,616-2,016
5	\$0-471	\$472-943	\$944-1,415	\$1,416-1,887	\$1,888-2,355
6	\$0-539	\$540-1,079	\$1,080-1,619	\$1,620-2,159	\$2,160-2,695
7	\$0-607	\$608-1,215	\$1,216-1,823	\$1,824-2,431	\$2,432-3,034
8	\$0-675	\$676-1,351	\$1,352-2,027	\$2,028-2,703	\$2,704-3,374
9	\$0-743	\$744-1,487	\$1,488-2,231	\$2,232-2,975	\$2,976-3,714
10	\$0-811	\$812-1,623	\$1,624-2,435	\$2,436-3,247	\$3,248-4,053
11	\$0-879	\$880-1,759	\$1,760-2,639	\$2,640-3,519	\$3,520-4,393
12	\$0-946	\$947-1,893	\$1,894-2,840	\$2,841-3,787	\$3,788-4,732
13	\$0-1,014	\$1,015-2,029	\$2,030-3,044	\$3,045-4,059	\$4,060-5,072
14	\$0-1,082	\$1,083-2,165	\$2,166-3,248	\$3,249-4,331	\$4,332-5,412
15	\$0-1,150	\$1,151-2,301	\$2,302-3,452	\$3,453-4,603	\$4,604-5,751
16	\$0-1,218	\$1,219-2,437	\$2,438-3,656	\$3,657-4,875	\$4,876-6,091
17	\$0-1,286	\$1,287-2,573	\$2,574-3,860	\$3,861-5,147	\$5,148-6,430
18	\$0-1,354	\$1,355-2,709	\$2,710-4,064	\$4,065-5,419	\$5,420-6,770
19	\$0-1,422	\$1,423-2,845	\$2,846-4,268	\$4,269-5,691	\$5,692-7,109
20	\$0-1,490	\$1,491-2,981	\$2,982-4,472	\$4,473-5,963	\$5,964-7,449



(4) Household members meeting any of the following conditions will not be eligible to receive LIHEAP benefits:

(C) Individuals not considered as household members. This will include roomers, boarders, live-in attendants and students *[or military personnel]* that are not actually residing in the home;

(F) Individuals that *[use kerosene or]* cut their own wood for the purpose of heating their home;

(5) LIHEAP payments will be made in either one (1)-time line-of-credit payments to a participating home energy supplier or a one (1)-time direct cash payment to the eligible household based on their household size, income[,] and heat source *[and geographic location]* as set forth in the Payment Level[s] chart for *[Northern and Southern]* Missouri. If the household meets the definition of a renter household, they will receive a one (1)-time direct cash payment equal to eight percent (8%) of their annual rent not to exceed the maximum payment level for their particular heat source, household size and income.

*[Payment Levels For Northern Missouri  
Primary Fuel*

Types	A	B	C	D	E
Fuel Oil	\$292	\$256	\$225	\$193	\$162
Tank Propane	\$274	\$244	\$214	\$184	\$154
Natural Gas	\$257	\$226	\$206	\$178	\$158
Electric	\$252	\$224	\$199	\$167	\$139
Wood	\$184	\$164	\$143	\$123	\$103
Cylinder					
Propane	\$138	\$123	\$107	\$ 91	\$ 76
Coal	\$116	\$104	\$ 91	\$ 78	\$ 65

*Payment Levels For Southern Missouri  
Primary Fuel*

Types	F	G	H	I	J
Fuel Oil	\$265	\$211	\$184	\$162	\$135
Tank Propane	\$253	\$201	\$175	\$154	\$129
Natural Gas	\$237	\$198	\$178	\$158	\$139
Electric	\$232	\$199	\$179	\$150	\$122
Wood	\$169	\$136	\$119	\$102	\$ 92
Cylinder					
Propane	\$127	\$102	\$ 89	\$ 76	\$ 64
Coal	\$ 93	\$ 74	\$ 65	\$ 54	\$ 46]

**Payment Level For Missouri  
Primary Fuel**

FUEL TYPE	A	B	C	D	E
1. Natural					
Gas	\$257	\$226	\$206	\$178	\$158
2. Tank					
Propane	\$274	\$244	\$214	\$184	\$154
3. Electric	\$252	\$224	\$199	\$167	\$139
4. Fuel Oil	\$292	\$256	\$225	\$193	\$162
5. Wood	\$184	\$164	\$143	\$123	\$103
6. Kerosene	\$116	\$104	\$ 91	\$ 78	\$ 65
7. Cylinder					
Propane	\$138	\$123	\$107	\$ 91	\$ 76

(6) The *[Division of Family Services]* Family Support Division will recover outstanding energy assistance overpayments made in prior years' programs by deducting the overpayment from the current year's energy assistance benefit payment.

*AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 31, 2005 effective Oct. 3, 2005, expires March 31, 2006. Amended: Filed Aug. 31, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Family Support Division, PO Box 2320, Jefferson City, MO 65103. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 51—Broker-Dealers, Agents, Investment  
Advisers, and Investment Adviser Representatives**

**PROPOSED AMENDMENT**

**15 CSR 30-51.100 Custody of Securities or Funds by Investment Advisers.** The commissioner is amending sections (1) and (2).

*PURPOSE: This amendment corrects citations to federal law cited in the Code of State Regulations.*

(1) Investment advisers may have custody or possession of the securities or funds of a client provided that the investment adviser maintains custody or possession in accordance with the requirements set forth in 17 CFR Section 275.206(4)-2(a)(1)-(5)(4).

(2) An investment adviser who is also registered as a broker-dealer may comply with 17 CFR Section 275.206(4)-2(b) with respect to custody in lieu of the requirements set forth in 17 CFR Section 275.206(4)-2(a)(1)-(5)(4).

*AUTHORITY: sections 409.4-411(f) and 409-6.605, RSMo Supp. [2003] 2004. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed: Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, David B. Cosgrove, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS  
Division 10—The Public School Retirement System of  
Missouri  
Chapter 1—Organization and Operation of Board of  
Trustees**

**PROPOSED AMENDMENT**

**16 CSR 10-1.040 Election to Fill Vacancy on Board of Trustees.** The board is amending sections (2), (5) and (7).

*PURPOSE:* This amendment reflects the statutory name change of the nonteacher school employee retirement system to the public education employee retirement system.

(2) Notice of a vacancy(ies) to be filled shall be given by means of a publication of the board of trustees or by means of an official notice to be mailed to each employer where a member of the public school retirement system or of the [nonteacher school] **Public Education** employee retirement system is employed in a position covered by one (1) of those systems, to each association serving school employees on a statewide basis and to each association serving retirees of either system on a statewide basis.

(5) A valid petition must name only one (1) nominee and must have a total of not fewer than one thousand (1,000) signatures of members or retirees of either The Public School Retirement System of Missouri or The [Nonteacher School] **Public Education** Employee Retirement System of Missouri and there must be no fewer than two hundred (200) such signatures from each of four (4) Missouri congressional districts; provided that the first and third congressional districts shall be considered in combination as one (1) district, and signatures from those districts shall be considered as being from a single congressional district. Each signatory must indicate place of employment if currently serving an employer included within either retirement system and place of residence. A signatory serving an employer included within one (1) of the retirement systems shall be deemed to be from the congressional district in which the employer's administrative office is located. A signatory not serving such an employer may be assigned to any congressional district or may be unassigned at the will of the nominee. The validity of the signatures shall be determined by the office of the executive director from records of the retirement system.

(7) As soon as practicable after the auditing committee has certified the names of the candidates, an official ballot listing the names of the candidates in alphabetical order shall be sent to each member and to each retiree of The Public School Retirement System of Missouri and of The [Nonteacher School] **Public Education** Employee Retirement System of Missouri; provided that no person shall be furnished nor allowed to cast more than one (1) ballot. The ballot shall include instructions for marking and returning the ballot within fifteen (15) days from the date of mailing from the office of the executive director.

*AUTHORITY:* section 169.020, RSMo [1994] 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 1—Organization and Operation of Board of Trustees**

**PROPOSED AMENDMENT**

**16 CSR 10-1.050 Appeal Process.** The board is amending section (1).

*PURPOSE:* This amendment reflects the statutory name change of the nonteacher school employee retirement system to the public education employee retirement system.

(1) Members, beneficiaries, survivors, retirees and school districts may request review by the board of trustees of decisions by the executive director, or his/her designee, concerning eligibility for and the amount of benefits, service, contributions, refunds and membership. All requests for review will be handled according to this rule for both The Public School Retirement System of Missouri and The [Nonteacher School] **Public Education** Employee Retirement System of Missouri.

*AUTHORITY:* section 169.020, RSMo [1994] 2000. Original rule filed Dec. 29, 1994, effective June 30, 1995. Amended: Filed July 31, 1995, effective Feb. 25, 1996. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 3—Funds of Retirement System**

**PROPOSED AMENDMENT**

**16 CSR 10-3.010 Payment of Funds to the Retirement System.** The board is amending subsection (11)(C).

*PURPOSE:* This amendment reflects the statutory name change of the nonteacher school employee retirement system to the public education employee retirement system.

(11) The terms "salary," "salary rate" and "compensation" are synonymous when used in regulations promulgated by the board, unless the context plainly requires a different meaning.

(C) While an individual is employed in a position covered by the system, compensation received from all employers participating in the system will be used to determine contributions and benefits. Compensation includes payments for services rendered during the regular school session, summer school or interim periods. Individuals may not have compensation covered by both Public School Retirement System (PSRS) and [Nonteacher School] **Public Education** Employee Retirement System [(NTRS)] (**PEERS**) for the same period; provided, individuals who contributed to both systems on compensation for the same period during the 1996-97 school year may elect in writing to continue that status. The election is irrevocable and must be made before September 30, 1997.

*AUTHORITY: section 169.020, RSMo 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 4—Membership and Creditable Service**

**PROPOSED AMENDMENT**

**16 CSR 10-4.005 Requirements for Membership.** The board is amending sections (2) and (3).

*PURPOSE: This amendment provides credit, in lieu of refunds, to employers and employees for the over remittance of contributions and any applicable interest thereon. This amendment is intended to comply with the requirements of section 401(a) of the Internal Revenue Code.*

(2) Employers will remit twice the amount of contributions withheld from all persons employed by them who meet the requirements for membership, as provided by sections 169.010(17), 169.130, 169.135 and 169.140, RSMo. Errors by employers in reporting of eligibility for membership, assigning of employees, and in remitting of contributions will be corrected retroactively, provided the employer certifies that an error was made, provides evidence adequate to support the correction, and remits any balance due from the employer and employee. If the employer has overremitted, the amount of the employer's portion of such overpayments will be [refunded] credited to the employer to be applied against future contributions. The amount withheld by the employer from the employee shall be refunded to the employee in a manner consistent with the Internal Revenue Code.

(3) Any refund of contributions remitted in error for a member or an employee shall include the total interest, if any, which was credited to those contributions by the retirement system. Any [refund of] credit provided to the employer for matching employer contributions required in such an instance shall be equal to the total amount paid to the member or employee, including interest. Any correcting remittance of contributions for a member shall include the total interest, if any, which would have been credited to those contributions by the retirement system had the contributions been remitted on a correct and timely basis. Any matching employer contribution remitted in such an instance shall be equal to the total amount remitted for the member, including interest.

*AUTHORITY: section 169.020, RSMo 2000. Original rule filed June 23, 1998, effective Jan. 30, 1999. Amended: Filed Aug. 29, 2003, effective Feb. 29, 2004. Amended: Filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 4—Membership and Creditable Service**

**PROPOSED AMENDMENT**

**16 CSR 10-4.010 Membership Service Credit.** The board is amending section (3).

*PURPOSE: This amendment changes the manner in which credit is to be earned upon termination of employment prior to the end of a school year.*

(3) When a member terminates [membership] employment with an employer included in the retirement system before the end of a school year, the maximum credit that may be received for that school year for employment with such employer will be calculated based on the portion of the school year completed before termination of membership. Provided, however, that the beneficiary of a deceased member may elect to have membership service credit calculated pursuant to section (1) of this rule if such beneficiary is eligible or would become eligible for benefits pursuant to section 169.070.3(2) or 169.075, RSMo. In no event will benefit payments commence prior to July 1 if the member is allowed one (1) year of membership service credit.

*AUTHORITY: section 169.020, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 4—Membership and Creditable Service**

## PROPOSED AMENDMENT

**16 CSR 10-4.012 Payment for Reinstatement and Credit Purchases.** The board is amending sections (3) and (4) and adding sections (10)–(13).

*PURPOSE:* This amendment sets forth the manner in which funds shall be paid to, credited and refunded by the retirement system for the reinstatement and purchase of membership service credit in the retirement system.

(3) The retirement system will accept, pursuant to (1) or (2) above, only the amount of funds equal to or less than the balance due, including interest, **if any**, required for the reinstatement or purchase for which the member applied.

(4) Prior to July 1 each year, the board of trustees shall establish a “purchase rate” of interest based upon the actuarially assumed annual rate of return on invested funds of the retirement system. The purchase rate shall apply to any amount due for reinstatement of credit or for the purchase of credit except as otherwise specified by law **or by this rule.**

**(10) For all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June 30 of each year.**

**(11) In lieu of charging the member interest on elections to purchase credit received on or after January 1, 2006, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by June 30 of each year shall be recalculated on the following July 1 using the contribution rate in effect on that July 1 and the highest salary of record for the member as of that July 1.**

**(12) For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one (1) time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006.**

**(13) The retirement system may limit the amount of credit purchased by a member in any year if allowing such purchase would jeopardize the retirement system’s tax qualified status under Title 26 of the United States Code.**

*AUTHORITY:* section 169.020, RSMo 2000. Original rule filed June 23, 1998, effective Jan. 30, 1999. Amended: Filed Aug. 15, 2001, effective Feb. 28, 2002. Amended: Filed Aug. 29, 2003, effective Feb. 29, 2004. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 4—Membership and Creditable Service**

**PROPOSED AMENDMENT**

**16 CSR 10-4.014 Reinstatement and Credit Purchases.** The board is amending sections (1) and (9) and adding section (17).

*PURPOSE:* This amendment sets forth provisions relating to the reinstatement or purchase of membership service credit in the retirement system.

(1) A member electing to reinstate or purchase membership service credit authorized by the laws governing the retirement system shall make the election to reinstate or purchase credit on a form provided by the retirement system and the reinstatement or purchase shall be effected through payment to the retirement system within the time period prescribed by law of the contributions due, together with interest, **if applicable**, computed at the purchase rate set by the board of trustees, in accordance with the provisions of 16 CSR 10-4.012.

(9) The purchase of creditable service pursuant to section 169.577, RSMo shall be administered as follows:

*[(B)]* **The salary to be used in calculating the purchase cost for any member shall be the highest annual salary rate on record with the retirement system on the date of election to purchase credit;**

*[(C)]* **(B)** The salary used in calculating the cost of creditable service purchased pursuant to section 169.577, RSMo, is not “compensation payable to a member” as that phrase is used in section 169.010(8), RSMo, and shall not be used in determining final average salary;

*[(D)]* **(C)** Credit purchased shall be used for all purposes except vesting;

*[(E)]* **Interest shall be charged on the unpaid balance of the purchase cost;**

**(D) The cost of the purchase shall be calculated pursuant to the provisions of 16 CSR 10-4.012;**

*[(F)]* **(E)** A purchase shall be made only in increments of one-tenth (1/10) year and may not exceed five-tenths (5/10) year; and

*[(G)]* **(F)** If the total payments made prior to termination of membership with the retirement system are insufficient to purchase all the credit for which the member applied, proportional credit shall be allowed based upon the ratio between the amount due for the entire period for which election to purchase was made and the total amount of the payments applied to reduce the principal amount due, but only in increments of one-tenth (1/10) year. The amount of partial payments not used to purchase credit or pay interest shall be refunded.

**(17) A purchase of credit for Social Security covered employment pursuant to section 169.056.11, RSMo, shall be allowed only in a manner consistent with Title 26 of the United States Code and, in addition, shall be governed by the following provisions:**

**(A) The member must have five (5) years of creditable service with the retirement system prior to purchasing credit for Social**

Security covered employment pursuant to section 169.056.11, RSMo;

(B) The retirement system shall allow the purchase of no more than five (5) years of credit for "nonqualified service" as that term is defined in section 415 of Title 26 of the *United States Code* if doing so would jeopardize the tax qualified status of the retirement system pursuant to the *Internal Revenue Code* and the retirement system determines that the provisions of section 415(n) of Title 26 of the *United States Code* apply to the purchase of such member's purchase;

(C) The member must supply evidence satisfactory to the retirement system that the member is eligible to purchase credit for Social Security covered employment pursuant to section 169.056.11, RSMo;

(D) The member must submit to the retirement system a detailed statement of the member's employment history created by the Social Security Administration in a format satisfactory to the retirement system; and

(E) The retirement system shall determine the amount of credit that may be purchased for Social Security covered employment pursuant to section 169.056.11, RSMo, based on the information provided pursuant to this section of this rule.

*AUTHORITY: section 169.020, RSMo 2000. Original rule filed June 23, 1998, effective Jan. 30, 1999. Amended: Filed Oct. 25, 1999, effective April 30, 2000. Amended: Filed Aug. 21, 2000, effective Feb. 28, 2001. Amended: Filed Feb. 14, 2002, effective July 30, 2002. Amended: Filed Aug. 29, 2003, effective Feb. 29, 2004. Amended: Filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 5—Retirement, Options and Benefits**

**PROPOSED AMENDMENT**

**16 CSR 10-5.020 Disability Retirement.** The board is amending sections (2)–(6).

*PURPOSE: This amendment eliminates references to the nonteacher school employee retirement system.*

(2) The board of trustees shall designate a medical adviser whose duty it shall be to assign applicants for disability benefits to physicians for examinations and reports [(see 16 CSR 10-6.070(1) for the nonteacher system)].

(3) The board of trustees shall pay the fees of the examiners and shall pay the medical adviser a fee for each application [(see 16 CSR 10-6.070(2) for the nonteacher system)].

(4) The medical adviser shall report to the board on the findings of the examining physicians and the board of trustees shall act on these findings [(see 16 CSR 10-6.070(3) for the nonteacher system)].

(5) The recipient of disability benefits may be required to submit to periodic examinations until age sixty (60) by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year [(see 16 CSR 10-6.070(4) for the nonteacher system)].

(6) The payment of the first disability benefits to a member shall be made not later than the calendar month immediately following the month in which the claim is approved. The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that payment shall not be made for such time as the member is receiving any salary from an employer; and provided, that benefits shall not accrue for more than sixty (60) days prior to the date of filing application [(see 16 CSR 10-6.070(5) for the nonteacher system)].

*AUTHORITY: section 169.020, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. Amended: Filed Aug. 11, 1977, effective Nov. 15, 1977. Amended: Filed Aug. 14, 1989, effective Nov. 11, 1989. Amended: Filed April 13, 1994, effective Sept. 30, 1994. Amended: Filed July 31, 1995, effective Feb. 25, 1996. Amended: Filed Aug. 9, 1999, effective Feb. 29, 2000. Amended: Filed Sept. 1, 2005.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 5—Retirement, Options and Benefits**

**PROPOSED AMENDMENT**

**16 CSR 10-5.030 Beneficiary.** The board is amending sections (1), (12) and (13).

*PURPOSE: This amendment sets forth the procedure for naming beneficiaries and their eligibility as provided by sections 169.070 and 169.075, RSMo.*

(1) Each member, when completing a membership record [(see 16 CSR 10-2.010),] may designate a beneficiary and contingent beneficiaries. If a member fails to designate a beneficiary, [the estate of the member shall be considered as] the beneficiary shall be determined pursuant to section 169.076, RSMo.

(12) Option 2 benefits payable under section 169.070, RSMo to a beneficiary of a member or a disability retiree who dies prior to becoming retired on service retirement shall accrue as follows:

(D) Option 2 benefits payable pursuant to section 169.070, RSMo, to a beneficiary of a member or a disability retiree who dies prior to becoming retired on service retirement shall be paid only to a sole [primary] beneficiary who had an insurable interest in the life of the member or disability retiree on the date of death. [Such benefits shall not be payable to a first contingent or second contingent beneficiary in the event that the primary beneficiary predeceases the member.] An “insurable interest” shall be considered to exist because of the relationship to a member of a wife, husband, father, mother, child (including a stepchild or adopted child), or any other person who has a financial interest in the continued life of the member or who is dependent upon the member for all or part of his or her support.

(13) The five thousand dollar (\$5,000) death benefit payable pursuant to section 169.070.20, RSMo, shall be payable to the beneficiary designated by the member to receive such benefit. If the member fails to designate a beneficiary on the form provided or if no beneficiary designated on the form provided survives the member, the death benefit shall be paid [to the member’s estate] in accordance with section 169.070.20, RSMo.

*AUTHORITY:* section 169.020, RSMo 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

## Title 16—RETIREMENT SYSTEMS

### Division 10—The Public School Retirement System of Missouri

#### Chapter 6—The [Non-Teacher School] Public Education Employee Retirement System of Missouri

#### PROPOSED AMENDMENT

**16 CSR 10-6.010 Employment.** The board is amending sections (3) and (4).

*PURPOSE:* This amendment reflects the statutory name change of the nonteacher school employee retirement system to the public education employee retirement system.

(3) Any person whose employment renders him/her eligible for membership in The Public School Retirement System of Missouri as of August 13, 1984, who on that date was a member of The [Non-Teacher School] Public Education Employee Retirement System of Missouri because of that employment, may elect continued coverage under The [Non-Teacher School] Public Education Employee Retirement System of Missouri as long as s/he remains in that same position with the same employer. The election must be made in writ-

ing and filed with the board of trustees prior to July 1, 1985, and will be irrevocable after that date. If the election is not made prior to July 1, 1985, the person shall establish membership in and contribute to The Public School Retirement System of Missouri for services rendered in that position after June 30, 1985, as long as s/he remains eligible for membership under section 169.010(16), RSMo [see 16 CSR 10-2.010(8)(C) for the Public School Retirement System].

(4) Any person whose employment is full-time as defined by The Public School Retirement System of Missouri and is thus eligible as of July 1, 1995, for coverage under The Public School Retirement System of Missouri, and which employment prior to July 1, 1995, required membership in the [Non-Teacher School] Public Education Employee Retirement System of Missouri, may make an irrevocable election for continued membership under The [Non-Teacher School] Public Education Employee Retirement System for the duration of employment in the same position with the same employer if the election is made in writing and filed with the board of trustees by September 30, 1995. If the election is not filed by that date, the employee shall participate as of July 1, 1995, in The Public School Retirement System of Missouri because of that employment as long as the person remains eligible for membership under section 169.010(16), RSMo.

*AUTHORITY:* section 169.610, RSMo 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. Emergency amendment filed July 3, 1984, effective July 13, 1984, expired Nov. 10, 1984. Amended: Filed Jan. 17, 1986, effective June 12, 1986. Amended: Filed Aug. 4, 1994, effective Feb. 26, 1995. Amended: Filed Aug. 29, 2003, effective Feb. 29, 2004. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

## Title 16—RETIREMENT SYSTEMS

### Division 10—The Public School Retirement System of Missouri

#### Chapter 6—The [Non-Teacher School] Public Education Employee Retirement System of Missouri

#### PROPOSED AMENDMENT

**16 CSR 10-6.020 Source of Funds.** The board is amending sections (1), (5), (8), (9) and (12).

*PURPOSE:* This amendment reflects the statutory name change of the Non-Teacher School Employee Retirement System to the Public Education Employee Retirement System and provides credit, in lieu of refunds, to employers and employees for the over remittance of contributions and any applicable interest thereon. Portions of this amendment are intended to comply with the requirements of section 401(a) of the Internal Revenue Code.

(1) After implementation in the district, each employer reporting to The [Nonteacher School] Public Education Employee Retirement System of Missouri shall report required data on employees and all contributions to the retirement system using the Electronic Monthly Employer Reporting System (EMERS).

(5) All contributions withheld from salaries paid to members along with an equal contribution of the employer shall be transmitted to the board of trustees by check, bank draft, electronic funds transfer or any negotiable instrument collectible at par through a bank in the state of Missouri, made payable to The [Nonteacher School] Public Education Employee Retirement System of Missouri.

(8) Errors by employers in reporting of eligibility for membership, assigning of employees, and in remitting of contributions will be corrected retroactively, provided the employer certifies that an error was made, provides evidence adequate to support the correction, and remits any balance due from the employer and employee. If the employer has overremitted, the amount of the employer's portion of the overpayments will be [refunded] credited to the employer to be applied against future contributions. The amount withheld by the employer from the employee shall be refunded to the employee in a manner consistent with the Internal Revenue Code.

(9) Any refund of contributions remitted in error for a member or an employee shall include the total interest, if any, which was credited to those contributions by the retirement system. Any [refund of credit provided to the employer for matching employer contributions required in such an instance shall be equal to the total amount paid to the member or employee, including interest. Any correcting remittance of contributions for a member shall include the total interest, if any, which would have been credited to those contributions by the retirement system had the contributions been remitted on a correct and timely basis. Any matching employer contribution remitted in such an instance shall be equal to the total amount remitted for the member, including interest.

(12) The terms "salary," "salary rate" and "compensation" are synonymous when used in regulations promulgated by the board, unless the context plainly requires a different meaning.

(C) While an individual is employed in a position covered by the system, compensation received from all employers participating in the system will be used to determine contributions and benefits. Compensation includes payments for services rendered during the regular school session, summer school or interim periods. Individuals may not have compensation covered by both Public School Retirement System (PSRS) and [Nonteacher School] Public Education Employee Retirement System [(NTRS)] (PEERS) for the same period; provided, individuals who contributed to both systems on compensation for the same period during the 1996-97 school year may elect in writing to continue that status. The election is irrevocable and must be made before September 30, 1997.

*AUTHORITY:* section 169.610, RSMo [1994] 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 6—The [Non-Teacher School] Public Education Employee Retirement System of Missouri**

**PROPOSED AMENDMENT**

**16 CSR 10-6.040 Membership Service Credit.** The board is amending section (2) and adding sections (8)-(11).

*PURPOSE:* This amendment changes the manner in which credit is to be earned upon termination of employment prior to the end of a school year and sets forth the manner in which funds shall be paid to, credited and refunded by the retirement system for the reinstatement and purchase of membership service credit in the retirement system.

(2) When a member terminates [membership] employment with an employer included in the retirement system before the end of a school year, the maximum credit that may be received for that school year for employment with such employer will be calculated based on the portion of the school year completed before termination of membership. Provided, however, that the beneficiary of a deceased member may elect to have membership service credit calculated pursuant to section (1) of this rule if such beneficiary is eligible or would become eligible for benefits pursuant to section 169.670.4(2), RSMo. In no event will benefit payments commence prior to July 1 if the member is allowed one (1) year of membership service credit.

(8) For all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June 30 of each year.

(9) In lieu of charging the member interest on elections to purchase credit received on or after January 1, 2006, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by June 30 of each year shall be recalculated on the following July 1 using the contribution rate in effect on that July 1 and the highest salary of record for the member as of that July 1.

(10) For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one (1)-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006.

(11) The retirement system may limit the amount of credit purchased by a member in any year if allowing such purchase would

jeopardize the retirement system's tax qualified status under Title 26 of the *United States Code*.

*AUTHORITY:* section 169.610, RSMo 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 16—RETIREMENT SYSTEMS

### Division 10—The Public School Retirement System of Missouri

#### Chapter 6—The [Non-Teacher School] Public Education Employee Retirement System of Missouri

#### PROPOSED AMENDMENT

**16 CSR 10-6.045 Reinstatement and Credit Purchases.** The board is amending sections (1), (12), (22) and adding section (23).

*PURPOSE:* This amendment provides for a change in the purchase cost calculation and a change in the name of the Non-Teacher School Employee Retirement System to the Public Education Employee Retirement System.

(1) Payments to reinstate or to purchase credit shall be made in a manner acceptable to the [Non-Teacher School] Public Education Employee Retirement System of Missouri.

(12) The purchase of creditable service pursuant to section 169.577, RSMo shall be administered as follows:

(A) Any member will be considered "within five (5) years of being eligible to retire with a retirement allowance" if that person would be eligible to begin receiving a full or reduced retirement allowance from the [Non-Teacher School] Public Education Employee Retirement System, by virtue of accrual of five (5) or fewer years of creditable service or the passage of five (5) or fewer calendar years;

[(B) The salary used in calculating the purchase cost of creditable service for any member shall be the highest annual salary rate on record with the retirement system on the date of election to purchase credit;]

[(C)] (B) The salary used in calculating the cost of creditable service purchased pursuant to section 169.577, RSMo, is not "compensation payable to a member" as that phrase is used in section 169.600(7), RSMo, and shall not be used in determining final average salary;

[(D)] (C) Credit purchased shall be used for all purposes except vesting;

[(E) Interest shall be charged on the unpaid balance of the purchase cost;]

(D) The cost of the purchase shall be calculated pursuant to the provisions of 16 CSR 10-4.012;

[(F)] (E) A purchase shall be made only in increments of one-tenth

(1/10) year and may not exceed five-tenths (5/10) year; and

[(G)] (F) If the total payments made prior to termination of membership with the retirement system are insufficient to purchase all the credit for which the member applied, proportional credit shall be allowed based upon the ratio between the amount due for the entire period for which election to purchase was made and the total amount of the payments applied to reduce the principal amount due, but only in increments of one-tenth (1/10) year. The amount of partial payments not used to purchase credit or pay interest shall be refunded.

(22) The following provisions apply with respect to a purchase of credit for maternity or paternity leave pursuant to section 169.655, RSMo:

(A) A period of leave shall be considered maternity or paternity leave for which membership service credit may be purchased if:

1. The leave was unpaid;

2. The leave related to a natural birth or legal adoption;

3. The member was employed in a position covered by the [Non-Teacher School] Public Education Employee Retirement System at the time the leave relating to the initial natural birth or legal adoption began;

4. The member provides a notarized affidavit signed by the member stating that the leave was maternity or paternity leave;

5. The member provides a certified copy of a birth certificate, certification of adoption, or physician's certification which indicates that the event occurred within a reasonable time before or after the period of maternity or paternity leave began; and

6. The member returns to employment in a position covered by the [Non-Teacher School] Public Education Employee Retirement System;

(23) A purchase of credit for Social Security covered employment pursuant to section 169.655.11, RSMo, shall be allowed only in a manner consistent with Title 26 of the *United States Code* and, in addition, shall be governed by the following provisions:

(A) The member must have five (5) years of creditable service with the retirement system prior to purchasing credit for Social Security covered employment pursuant to section 169.655.11, RSMo;

(B) The retirement system shall allow the purchase of no more than five (5) years of credit for "nonqualified service" as that term is defined in section 415 of Title 26 of the *United States Code* if doing so would jeopardize the tax qualified status of the retirement system pursuant to the *Internal Revenue Code* and the retirement system determines that the provisions of section 415(n) of Title 26 of the *United States Code* apply to the purchase of such member's purchase;

(C) The member must supply evidence satisfactory to the retirement system that the member is eligible to purchase credit for Social Security covered employment pursuant to section 169.655.11, RSMo;

(D) The member must submit to the retirement system a detailed statement of the member's employment history created by the Social Security Administration in a format satisfactory to the retirement system; and

(E) The retirement system shall determine the amount of credit that may be purchased for Social Security covered employment pursuant to section 169.655.11, RSMo, based on the information provided pursuant to this section of this rule.

*AUTHORITY:* section 169.610, RSMo [1986] 2000. Original rule filed June 15, 1994, effective Nov. 30, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 1, 2005.

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



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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, P.O. Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 6—The [Non-Teacher School] Public Education Employee Retirement System of Missouri**

**PROPOSED AMENDMENT**

**16 CSR 10-6.060 Service Retirement.** The board is amending sections (12) and (13).

*PURPOSE:* This amendment reflects the statutory name change of the Non-Teacher School Employee Retirement System to the Public Education Employee Retirement System.

(12) In addition to the retirement allowance provided in section 169.670.1(1)–(3), RSMo, a member retiring on or after July 1, 2000, whose creditable service is thirty (30) years or more or whose sum of age and creditable service is eighty (80) years or more, shall receive a temporary retirement allowance equivalent to four-tenths (4/10) of one (1%) percent of the member’s final average salary multiplied by the member’s years of service until such time as the member reaches minimum retirement age for Social Security retirement benefits (“minimum Social Security retirement age”), subject to the terms, conditions and limitations of this rule.

(D) The provisions in section 169.670, RSMo and 16 CSR 10-6.100 concerning the right to receive a cost-of-living adjustment (“COLA”), the amount of any COLA, and any other limitations concerning COLAs shall apply with equal effect to the temporary retirement allowance, except as follows:

1. Any COLA the retiree is eligible to receive will be based on the amount of the monthly benefit payable by this retirement system when the COLA takes effect; and

2. If a retiree has received COLAs prior to reaching the minimum Social Security retirement age the reduced retirement allowance paid by [Non-Teacher] Public Education Employee Retirement System ([NTRS] PEERS) from that point forward will include only that percentage of the previously awarded COLAs that would have been earned by the benefit amount payable after the retiree reaches the minimum Social Security retirement age.

(13) Pursuant to section 169.596, RSMo, a person receiving a retirement benefit from the [Non-Teacher School] Public Education Employee Retirement System of Missouri ([NTRS]) (PEERS) may be employed full-time for up to two (2) years for a [NTRS] PEERS-covered school district without a suspension of his or her retirement benefit provided that such school district certifies that it has met the requirements set forth in section 169.596, RSMo, and provided that such school district does not exceed the limit on the number of [NTRS] PEERS retirees that may be hired pursuant to section 169.596, RSMo.

(B) A school district hiring a [NTRS] PEERS retiree under section 169.596, RSMo, shall certify to [NTRS] PEERS through the Electronic Monthly Employer Reporting System (EMERS) or in another manner acceptable to [NTRS] PEERS that:

1. It has met the requirements of section 169.596, RSMo; and

2. It has not exceeded the limit on the number of [NTRS] PEERS retirees it may hire under section 169.596, RSMo.

*AUTHORITY:* section 169.610, RSMo 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 1, 2005.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 6—The [Non-Teacher School] Public Education Employee Retirement System of Missouri**

**PROPOSED AMENDMENT**

**16 CSR 10-6.090 Beneficiary.** The board is amending sections (1) and (6).

*PURPOSE:* This amendment sets forth the procedure for establishing beneficiaries and their eligibility for benefits as authorized in sections 169.663 and 169.670, RSMo.

(1) Each member, when completing a membership record, may designate a beneficiary and contingent beneficiaries. If a member fails to designate a beneficiary, [the estate of the member shall be considered as] the beneficiary shall be determined pursuant to section 169.676, RSMo.

(6) Option 2 benefits payable under section 169.670, RSMo to a beneficiary of a member or a disability retiree who dies prior to becoming retired on service retirement shall accrue as follows:

(D) Option 2 benefits payable pursuant to section 169.670, RSMo, to a beneficiary of a member or a disability retiree who dies prior to becoming retired on service retirement shall be paid only to a sole [primary] beneficiary who had an insurable interest in the member or disability retiree on the date of death. [Such benefits shall not be payable to a first contingent or second contingent beneficiary in the event that the primary beneficiary predeceases the member.] An “insurable interest” shall be considered to exist because of the relationship to a member of a wife, husband, father, mother, child (including a stepchild or adopted child), or any other person who has a financial interest in the continued life of the member or who is dependent upon the member for all or part of his or her support.

*AUTHORITY:* section 169.610, RSMo 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 1, 2005.

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

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

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Public Education Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES**

**Division 30—[Division of Health Standards and  
Licensure] Division of Regulation and Licensure  
Chapter 1—Controlled Substances**

**PROPOSED AMENDMENT**

**19 CSR 30-1.032 Security for Nonpractitioners.** The department is amending sections (1), (2) and (3) and adding a new section (5).

**PURPOSE:** *This amendment establishes security requirements for distributors of Schedule V pseudoephedrine and ephedrine products.*

**PUBLISHER'S NOTE:** *The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(1) Before distributing a controlled substance to any person who the registrant does not know to be registered to possess the controlled substance, the registrant shall make a good faith inquiry either with the federal Drug Enforcement Administration (DEA) or with the Department of Health and Senior Services to determine that the person is registered to possess the controlled substance.

(2) The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Department of Health and Senior Services of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern and orders of unusual frequency.

(3) The registrant shall notify the Department of Health and Senior Services of any theft or significant loss of any controlled substances upon discovery of this theft or loss.

(A) The registrant shall complete and submit a Report of Loss, Theft or Diversion of Controlled Substances or Regulated Chemicals to the Department of Health and Senior Services no later than seven (7) business days after the discovery of such a loss. If the extent of the loss cannot be fully determined in that time frame, the registrant shall contact the Department of Health and Senior Services to request permission to submit an interim report and arrange for a complete report to be completed and submitted. The registrant may attach a copy of a completed Drug Enforcement Administration Loss Form in lieu of completing the back or second page of a Report of Loss, Theft or Diversion of Controlled Substances or Regulated Chemicals form. In the event of theft, diversion or suspected theft or diversion, the report submitted to the Department of Health and Senior Services shall be accompanied by or followed by a summary of the internal investigation performed, the outcome of the investi-

gation, and a copy of any law enforcement agency report completed if applicable.

(5) Entities registered with the Department of Health and Senior Services as distributors shall be deemed to have met security requirements for storage of Schedule V controlled substance drug products containing ephedrine or pseudoephedrine if those products are stored in compliance and consistent with the regulated chemicals requirements set forth by the United States Drug Enforcement Administration and 21 CFR 1309.71 which is hereby incorporated by reference in this rule, as published on April 1, 2005 by the U.S. Government Printing Office, U.S. Superintendent of Documents, Washington, DC 20402-001; [www.gpoaccess.gov/cfr/retrieve.html](http://www.gpoaccess.gov/cfr/retrieve.html). This rule does not incorporate any subsequent amendments or additions. Distributors will be required to conduct background checks on employees with access to these substances and to report losses of controlled substances as required in 19 CSR 30-1.034.

**AUTHORITY:** *sections 195.017, as amended by House Bill 441 and Senate Bill 10 and 27, 93rd Leg. Session (Mo. 2005) and 195.195, RSMo [1994] 2000. Original rule filed April 14, 2000, effective Nov. 30, 2000. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expires Feb. 23, 2006. Amended: Filed: Sept. 1, 2005.*

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

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

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. Telephone (573) 522-8535. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—[Division of Health Standards and  
Licensure] Division of Regulation and Licensure  
Chapter 1—Controlled Substances**

**PROPOSED AMENDMENT**

**19 CSR 30-1.074 Dispensing Without a Prescription.** The department is amending section (1).

**PURPOSE:** *This amendment establishes requirements for documenting the sale and distribution of products containing ephedrine and pseudoephedrine.*

(1) A controlled substance listed in Schedule V which is not a prescription drug and determined under the federal Food, Drug and Cosmetic Act may be dispensed by a pharmacist without a prescription to a purchaser at retail; provided, that—

(A) Products that are designated Schedule V controlled substances which contain any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers may be sold, distributed or otherwise provided only by a pharmacist or pharmacy ancillary personnel as authorized by the Missouri State Board of Pharmacy;

*[(A)](B)* Dispensing of any other substance listed in Schedule V is made only by a pharmacist and not by a nonpharmacist employee even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his/her professional and legal responsibilities, the actual cash transaction, credit transaction or delivery may be completed by a nonpharmacist);

**(C) Dispensing, sale, distribution or otherwise providing is limited to:**

*[(B)]1.* Not more than two hundred forty cubic centimeters (240 cc) eight ounces (8 oz.) of any controlled substance containing opium, nor more than one hundred twenty cubic centimeters (120 cc) four ounces (4 oz.) of any other controlled substance nor more than **forty-eight** (48) dosage units of any controlled substance containing opium, nor more than **twenty-four** (24) dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given **forty-eight** (48)-hour period;

**2. Within any thirty (30)-day period, not more than any number of packages of any drug product containing any detectable amount of ephedrine or pseudoephedrine in any total amount greater than (9) nine grams, or any of their salts or optical isomers, or salts of optical isomers, either as:**

**A. The sole active ingredient; or**

**B. One of the active ingredients of a combination drug; or**

**C. A combination of any of the products specified in subsections (A) and (B) of this section;**

*[(C)](D)* The purchaser is at least **eighteen** (18) years of age;

*[(D)](E)* The pharmacist requires every purchaser of a Schedule V controlled substance not known to him/her to furnish suitable **photo** identification (including proof of age where appropriate);

*[(E)]* *A bound record book for dispensing of Schedule V controlled substances is maintained by the pharmacist. The book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase and the name or initials of the pharmacist who dispensed the substance to the purchaser (the book shall be maintained in accordance with record keeping requirements);*

**(F) Pharmacists and registered pharmacy technicians shall implement and maintain a written or electronic log of each transaction.**

**1. Such log shall include the following information:**

**A. The name and address of the purchaser;**

**B. The amount of the compound, mixture, or preparation purchased;**

**C. The date of each purchase; and**

**D. The name or initials of the pharmacist or registered pharmacy technician who dispensed, sold, distributed, or otherwise provided the compound, mixture, or preparation to the purchaser.**

**2. An auxiliary written log shall be established for the documentation of Schedule V substances dispensed, sold, distributed or otherwise provided if the electronic log is inoperative for any reason.**

**3. Any electronic log described in subsection (F) must be capable of providing a listing of utilization of any Schedule V substance for a minimum of the preceding twelve (12)-month period. Utilization information shall be available by both specific Schedule V product and purchaser name;**

*[(F)](G)* A prescription is not required for distribution or dispensing of the substance pursuant to any other federal, state or local law.

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

*PRIVATE COST:* This proposed amendment will cost twelve hundred and eleven (1,211) licensed pharmacies three hundred ninety-nine thousand six hundred thirty dollars (\$399,630) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, J.D., M.P.A, Director, Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. Phone (573) 522-8535. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

*AUTHORITY:* sections 195.017, as amended by House Bill 441 and Senate Bills 10 and 27, 93rd Leg. Sess. (MO 2005), 195.050 and 195.195, RSMo [1994] 2000. Original rule filed April 14, 2000, effective Nov. 30, 2000. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expires Feb. 23, 2006. Amended: Filed Sept. 1, 2005.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 19 – Department of Health and Senior Services

Division: 30 – Division of Regulation and Licensure

Chapter: 1 Controlled Substances

Type of Rule Making: Proposed Amendment

Rule Number and Name: 19 CSR 30-1.074 **Dispensing Without a Prescription**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
1211	Pharmacies registered with BNDD	\$399,630

**III. WORKSHEET**

2.5 log books per pharmacy per month x \$11.00 per book x 12 mo/year = \$330 per year per pharmacy.

\$330 per pharmacy per year x 1211 pharmacies = \$399,630 per year

**IV. ASSUMPTIONS**

The enactment of HIB 441 and SBs 10 and 27 establish many pseudoephedrine products and ephedrine combination products as Schedule V controlled substances and establish that sales of these substances must be recorded in a written or electronic log and may only be sold by a pharmacist or registered pharmacy technician. Quantity restrictions are established for these sales in any thirty (30) day period.

The current rule requires that non-prescription Schedule V substances may only be sold by a pharmacist and must be recorded in a bound record book.

The proposed rule allows pharmacies to utilize an electronic log rather in addition to a bound record book to record sales of these products. Sales of the products newly scheduled by the enactment of HB 441 and SBs 10 and 27 will result in the need for a larger number of record books or logs than are currently used. The use of record books or logs is required at a minimum and costs are calculated accordingly.

As of June 29, 2005, there were 1211 licensed pharmacies registered with the Bureau of Narcotics and Dangerous Drugs to conduct activities with controlled substances.

Every registered pharmacy will stock newly scheduled OTC pseudoephedrine and combination ephedrine products for sale.

"Exempt Narcotic Logs" are available through the internet for form \$8.99 to \$11.95 per 25 duplexed page log book (use \$11.00), with space for approximately 60 purchases to be logged on each duplexed page, or 1500 purchases per log book.

Based upon input obtained from the Missouri Pharmacy Association, it is estimated that pharmacies will require an average of 2.5 log books per month, to record an average of 3750 purchases per month.

The proposed amendment does not create the requirement that non-prescription Schedule V product sales be documented in a log. The addition of products to the list of these Schedule V products in the enactment of House Bill 441 and Senate Bills 10 and 27, 93<sup>rd</sup> Leg. Session (Mo. 2005) will result in a larger number of sales being subject to this requirement.

The enactment of House Bill 441 and Senate Bills 10 and 27, 93<sup>rd</sup> Leg. Session (Mo. 2005) also provided the option of documenting sales of the newly scheduled products in an electronic log. No cost was calculated for this option, as this method of documentation is not a requirement.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES**  
**Division 30—[Division of Health Standards and  
Licensure] Division of Regulation and Licensure**  
**Chapter 20—Hospitals**

**PROPOSED AMENDMENT**

**19 CSR 30-20.021 Organization and Management for Hospitals.** The department proposes to amend paragraphs (2)(B)13., (3)(E)20., (3)(G)7., (3)(G)20., (3)(G)34., (4)(B)3., (5)(B)1., (5)(B)2., and (5)(B)(3.); add (3)(E)8. and (3)(F)15.; and renumber and reletter for consistency.

*PURPOSE: This amendment sets forth the amended hospital requirements regarding: (1) infection control imposed by the Missouri Nosocomial Infection Control Act of 2004 as included in Senate Bill No. 1279 passed by the Second Regular Session of the 92nd General Assembly; (2) establishment of a tobacco-free environment; (3) administration of influenza and pneumococcal vaccinations to patients; (4) overtime for nurses; (5) administration of anesthesia by anesthesiologist assistants; and (6) security of medication storage areas.*

(2) Governing Body, Administration and Medical Staff.

(B) Administration, Chief Executive Officer.

1. The chief executive officer shall be the direct representative of the governing body and shall be responsible for management of the hospital commensurate with the authority delegated by the governing body in its bylaws.

2. The chief executive officer shall be responsible for maintaining liaison among the governing body, medical staff and all departments of the hospital.

3. The chief executive officer shall organize the administrative functions of the hospital through appropriate departmentalization and delegation of duties and shall establish a system of authorization, record procedures and internal controls.

4. The chief executive officer shall be responsible for the recruitment and employment of qualified personnel to staff the various departments of the hospital and shall insure that written personnel policies and job descriptions are available to all employees.

5. The chief executive officer shall be responsible for the development and enforcement of written policies and procedures governing visitors to all areas of the hospital.

6. The chief executive officer shall be responsible for establishing effective security measures to protect patients, employees and visitors.

7. The chief executive officer shall maintain policies protecting children admitted to or discharged from the hospital. Policies shall provide for at least the following:

A. A child shall not be released to anyone other than the child's parent(s), legal guardian or custodian;

B. The social work service personnel shall have knowledge of available social services for unmarried mothers and for the placement of children;

C. Adoption placements shall comply with section 453.010, RSMo; and

D. The reporting of suspected incidences of child abuse shall be made to the Division of Family Services as established under section 210.120, RSMo.

8. The chief executive officer shall be responsible for developing a written emergency preparedness plan. The plan shall include procedures which provide for safe and orderly evacuation of patients, visitors and personnel in the event of fire, explosion or other internal disaster. The plan shall also include procedures for caring for mass casualties resulting from any external disaster in the region.

9. The emergency plan in paragraph (2)(B)8. of this rule shall be readily available to all personnel. The chief executive officer is

responsible for ensuring all employees shall be instructed regarding their responsibilities during an emergency. Drills for internal disasters, such as fires, shall be held at least quarterly for each shift and shall include the simulated use of fire alarm signals and simulation of emergency fire conditions. Annual drills for external disasters shall be held in coordination with representatives of local emergency preparedness offices. The movement of hospital patients is not required as a part of the drills.

10. The chief executive officer shall be responsible for carrying out policies of the governing body to ensure that patients are admitted to the hospital only by members of the medical staff and that each patient's general medical condition shall be the primary responsibility of a physician member of the medical staff.

11. The chief executive officer shall bring to the attention of the chief of the medical staff and governing body failure by members of that staff to conform with established hospital policies regarding administrative matters, professional standards or the timely preparation and completion of each patient's clinical record.

12. The chief executive officer shall be responsible for developing and maintaining a hospital environment which provides for efficient care and safety of patients, employees and visitors.

13. The chief executive officer shall be responsible for the development and enforcement of written policies and procedures which prohibit *[smoking] the use of tobacco products* throughout the hospital *[except specific designated areas where smoking may be permitted. Lobbies and dining rooms having an area of at least one thousand (1,000) square feet which are enclosed and separated from the access to exit corridor systems may have a designated smoking area. This designated smoking area may not exceed twenty percent (20%) of the total area of the room and shall be located to minimize the spread of smoke into the nonsmoking areas. Lobbies, dining rooms and other rooms of less than one thousand (1,000) square feet which are enclosed and separated from the access to exit corridor systems may be designated smoking areas provided one hundred percent (100%) of the air supplied to the room is exhausted. Individual patients may be permitted to smoke in their rooms with the consent of any other patients occupying the room and with the permission of his/her attending physician. If a patient is confined to bed or classified as not being responsible, smoking is permitted only under the direct supervision of an authorized individual. Modification of the patient room ventilation system is not required to permit occasional authorized smoking by a patient.]* and its facilities. **At a minimum, such policies and procedures shall include a description of the area encompassed by the tobacco-free policy; how employees, patients and visitors will be educated and informed about the tobacco-free policy; who is responsible for enforcing the tobacco-free policy and how the tobacco-free policy will be enforced; how the hospital will address an employee's, patient's, or visitor's failure to comply with the tobacco-free policy; and how the hospital, if subject to Medicare Conditions of Participation for Long-Term Care Facilities, will comply with 42 CFR 483.15(b)(3). The chief executive officer shall enforce compliance with the written policies and procedures prohibiting the use of tobacco products throughout the hospital and its facilities beginning one (1) year from the effective date of this rule.**

14. An annual licensing survey for each fiscal year shall be filed with the department on the survey document provided by the Department of Health and Senior Services. The survey shall be due within two (2) months after the hospital's receipt of the survey.

15. The chief executive officer shall be responsible for establishing and implementing a mechanism which will assure that patient services provide care or an appropriate referral that is commensurate with the patient's needs. If services are provided by contract, the contractor shall furnish services that permit the hospital to comply with all applicable hospital licensing requirements.

16. The chief executive officer shall be responsible for establishing and implementing a mechanism to assure that all equipment and physical facilities used by the hospital to provide patient services, including those services provided by a contractor, comply with applicable hospital licensing requirements.

17. The chief executive officer shall be responsible for establishing and implementing a mechanism to assure that patients' rights are protected. At a minimum, the mechanism shall include the following:

A. The patient has the right to be free from abuse, neglect or harassment;

B. The patient has the right to be treated with consideration and respect;

C. The patient has the right to protective oversight while a patient in the hospital;

D. The patient or his/her designated representative has the right to be informed regarding the hospital's plan of care for the patient;

E. The patient or his/her designated representative has the right to be informed, upon request, regarding general information pertaining to services received by the patient;

F. The patient or his/her designated representative has the right to review the patient's medical record and to receive copies of the record at a reasonable photocopy fee;

G. The patient or his/her designated representative has the right to participate in the patient's discharge planning, including being informed of service options that are available to the patient and a choice of agencies which provide the service;

H. When a patient has brought personal possessions to the hospital, s/he has the right to have these possessions reasonably protected;

I. The patient has the right to accept medical care or to refuse it to the extent permitted by law and to be informed of the medical consequences of refusal. The patient has the right to appoint a surrogate to make health care decisions on his/her behalf to the extent permitted by law;

J. The patient, responsible party or designee has the right to participate in treatment decisions and the care planning process;

K. The patient has the right to be informed of the hospital's patient grievance policies and procedures, including who to contact and how; and

L. The patient has the right to file a formal or informal verbal or written grievance and to expect a prompt resolution of the grievance, including a timely written notice of the resolution. The grievance may be made by a patient or the patient's representative. Any patient service or care issue that cannot be resolved promptly by staff present will be considered a grievance for purposes of this requirement. The written notice of the resolution should include information on the steps taken on behalf of the patient to investigate the grievance, the results of the investigation, and the date the investigation was completed. If the corrective action is still being evaluated, the hospital's response should state that the hospital is still working to resolve the grievance and the hospital will follow-up with another written response when the investigation is complete or within a specified time frame.

(3) Required Patient Care Services. Each hospital shall provide the following: central services, dietary services, emergency services, medical records, nursing services, pathology and medical laboratory services, pharmaceutical services, radiology services, social work services and an inpatient care unit.

(E) Nursing Services.

1. The nursing service shall be integrated and identified within the total hospital organizational structure.

2. The nursing service shall have a written organizational structure that indicates lines of authority, accountability and communication.

3. The organization of the nursing service shall conform with the variety of patient care services offered and the range of nursing care activities.

4. Nursing policies and standards of practice describing patient care shall be in writing and be kept current.

5. Policies shall provide for the collaboration of nursing personnel with members of the medical staff and other health care disciplines regarding patient care issues.

6. Nursing service policies shall establish an appropriate committee structure to oversee and assist in the provision of quality nursing care. The purpose and function of each committee shall be defined and a record of its activities shall be maintained.

7. Policies shall make provision for nursing personnel to be participants of hospital committees concerned with patient care activities.

**8. Policies shall be developed regarding the use of overtime. The policies shall be based on the following standards:**

**A. Overtime shall not be mandated for any licensed nursing personnel except when an unexpected nurse staffing shortage arises that involves a substantial risk to patient safety, in which case a reasonable effort must be applied to secure safe staffing before requiring the on-duty licensed nursing personnel to work overtime. Reasonable efforts undertaken shall be verified by the hospital. Reasonable efforts shall include pursuing all of the following:**

(I) Reassigning on-duty staff;

(II) Seeking volunteers to work extra time from all available qualified nursing staff who are presently working;

(III) Contacting qualified off-duty employees who have made themselves available to work extra time, per diem staff, float pool and flex team nurses; and

(IV) Seeking personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement and when the employer regularly uses a contracted temporary agency;

**B. In the absence of nurse volunteers, float pool nurses, flex team nurses or contracted temporary agency staff or if qualified reassignments cannot be made, the hospital may require the nurse currently providing the patient care to fulfill his or her obligations based on the Missouri Nurse Practice Act by performing the patient care which is required;**

**C. The prohibition of mandatory overtime does not apply to overtime work that occurs because of an unforeseeable emergency or when a hospital and a subsection of nurses commit, in writing, to a set, predetermined staffing schedule or prescheduled on-call time. An unforeseeable emergency is defined as a period of unusual, unpredictable or unforeseeable circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact patient care and which prevent replacement staff from reporting for duty;**

**D. The facility is prohibited from requiring a nurse to work additional consecutive hours and from taking action against a nurse on the grounds that a nurse failed to work the additional hours or when a nurse declines to work additional consecutive hours beyond the nurse's predetermined schedule of hours because doing so may, in the nurse's judgement, jeopardize patient safety;**

**E. Subparagraph 19 CSR 30-20.021(3)(E)8.D. is not applicable if overtime is permitted under subparagraphs 19 CSR 30-20.021(3)(E)8.A., B., and C;**

**F. Nurses required to work more than twelve (12) consecutive hours under subparagraphs 19 CSR 30-20.021(3)(E)8.A., B., or C. shall be provided the option to have at least ten (10) consecutive hours of uninterrupted off-duty time immediately following the worked time.**

**[8.] 9.** The nursing service shall be administered and directed by a qualified registered professional nurse with appropriate

education, experience and demonstrated ability in nursing practice and management.

[9.] 10. The nursing service administrator shall be responsible to the chief executive officer or chief operating officer.

[10.] 11. The nursing service administrator shall be a full-time employee and shall have the authority and be accountable for assuring the provision of quality nursing care for those patient areas delineated in the organizational structure.

[11.] 12. The nursing service administrator shall participate in the formulation of hospital policies and the development of long-range plans relating to patient care.

[12.] 13. The nursing service administrator, or designee, shall represent nursing at all appropriate meetings of the medical staff and governing board of the hospital.

[13.] 14. The nursing service administrator shall be accountable for the selection, promotion and termination of all nursing personnel under the authority of nursing service.

[14.] 15. The nursing service administrator shall have sufficient time to perform the necessary managerial duties and functions of the position.

[15.] 16. A qualified registered professional nurse shall be designated and authorized to act in the absence of the nursing service administrator.

[16.] 17. Nursing personnel shall hold a valid and current license in accordance with sections 335.011–335.096, RSMo.

[17.] 18. There shall be a job description for each classification of nursing personnel which delineates the specific qualifications, licensure, certification, authority, responsibilities, functions and performance standards for that classification. Job descriptions shall be reviewed annually and revised as necessary to reflect current job requirements.

[18.] 19. There shall be scheduled annual evaluations of job performance for all classifications of nursing personnel.

[19.] 20. All nursing personnel shall be oriented to the hospital, nursing services *[and to]*, their position classification **and the use of overtime**. The orientation shall be of sufficient length and content to prepare nursing personnel for their specified duties and responsibilities. Competency shall be validated prior to assuming independent performance in actual patient situation.

[20.] 21. For specialized nursing units and those units providing specific clinical services, written policies and procedures, including standards of practice, shall be available and current.

[21.] 22. Nursing personnel meetings shall be conducted at intervals necessary for leadership and to communicate management information. Separate meetings for the various job classifications of personnel may be conducted. Minutes of all meetings shall be maintained and reflect attendance, scope of discussion and action(s) taken. The minutes shall be filed according to hospital policy.

[22.] 23. Each facility shall develop and utilize a methodology which ensures adequate nurse staffing that will meet the needs of the patients. At a minimum, on duty at all times there shall be a sufficient number of registered professional nurses to provide patient care requiring the judgment and skills of a registered professional nurse and to supervise the activities of all nursing personnel.

[23.] 24. There shall be sufficient licensed and ancillary nursing personnel on duty on each nursing unit to meet the needs of each patient in accordance with accepted standards of nursing practice.

[24.] 25. Patient care assignments shall be consistent with the qualifications of the nursing personnel and the identified patient needs.

[25.] 26. Documentation in the patient's medical record shall reflect use of the nursing process in the delivery of care throughout the patient's hospitalization.

[26.] 27. A registered professional nurse shall assess the patient's needs for nursing care in all settings where nursing care is provided. A nursing assessment shall be completed within twenty-four (24) hours of admission as an inpatient. The registered professional nurse may be assisted in the process by other qualified nursing staff members.

[27.] 28. Patient education and discharge needs shall be addressed and appropriately documented in the medical records.

[28.] 29. The necessary types and quantities of supplies and equipment shall be available to meet the current needs of each patient. Reference materials pertinent to patient care shall be readily accessible.

(F) Pathology and Medical Laboratory Services.

1. Provision shall be made, either on the premises or by contract with a reference laboratory, for the prompt performance of adequate examinations in the fields of hematology, clinical chemistry, urinalysis, microbiology, immunology, anatomic pathology, cytology and immuno-hematology.

2. The director of the pathology and medical laboratory services shall be a physician who is a member of the medical staff and appointed by the governing body. If the director is not a pathologist, a pathologist shall be retained on a part-time basis as a consultant on-site. Consultation shall be provided no less than monthly. A written report of the consultant's evaluation and recommendations shall be submitted after each visit.

3. Pathology and medical laboratory services shall be integrated with other hospital services. The pathologist(s) shall have an active role in in-service educational programs and in medical staff functions, the laboratory quality assurance program and shall participate in committees that review tissue, infection control and blood usage.

4. Laboratory technologists shall have graduated from a medical technology program approved by a nationally recognized body or have documented equivalent education, training and experience. There shall be sufficient qualified laboratory technologists and supportive technical staff currently competent in their field to perform the tests required. Laboratory personnel shall have the opportunity for continuing education.

5. The laboratory shall perform tests and examine specimens from hospital inpatients only on the order of a medical staff member. The laboratory shall perform tests and examine specimens from any other source only on written request. Test requests received by the laboratory shall clearly identify the patient, the source of the request, the tests required and the date. Requests for examinations of surgical specimens shall contain necessary clinical information.

6. The laboratory shall maintain complete written instructions for specimen collection and processing, storage, testing and reporting of results. The instructions shall include, but not be limited to, a step-by-step description of the testing procedure, reagent use and storage, control and calibration procedures and pertinent literature references.

7. Dated reports of all laboratory examinations shall become a part of the patient's medical record. If the original report from a reference laboratory is not part of the patient's record, the original shall be retained and retrievable for a period of not less than two (2) years. Dated reports of tests on out-patients and from referring laboratories shall be sent promptly to the individual or facility ordering the test. Copies of all laboratory tests and examinations shall be retained and retrievable for at least two (2) years.

8. Instruments and equipment shall be evaluated to insure that they function properly at all times. Records shall be maintained for each piece of equipment, showing the date of inspection, calibration, performance evaluation and action taken to correct deficiencies. Temperatures shall be recorded daily for all temperature-controlled instruments.



9. Each section of the pathology and medical laboratory shall have a written quality control program to verify accuracy, measure precision and detect error. Quality control results shall be documented and retained for at least two (2) years.

10. The hospital laboratory shall successfully participate in a proficiency testing program covering all anatomical and clinical specialties in which the laboratory performs tests and in which proficiency testing is available. Records of proficiency testing shall be maintained for at least two (2) years.

11. All specimens, except for teeth and foreign objects, removed during a surgical, diagnostic, or other procedure shall be submitted for pathologic examination, except for specimens that have been previously determined to be exempt. Specimens submitted for pathological examination shall be accompanied by pertinent clinical information. Specimens exempted from pathologic examination shall be those for which examination does not add to the diagnosis, treatment or prognosis, shall be determined by the medical staff in consultation with the pathologist, and shall be documented in writing. When the specimen is not submitted for pathological examination, a report of the removal must be present in the patient's medical record. Specimens requiring only a gross description and diagnosis shall be determined by the medical staff in consultation with the pathologist and shall be documented in writing.

12. An autopsy service shall be available to meet the needs of the hospital. Each autopsy shall be performed by, or under the supervision of, a pathologist or a physician whose credentials document his/her qualifications in anatomical pathology. All microscopic interpretations shall be made by a pathologist who is qualified in anatomical pathology.

13. At all times there shall be an established procedure for obtaining a supply of blood and blood components. Facilities for the safekeeping and safe administration of blood and blood products shall be provided. Positive patient identification shall be provided through an armband that displays a number or other unique identifying symbol. This armband shall be on the patient before or at the time of drawing the first tube of blood used for transfusion preparation. The refrigerator used for the routine storage of blood for transfusion shall maintain a temperature between one degree and six degrees Celsius (1°-6° C) and this temperature shall be verified by an outside recording thermometer. This refrigerator shall be constantly monitored by an audible and visible alarm that is located in an area that is staffed at all times. The alarm shall be battery-operated or powered by a circuit different from the one supplying the refrigerator. This refrigerator shall be on the power line supplied by the emergency generator.

14. The hospital shall provide safety equipment for laboratory employees that includes, but is not limited to, gloves. No food, drink, tobacco or personal care items shall be in the laboratory testing area.

**15. The hospital shall provide reports to the department as required by 19 CSR 10-33.050 and section 192.131, RSMo.**

(G) Pharmacy Services and Medication Management.

1. Pharmacy services shall be identified and integrated within the total hospital organizational plan. Pharmacy services shall be directed by a pharmacist who is currently licensed in Missouri and qualified by education and experience. The director of pharmacy services shall be responsible for the provision of all services required in subsection (4)(G) of this rule and shall be a participant in all decisions made by pharmacy services or committees regarding the use of medications. With the assistance of medical, nursing and administrative staff, the director of pharmacy services shall develop standards for the selection, distribution and safe and effective use of medications throughout the hospital.

2. Additional professional and supportive personnel shall be available for services provided. Pharmacists shall be currently licensed in Missouri and all personnel shall possess the education and training necessary for their responsibilities.

3. Support pharmacy personnel shall work under the supervision of a pharmacist and shall not be assigned duties that by law must be performed by a pharmacist. Interpreting medication orders, selecting, compounding, packaging, labeling and the dispensing of medications by pharmacy staff shall be performed by or under the supervision of a pharmacist. Interpretation of medication orders by support personnel shall be limited to order processing and shall not be of a clinical nature.

4. Hours shall be established for the provision of pharmacy services. A pharmacist shall be available to provide required pharmacy services during hours appropriate for necessary contact with medical and nursing staff. A pharmacist shall be on call at all other times.

5. Space, equipment and supplies shall be available according to the scope of pharmacy services provided. Office or other work space shall be available for administrative, clerical, clinical and other professional services provided. All areas shall meet standards to maintain the safety of personnel and the security and stability of medications stored, handled and dispensed.

6. The pharmacy and its medication storage areas shall have proper conditions of sanitation, temperature, light, moisture, ventilation and segregation. Refrigerated medication shall be stored separate from food and other substances. The pharmacy and its medication storage area shall be locked and accessible only to authorized pharmacy and supervisory nursing personnel. The director of pharmacy services, in conjunction with nursing and administration, shall be responsible for the authorization of access to the pharmacy by supervisory nursing personnel to obtain doses for administering when pharmacy services are unavailable.

7. Medication storage areas outside of the pharmacy shall have proper conditions of sanitation, temperature, light, moisture, ventilation and segregation. Refrigerated medications shall be stored in a sealed compartment separate from food and laboratory materials. Medication storage areas shall be *[locked and]* accessible only to authorized personnel **and locked when appropriate**.

8. The evaluation, selection, source of supply and acquisition of medications shall occur according to the hospital's policies and procedures. Medications and supplies needed on an emergency basis and necessary medications not included in the hospital formulary shall be acquired according to the hospital's policies and procedures.

9. Records shall be maintained of medication transactions, including: acquisition, compounding, repackaging, dispensing or other distribution, administration and controlled substance disposal. Persons involved in compounding, repackaging, dispensing, administration and controlled substance disposal shall be identified and the records shall be retrievable. Retention time for records of bulk compounding, repackaging, administration, and all controlled substance transactions shall be a minimum of two (2) years. Retention time for records of dispensing and extemporaneous compounding, including sterile medications, shall be a minimum of six (6) months.

10. Security and record keeping procedures in all areas shall ensure the accountability of all controlled substances, shall address accountability for other medications subject to theft and abuse and shall be in compliance with 19 CSR 30-1.030(3). Inventories of Schedule II controlled substances shall be routinely reconciled. Inventories of Schedule III-V controlled substances outside of the pharmacy shall be routinely reconciled. Records shall be maintained so that inventories of Schedule III-V controlled substances in the pharmacy shall be reconcilable.

11. Controlled substance storage areas in the pharmacy shall be separately locked and accessible only to authorized pharmacy staff. Reserve supplies of all controlled substances in the pharmacy shall be locked. Controlled substance storage areas outside the pharmacy shall be separately locked and accessible only to persons authorized to administer them and to authorized pharmacy staff.

12. Authorization of access to controlled substance storage areas outside of the pharmacy shall be established by the director of pharmacy services in conjunction with nursing and administration. The distribution and accountability of keys, magnetic cards, electronic codes or other mechanical and electronic devices shall occur according to the hospital's policies and procedures.

13. All variances involving controlled substances—including inventory, security, record keeping, administration and disposal—shall be reported to the director of pharmacy services for review and investigation. Loss, diversion, abuse or misuse of medications shall be reported to the director of pharmacy services, administration, and local, state and federal authorities as appropriate.

14. The provision of pharmacy services in the event of a disaster, removal from use of medications subject to product recall and reporting of manufacturer drug problems shall occur according to the hospital's policies and procedures.

15. Compounding and repackaging of medications in the pharmacy shall be done by pharmacy personnel under the supervision of a pharmacist. Those medications shall be labeled with the medication name, strength, lot number, expiration date and other pertinent information. Record keeping and quality control, including end-product testing when appropriate, shall occur according to the hospital's policies and procedures.

16. Compounding, repackaging or relabeling of medications by nonpharmacy personnel shall occur according to the hospital's policies and procedures. Medications shall be administered routinely by the person who prepared them, and preparation shall occur just prior to administration except in circumstances approved by the director of pharmacy, nursing and administration. Compounded sterile medications for parenteral administration prepared by nonpharmacy personnel shall not be administered beyond twenty-four (24) hours of preparation. Labeling shall include the patient's name, where appropriate, medication name, strength, beyond use date, identity of the person preparing and other pertinent information.

17. Compounded sterile medications shall be routinely prepared in a suitably segregated area in a Class 100 environment by pharmacy personnel. Preparation by nonpharmacy personnel shall occur only in specific areas or in situations when immediate preparation is necessary and pharmacy personnel are unavailable and shall occur according to policies and procedures. All compounded cytotoxic/hazardous medications shall be prepared in a suitably segregated area in a Class II biological safety cabinet or vertical airflow hood. The preparation, handling, administration and disposal of sterile or cytotoxic/hazardous medications shall occur according to policies and procedures including: orientation and training of personnel, aseptic technique, equipment, operating requirements, environmental considerations, attire, preparation of parenteral medications, preparation of cytotoxic/hazardous medications, access to emergency spill supplies, special procedures/products, sterilization, extemporaneous preparations and quality control.

18. Radiopharmaceuticals shall be acquired, stored, handled, prepared, packaged, labeled, administered and disposed of according to the hospital's policies and procedures and only by or under the supervision of personnel who are certified by the Nuclear Regulatory Commission.

19. A medication profile for each patient shall be maintained and reviewed by the pharmacist and shall be reviewed by the pharmacist upon receiving a new medication order prior to dispensing the medication. The pharmacist shall review the prescriber's order or a direct copy prior to the administration of the initial dose, except in an emergency or when the pharmacist is unavailable, in which case the order shall be reviewed within seventy-two (72) hours.

20. Medications shall be dispensed only upon the order of an authorized prescriber **with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy/protocol after an assessment for contraindications** and only by or under the supervision of the pharmacist.

21. All medications dispensed for administration to a specific patient shall be labeled with the patient name, drug name, strength, expiration date and, when applicable, the lot number and other pertinent information.

22. The medication distribution system shall provide safety and accountability for all medications, include unit of use and ready to administer packaging, and meet current standards of practice.

23. To prevent unnecessary entry to the pharmacy, a locked supply of routinely used medications shall be available for access by authorized personnel when the pharmacist is unavailable. Removal of medications from the pharmacy by authorized supervisory nursing personnel, documentation of medications removed, restricted and unrestricted medication removal, later review of medication orders by the pharmacist, and documented audits of medications removal shall occur according to the hospital's policies and procedures. The nurse shall remove only amounts necessary for administering until the pharmacist is available.

24. Floorstock medications shall be limited to emergency and nonemergency medications which are authorized by the director of pharmacy services in conjunction with nursing and administration. The criteria, utilization and monitoring of emergency and nonemergency floorstock medications shall occur according to the hospital's policies and procedures. Supplies of emergency medications shall be available in designated areas.

25. All medication storage areas in the hospital shall be inspected at least monthly by a pharmacist or designee according to the hospital's policies and procedures.

26. The pharmacist shall be responsible for the acquisition, inventory control, dispensing, distribution and related documentation requirements of investigational medications according to the hospital's policies and procedures. A copy of the investigational protocol shall be available in the pharmacy to all health care providers who prescribe or administer investigational medications. The identity of all recipients of investigational medications shall be readily retrievable.

27. Sample medications shall be received and distributed by the pharmacy according to the hospital's policies and procedures.

28. Dispensing of medications by the pharmacist to patients who are discharged from the hospital or who are outpatients shall be in compliance with 4 CSR 220.

29. Persons other than the pharmacist may provide medications to patients leaving the hospital only when prescription services from a pharmacy are not reasonably available. Medications shall be provided according to the hospital's policies and procedures, including: circumstances when medications may be provided, practitioners authorized to order, specific medications and limited quantities, prepackaging and labeling by the pharmacist, final labeling to facilitate correct administration, delivery, counseling and a transaction record. Final labeling, delivery and counseling shall be performed by the prescriber or a registered nurse.

30. Current medication information resources shall be maintained in the pharmacy and patient care areas. The pharmacist shall provide medication information to the hospital staff as requested.

31. The director of pharmacy services shall be an active member of the pharmacy and therapeutics committee or its equivalent, which shall advise the medical staff on all medication matters. A formulary shall be established which includes medications based on an objective evaluation of their relative therapeutic merits, safety and cost and shall be reviewed and revised on a continual basis. A medication use evaluation program shall be established which evaluates the use of selected medications to ensure that they are used appropriately, safely and effectively. Follow-up educational information shall be provided in response to evaluation findings.

32. The pharmacist shall be available to participate with medical and nursing staff regarding decisions about medication use for individual patients, including: not to use medication therapy; medication selection, dosages, routes and methods of administration; medication therapy monitoring; provision of medication-related information; and counseling to individual patients. The pharmacist or designee shall personally offer to provide medication counseling when discharge or outpatient prescriptions are filled. The pharmacist shall provide requested counseling.

33. Medication orders shall be initiated or modified only by practitioners who have independent statutory authority to prescribe or who are legally given authority to order medications. That authority may be given through an arrangement with a practitioner who has independent statutory authority to prescribe and who is a medical staff member. The authority may include collaborative practice agreements, protocols or standing orders and shall not exceed the practitioner's scope of practice. Practitioners given this authority who are not hospital employees shall be approved through the hospital credentialing process. When hospital-based agreements, protocols or standing orders are used, they shall be approved by the pharmacy and therapeutics or equivalent committee.

34. All medication orders shall be written in the medical record and signed by the ordering practitioner **with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy/protocol after an assessment for contraindications.** When medication therapy is based on a protocol or standing order and a specific medication order is not written, a signed copy of the protocol or of an abbreviated protocol containing the medication order parameters or of the standing order shall be placed in the medical record **with the exception of physician-approved policies/protocols for the administration of influenza and pneumococcal polysaccharide vaccines after an assessment for contraindications.** The assessment for contraindications shall be dated and signed by the registered nurse performing the assessment and placed in the medical record. Telephone or verbal orders shall be accepted only by authorized staff, immediately written and identified as such in the medical record and signed by the ordering practitioner within a time frame defined by the medical staff.

35. Medication orders shall be written according to policies and procedures and those written by persons who do not have independent statutory authority to prescribe shall be included in the quality improvement program.

36. Automatic stop orders for all medications shall be established and shall include a procedure to notify the prescriber of an impending stop order. A maximum stop order shall be effective for all medications which do not have a shorter stop order. Automatic stop orders are not required when the pharmacist continuously monitors medications to ensure that they are not inappropriately continued.

37. Medications shall be administered only by persons who have statutory authority to administer or who have been trained in each pharmacological category of medication they administer, and administration shall be limited to the scope of their practice. Persons who do not have statutory authority to administer shall not administer parenteral medications, controlled substances or medications that require professional assessment at the time of administration. A person who has statutory authority to administer shall be readily available at the time of administration. Training for persons who do not have statutory authority to administer shall be documented and administration by those persons shall be included in the quality improvement program. Medications shall be administered only upon the order of a person authorized to prescribe or order medications. Administration by all persons shall occur according to the hospital's policies and procedures.

38. Medications brought to the hospital by patients shall be handled according to policies and procedures. They shall not be admin-

istered unless so ordered by the prescriber and identified by the pharmacist or the prescriber.

39. Medications shall be self-administered or administered by a responsible party only upon the order of the prescriber and according to policies and procedures.

40. Medication incidents, including medication errors shall be reported to the prescriber and the appropriate manager. Medication incidents shall be reported to the appropriate committee. Adverse medication reactions shall be reported to the prescriber and the director of the pharmacy services. The medication administered and medication reaction shall be recorded in the patient's medical record. Adverse medication reactions shall be reviewed by the pharmacy and therapeutics committee and other medical or administrative committees when appropriate.

(4) Optional Ancillary Services.

(B) Anesthesia Services.

1. Anesthesia services, if provided, shall be under the medical direction of a qualified physician member of the medical staff and appointed by the governing body. This physician shall be responsible for implementing the rules of the medical staff governing the quality and scope of anesthesia care provided.

2. Approved written policies and procedures shall include: patient and employee safety, pre- and post-anesthesia evaluation, care of equipment, storage of anesthesia agents and the administration of anesthesia.

3. Anesthesia shall be administered only by qualified anesthesiologists, physicians or dentists trained in anesthesia, certified nurse anesthetists, **anesthesiologist assistants** or supervised students in an approved educational program. **Notwithstanding the provisions of sections 334.400 to 334.430, RSMo, or the rules of the Missouri state board of registration for the healing arts, the governing body of every hospital shall have full authority to limit the functions and activities that an anesthesiologist assistant performs in such hospital. Nothing in this paragraph shall be construed to require any hospital to hire an anesthesiologist who is not already employed as a physician prior to August 28, 2003.**

4. An anesthesia record documenting the care given shall be a permanent part of the patient's medical record.

5. The pre-anesthesia patient evaluation shall be accomplished by a physician and documented within forty-eight (48) hours before surgery and shall include the history and physical examination; anesthetic, drug and allergy history; essential laboratory data; and other diagnostic test results to establish potential anesthetic risks. These procedures may be waived in the event of a life threatening emergency, provided the surgeon so certifies on the patient medical record.

6. A post-anesthesia evaluation shall be documented in the patient's medical record within twenty-four (24) hours after surgery.

7. The use of flammable anesthetic agents shall be limited to those areas of the hospital which comply with all applicable requirements of the *Standard for Inhalation Anesthetics 1980* published by the National Fire Protection Association.

8. Prior to surgery, the patient's medical record shall contain evidence that the patient has been advised regarding the surgical procedure(s) contemplated, the type of anesthesia to be administered and the risks involved with each. Evidence that informed consent has been given shall become a part of the patient's medical record.

9. There shall be a mechanism for the review and evaluation on a regular basis of the quality and scope of anesthesia services.

(5) Environmental and Support Services. Each hospital shall have an organized service which maintains a clean and safe environment.

(B) Infection Control.

1. There shall be an active multidisciplinary infection control committee responsible for implementing and monitoring the infection control program. The committee shall include, but not be limited to, **the infection control officer**, a member of the medical staff, registered professional nursing staff, **quality improvement staff** and administration. This program shall include measures for preventing, identifying, and investigating[,] **healthcare-associated infections and shall establish procedures for: collecting data, conducting root cause analysis, reporting sentinel events, and [controlling infections] implementing corrective actions.** These measures and procedures shall be applied throughout the hospital, including as apart of the employee health program.

2. The infection control committee [or its designated infection control practitioner] shall conduct an ongoing review and analysis of [nosocomial] **healthcare-associated infections (HAI)** data and risk factors. [The infection control practitioner shall be a physician, registered nurse, have a bachelor's degree in laboratory science or have similar qualifications and have additional training or education preparation in infection control, infectious diseases, epidemiology and principles of quality improvement.] **Priorities and goals related to preventing the acquisition and transmission of potentially infectious agents will be established based on risks identified.**

3. Hospitals shall implement [W/written policies and procedures outlining infection control measures[, aseptic techniques, cleaning, disinfection and sterilization and a mechanism for reporting and monitoring patient and employee infections shall be developed] for all patient care and support departments [in the hospital]. These measures shall include, but are not limited to, a hospital-wide hand hygiene program that complies with the October 25, 2002 Center for Disease Control and Prevention (CDC) *Guideline for Hand Hygiene in Health-Care Settings*, which is incorporated by reference in this rule. A copy of the CDC *Guideline for Hand Hygiene in Health-Care Settings* may be obtained from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402-9371; telephone: (202) 512-1800. This rule does not incorporate any subsequent amendments or additions. At a minimum, the program shall require every health care worker to properly wash or sanitize his or her hands immediately before and immediately after each and every patient contact. Procedures shall include, at a minimum, requirements for the facility's infection control program to conduct surveillance of personnel. At least a portion of this surveillance must be done in such a manner that employees and medical staff are observed without their knowledge of such observation. Surveillance procedures also may include monitoring the employees' and medical staff's use of hand hygiene products. A mechanism for reporting and monitoring patient and employee infections shall be developed for all patient care and support departments in the hospital.

4. Orientation and ongoing education shall be provided to all patient care and patient-care support personnel on the cause, effect, transmission, prevention and elimination of infections. Records of employee attendance shall be retained and available for inspection. A mechanism for monitoring compliance with infection control policies and procedures shall be coordinated with administrative staff, personnel staff and the quality improvement program.

5. Infection control committee meetings shall be held quarterly. Minutes shall be retained.

6. There shall be an annual review and evaluation of the quality of the infection control program.

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an annual cost of three hundred fifty-four thousand, eight hundred ninety-four dollars (\$354,894) and a one-time cost of four hundred one thousand five hundred dollars (\$401,500) in the aggregate.*

*PRIVATE COST: This proposed amendment will cost private entities an annual cost of \$1,171,319 and a one-time cost of \$1,272,500 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 Health and Senior Services, Division of Regulation and Licensure, David S. Durbin, Director, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

*AUTHORITY: sections 192.006 and 197.080, RSMo 2000 and 197.154, RSMo Supp. 2004. This rule was previously filed as 13 CSR 50-20.021 and 19 CSR 10-20.021. Original rule filed June 2, 1982, effective Nov. 11, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 21, 2005.*

FISCAL NOTE  
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19 - Department of Health and Senior Services

Division: 30 - Division of Regulation and Licensure

Chapter: 20 - Hospitals

Type of Rule Making: Proposed Amendment

Rule Number and Name: 19 CSR 30-20.021 - Organization and Management for Hospitals

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
33 State Licensed Hospitals operated by Counties, Cities, or Hospital Districts	\$698,300 (\$401,500 + \$296,800) the first year and \$296,800 annually thereafter
Department of Health and Senior Services	\$58,094 annually

III. WORKSHEET

HOSPITAL COSTS:

Type of Cost	# of Hospitals Affected	Cost per Hospital	One-time Cost	Annual Cost
Nosocomial Infections:				
Develop/revise policies/procedures & education	33	\$2,500	\$82,500	--
Compensation/education of infection control officer	33	\$7,500	--	\$247,500
Conducting root cause analysis	17	\$500	--	\$8,500
Monitoring hand-washing compliance	33	--	--	\$40,800
Influenza and Pneumococcal Vaccinations	25	\$2,500	\$62,500	--
Tobacco-Free Environment	32	\$7,500	\$240,000	--
Overtime for Nurses	33	\$500	\$16,500	--
Anesthesiologist Assistants	--	--	--	--
Security of Medication Storage Areas	--	--	--	--
<b>TOTAL</b>		--	\$401,500	\$296,800

**DEPARTMENT OF HEALTH AND SENIOR SERVICES COSTS**

143 Licensed Hospitals X 13 additional hours per inspection X \$31.25 hourly rate for inspection staff (includes fringe) = \$58,094 annually

**IV. ASSUMPTIONS****HOSPITAL COSTS**

The Department of Health and Senior Services worked with the Missouri Hospital Association to obtain information with which to estimate costs of this proposed amendment.

The proposed amendment includes four components:

**1. Nosocomial infection requirements:****One-time costs:**

Hospitals would incur a one-time cost to develop and/or revise policies and procedures to meet the requirements of the amended rule as well as educate staff and physicians about the changes. We estimate these costs would average \$2,500 per facility.

**Annual costs:**

Hospitals would incur annual costs related to compensation and education for an infection control officer and for additional infection control staff to conduct root cause analysis and monitor compliance with hand washing requirements.

Additional compensation and education for an infection control officer: We estimate the cost at \$7,500 per year per hospital.

Conducting root cause analysis: Some hospitals are already doing this. We estimate that half the hospitals (33 hospitals X .5 = 17 hospitals) would need additional training on root cause analysis at a cost of approximately \$500 annually per hospital. The actual root cause analysis function would be performed by the infection control officer and the infection control committee. The infection control committee was a regulatory requirement prior to this proposed amendment and the additional infection control officer costs are included above.

Monitoring compliance with hand washing requirements: The 2004 annual hospital survey indicated there were 137,000 hospital employees and 22,000 physicians with staff privileges. If 50 percent  $((137,000 + 22,000) \times .5) = 79,500$  observed staff were observed once during the year for 10 minutes each, an estimated 13,250 additional staff hours  $((79,500 \text{ observed staff} \times 10 \text{ minutes}) / 60 \text{ minutes per hour})$  would be required to conduct hand washing surveillance. The average hourly rate for a staff RN, per MHA's 2004 annual compensation survey is \$21.80; including an additional 25 percent for benefits would give an hourly rate of \$27.25 for a total of \$361,063 for all hospitals  $(13,250 \text{ staff hours} \times \$27.25 \text{ hourly rate})$ . In order to split this amount between private (110) and public (33) hospitals, a ratio of licensed beds was used. As of July 26, 2005, there is a total of 23,466 licensed beds at all hospitals; 20,723 beds are in private facilities and 2,743 beds are in public facilities. This is a ratio of 88.3% in private facilities and 11.7% in public facilities. Applying the 11.7% to the \$361,063 handwashing monitoring total results in \$40,800 of the cost being attributed to public facilities.

**2. Influenza and pneumococcal vaccinations:**

For hospitals that chose to permit the administration of influenza and pneumococcal vaccines with a physician-approved policy there would be a one-time cost to develop policies and procedures and educate staff and physicians on the new policies. We estimate an average cost of \$2,500 per facility to accomplish this. We estimate that 75 percent of the hospitals (33 hospitals X 75% = 25 hospitals) would develop such policies. Some hospitals, primarily very small ones, would likely opt to continue to require a physician order and a few hospitals have already developed similar policies which would just be extended to cover vaccinations. Further, we believe that the costs to implement the proposed amendment would be more than offset by the benefits of increased immunization rates such as fewer hospitalizations due to influenza and pneumonia. The proposed amendment will also potentially result in cost savings because the vaccinations will be able to be given after an assessment for contraindications by a registered nurse, rather than requiring an intervention by a physician to sign an order. Labor cost for a nurse is less than for a physician, thus resulting in a savings. One-time costs are estimated at \$62,500 (25 hospitals X \$2,500)

**3. Tobacco-free environment:**

MHA has agreed to provide templates for signage, policies, procedures and educational materials for staff, patients, visitors and the community. Hospitals will incur a one-time cost of refining the policy and procedure templates to meet their individual situations and to educate staff, patients, visitors and the community. Per MHA, there is 1 hospital that is currently implementing a tobacco-free policy campus wide and would not incur costs related to the proposed amendment. The one-time cost for the remaining 32 hospitals (33 hospitals - 1 hospital with policies already) is estimated at \$7,500 per facility.

**4. Overtime for nurses:**

Hospitals are already required under 19 CSR 30-20.021 to ensure adequate staffing. According to MHA's 2005 Workforce Report, hospitals responding reported spending \$57 million on agency staff registered nurses in 2004. The amount of compensation paid by hospitals for overtime of the registered nurses employed by hospitals is not known, but is believed to exceed the \$57 million amount. It is believed that the cost to meet the requirements specified in the rule, whether through the hospitals own staff or through staffing agencies, is already being incurred by hospitals.

Hospitals would incur a one-time cost to revise their nursing policies regarding overtime and to educate staff in order to comply with the proposed amendment. We estimate a one-time average cost of \$500 per hospital.

**5. Anesthesiologist assistants:**

The amendment provides hospitals with the ability to allow anesthesiologist assistants to administer anesthesia, if a hospital so chooses. Since there is no requirement that the hospital do so, there is no cost associated with the amendment.

**6. Security of medication storage areas:**

The amendment allows for non-pharmacy medication storage areas to be locked when appropriate, rather than requiring them to be locked. The change results in a less stringent rule, therefore there is no cost associated with the amendment.

**DEPARTMENT OF HEALTH AND SENIOR SERVICES COSTS**

The DHSS estimates that these regulatory changes would result in adding an average of 13 additional hours of inspection time for each of the 143 hospitals. This additional time for inspections includes write-up and follow-up time in addition to the additional time at the facility. These changes will result in the need for an additional 1,859 hours of employee time. The estimated hourly rate of inspection staff is \$21.95. Factoring in fringe benefits at 42.38% gives an hourly rate of \$31.25. Additional inspection costs are therefore estimated at \$58,094.

This estimate does not include the investigation of any complaints that might be reported as a result of the regulatory changes. It is impossible to estimate the number of possible complaints or the amount of time they might take to investigate.



PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19 - Department of Health and Senior Services

Division: 30 - Division of Regulation and Licensure

Chapter: 20 - Hospitals

Type of Rule Making: Proposed Amendment

Rule Number and Name: 19 CSR 30-20.021 - Organization and Management for Hospitals

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
110	State licensed hospitals	\$2,443,819 (\$1,272,500 + \$1,171,319) the first year and \$1,171,319 annually thereafter

III. WORKSHEET

Type of Cost	# of Hospitals Affected	Cost per Hospital	One-time Cost	Annual Cost
Nosocomial Infections:				
Develop/revise policies/procedures & education	110	\$2,500	\$275,000	--
Compensation/education of infection control officer	110	\$7,500	--	\$825,000
Conducting root cause analysis	55	\$500	--	\$27,500
Monitoring hand-washing compliance	110		--	\$318,819
Influenza and Pneumococcal Vaccinations	83	\$2,500	\$207,500	--
Tobacco-Free Environment	98	\$7,500	\$735,000	--
Overtime for Nurses	110	\$500	\$55,000	--
Anesthesiologist Assistants	--	--	--	--
Security of Medication Storage Areas	--	--	--	--
TOTAL			\$1,272,500	\$1,171,319

#### IV. ASSUMPTIONS

The Department of Health and Senior Services worked with the Missouri Hospital Association to obtain information with which to estimate costs of this proposed amendment.

The proposed amendment includes four components:

1. **Nosocomial infection requirements:**

One-time costs:

Hospitals would incur a one-time cost to develop and/or revise policies and procedures to meet the requirements of the amended rule as well as educate staff and physicians about the changes. We estimate these costs would average \$2,500 per facility.

Annual costs:

Hospitals would incur annual costs related to compensation and education for an infection control officer and for additional infection control staff to conduct root cause analysis and monitor compliance with hand washing requirements.

Additional compensation and education for an infection control officer: We estimate the cost at \$7,500 per year per hospital/

Conducting root cause analysis: Some hospitals are already doing this. We estimate that half the hospitals (110 hospitals X .5 = 55 hospitals) would need additional training on root cause analysis at a cost of approximately \$500 annually per hospital. The actual root cause analysis function would be performed by the infection control officer and the infection control committee. The infection control committee was a regulatory requirement prior to this proposed amendment and the additional infection control officer costs are included above.

Monitoring compliance with hand washing requirements: The 2004 annual hospital survey indicated there were 137,000 hospital employees and 22,000 physicians with staff privileges (includes both private and public entities). If 50 percent  $((137,000 + 22,000) \times .5) = 79,500$  observed staff) were observed once during the year for 10 minutes each, an estimated 13,250 additional staff hours  $((79,500 \text{ observed staff} \times 10 \text{ minutes})/60 \text{ minutes per hour})$  would be required to conduct hand washing surveillance. The average hourly rate for a staff RN, per MHA's 2004 annual compensation survey is \$21.80; including an additional 25 percent for benefits would give an hourly rate of \$27.25 for a total of \$361,063 for all hospitals (13,250 staff hours X \$27.25 hourly rate). In order to split this amount between private (110) and public (33) hospitals, a ratio of licensed beds was used. As of July 26, 2005, there is a total of 23,466 licensed beds at all hospitals; 20,723 beds are in private facilities and 2,743 beds are in public facilities. This is a ratio of 88.3% in private facilities and 11.7% in public facilities. Applying the 88.3% to the \$361,063 handwashing monitoring total results in \$318,819 of the cost being attributed to private facilities.

2. **Influenza and pneumococcal vaccinations:**

For hospitals that chose to permit the administration of influenza and pneumococcal vaccines with a physician-approved policy there would be a one-time cost to develop policies and procedures

and educate staff and physicians on the new policies. We estimates an average cost of \$2,500 per facility to accomplish this. We estimate that 75 percent of the hospitals (110 hospitals X 75% = 83 hospitals) would develop such policies. Some hospitals, primarily very small ones, would likely opt to continue to require a physician order and a few hospitals have already developed similar policies which would just be extended to cover vaccinations. Further, we believe that the costs to implement the proposed amendment would be more than offset by the benefits of increased immunization rates such as fewer hospitalizations due to influenza and pneumonia. The proposed amendment will also potentially result in cost savings because the vaccinations will be able to be given after an assessment for contraindications by a registered nurse, rather than requiring an intervention by a physician to sign an order. Labor cost for a nurse is less than for a physician, thus resulting in a savings. One-time costs are estimated at \$207,500 (83 hospitals X \$2,500)

**3. Tobacco-free environment:**

MHA has agreed to provide templates for signage, policies, procedures and educational materials for staff, patients, visitors and the community. Hospitals will incur a one-time cost of refining the policy and procedure templates to meet their individual situations and to educate staff, patients, visitors and the community. Per MHA, there are approximately 12 hospitals that have already instituted tobacco-free policies campus wide and would not incur costs related to the proposed amendment. The one-time cost for the remaining 98 hospitals (110 hospitals – 12 hospitals with policies already) was estimated at \$7,500 per facility.

**4. Overtime for nurses:**

Hospitals are already required under 19 CSR 30-20.021 to ensure adequate staffing. According to MHA's 2005 Workforce Report hospitals who responded reported spending \$57 million on agency staff registered nurses in 2004. The amount of compensation paid by hospitals for overtime of the registered nurses employed by hospitals is not known, but is believed to exceed the \$57 million amount. It is believed that the cost to meet the requirements specified in the rule, whether through the hospitals own staff or through staffing agencies, is already being incurred by hospitals.

Hospitals would incur a one-time cost to revise their nursing policies regarding overtime and to educate staff in order to comply with the proposed amendment. We estimate a one-time average cost of \$500 per hospital.

**5. Anesthesiologist assistants:**

The amendment provides hospitals with the ability to allow anesthesiologist assistants to administer anesthesia, if a hospital so chooses. Since there is no requirement that the hospital do so, there is no cost associated with the amendment.

**6. Security of medication storage areas:**

The amendment allows for non-pharmacy medication storage areas to be locked when appropriate, rather than requiring them to be locked. The change results in a less stringent rule, therefore there is no cost associated with the amendment.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 10—General Administration**  
**Chapter 2—Sunshine Rules (Meetings and Records)**

**PROPOSED AMENDMENT**

**20 CSR 10-2.400 Records.** The department is amending sections (3) and (8).

*PURPOSE:* This rule revises the department's policies and procedures regarding the release of information under Chapter 610, RSMo and is intended to ensure compliance with Executive Order 05-18, section 374.070, RSMo 2000 and House Bill 388 as passed by the 93rd Missouri General Assembly.

(3) Closed Records. Any closed record is not subject to disclosure. The following list is the exclusive list of closed records of the MDI:

(K) Records which are protected from disclosure by law (see section 610.021(14), RSMo). These records include, but are not limited to, the following:

1. Work product, **work papers and confidential communications** of the director, his/her employees and agents under section 374.070.1, RSMo. *[There are two (2) types of work product—]*

**A. Work product and work papers.** Work *[papers]* product of examinations of companies and investigations of companies *[agents, brokers and insurance agencies]* and **insurance producers.** Work papers means records produced by the director, his/her employees or agents in the course of the author's duties, during and pursuant to the examination or investigation, including any examination or investigation report. *[and any records provided to the examiner or investigator during the course of the examination or investigation.]* Work papers do not, however, include communications between an examiner or investigator and other employees or agents of the MDI. These communications may be confidential communications, but are not work papers. **Except as otherwise provided in this rule or by applicable law, [W]work papers shall not become open to public inspection [except as otherwise provided by law].**

**B. Confidential communications** to the Department of Insurance. Confidential communications means any communication produced by the director, his/her employees or agents in the course of the author's duties, which communication is intended by the author to be accessible only by employees or agents of the MDI. The author is presumed to have intended to limit access to employees or agents of the MDI if the communication was directed to him/herself, an MDI file, or another employee or agent of the MDI, with no indication that it was directed or that a copy was provided to anyone who was not then an employee or agent of the MDI. A confidential communication becomes an open record if and only if the director so decides in writing with reference to the specific communication under consideration; and

2. Trade secret under sections 417.450–417.467, RSMo. The MDI will not disclose information that is trade secret under section 417.453(4), RSMo, where such disclosure would constitute a misappropriation under section 417.453(2), RSMo.

3. Any information filed by an insurance company or obtained by the MDI pursuant to section 375.022, RSMo and any document, record or statement required by the MDI under the provisions of section 375.022, RSMo;

4. Court papers, reports and other records relating to any conservatorship action under section 375.565, RSMo, except as the court may otherwise order;

5. Report and recommendations made by the board of directors of the Missouri Property and Casualty Guaranty Association to the MDI upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer (see section 375.776.5(3), RSMo);

6. All information, documents and copies obtained by or disclosed to the MDI or any other person in the course of an examination or investigation made pursuant to section 382.220, RSMo and all information reported pursuant to section 382.100, RSMo. The director in his/her sole discretion may make any record under this paragraph an open record by following the provisions of section 382.230, RSMo;

7. Information reported, compiled or summarized pursuant to section 383.060–383.069, RSMo relating to real estate malpractice (see section 383.069, RSMo);

8. Information reported, compiled or summarized pursuant to sections 383.075–383.083, RSMo relating to legal malpractice (see section 383.083, RSMo);

9. Information submitted pursuant to section 383.105.2(1), (3) and (6), RSMo, relating to medical malpractice, except as provided in section 383.125, RSMo. Statistics in summary form of the information submitted pursuant to sections 383.100–383.125, RSMo, except as otherwise provided in this paragraph shall be a matter of public record (see section 383.115, RSMo);

10. Reports and recommendations of the board of directors of the Missouri Life and Health Insurance Guaranty Association to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservatorship of any member insurer or germane to the solvency of any company seeking to do insurance business in this state (see section 376.743, RSMo); *[and]*

**11. Records protected from disclosure by section 374.071, RSMo, provided that, the MDI shall:**

**A. Release incident reports upon request, which summarize the facts and circumstances surrounding an initial consumer report or complaint;**

**B. Publish complaint data without identifying consumer information, so other consumers are able to make informed decisions in selecting an insurer; and**

**C. Provide complaining consumers with the option to pre-authorize the MDI to publicly release a copy of the consumer's complaint upon request to any interested person; and**

*[11.] 12.* Any other record expressly protected from disclosure by applicable law of this state or of the federal government; and

(8) Information Received from Persons and Entities Other Than the MDI.

(A) Records of others, including duplicates of records of insurance companies, *[agents, agencies and brokers,]* and **insurance producers** in the possession of the MDI will be open records, except as otherwise provided by law or in this *[section (8)]* rule.

(B) If a person transmits their record to the MDI and wishes to claim that the record is **closed or** confidential, the MDI will maintain the record as closed, except as otherwise provided in subsection (C) of this section (8). In order to be effective, a claim of a **closed record or** confidentiality of a record must state in bold or other clearly distinguishable type on the face of the record or on the face of the cover letter accompanying the record, that the record is **closed or** confidential and the reason the record is asserted to be **closed or** confidential, e.g., "Confidential—Trade Secret."

(C) **Except as otherwise provided by law, [T]the MDI may grant public access to a record claimed to be closed or** confidential under subsection (B) of this section (8), but only if on a case-by-case basis the director applies the following procedures and standards:

1. The MDI shall notify in writing the insurer, or other person which provided the record, of the possible public release of such record. The written notice from the MDI shall state—

A. That the insurer or other affected person shall have an opportunity to submit information to demonstrate that such record should still be considered a closed record; and

B. A specific date, not less than ten (10) days from the date of the notice, until which the insurer or other affected person shall have an opportunity to file such information;

2. Upon the filing of information in the form described in paragraph (8)(C)1., the MDI will maintain the insurer's or other affected person's record as a closed record, unless and until such time as the MDI provides the insurer or other affected person with written prior notice to the contrary. Any such prior notice will be provided at least ten (10) days prior to public access being granted to the data and will include a statement substantially as follows: Unless otherwise ordered by a court of competent jurisdiction, the MDI will make your record available to the public on and after the following date: (month, date, and year);

3. The filing of information in the form described in paragraph (8)(C)1.—

A. Shall not create any substantive rights; and

B. May be considered by the MDI as evidence of, but shall create no presumption regarding, confidentiality of the record at issue; and

4. If an insurer or other affected person filing information described in paragraph (8)(C)1. believes such information would itself contain confidential material, the MDI will maintain such information as a closed record if the insurer identifies such information as containing confidential material and simultaneously files a redacted version of such information for public access.

*AUTHORITY: sections 374.045, RSMo Supp. [1997] 2000 and 610.028, RSMo [1994] Supp. 2004. This rule was previously filed as 4 CSR 190-1.020(2)(B). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed June 15, 1995, effective Jan. 30, 1996. Amended: Filed Dec. 1, 1997, effective June 30, 1998. Amended: Filed Oct. 1, 1998, effective April 30, 1999. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expired Feb. 23, 2006. Amended: Filed Aug. 18, 2005.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10 a.m. on November 7, 2005. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on November 7, 2005. Written statements shall be sent to Stephen Gleason, Department of Insurance, PO Box 690, Jefferson City, MO 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.*

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 400—Life, Annuities and Health**  
**Chapter 2—Accident and Health Insurance in General**

**PROPOSED RULE**

**20 CSR 400-2.165 Access to Providers for Treatment of Mental Health Conditions**

*PURPOSE: This rule describes timely and appropriate access to mental health care, adequate distribution of the quantity, location*

*and specialty of mental health care providers, and administrative and clinical protocols that protect access to medically necessary mental health treatment for any insured. This rule is promulgated pursuant to section 376.1550, RSMo.*

(1) Definitions.

(A) "Administrative protocols" include, but are not limited to, a provider network, referral requirements, prior authorization requirements, and utilization review.

(B) "Clinical protocols" include, but are not limited to, visit limitations, length-of-stay limitations, formularies, step-therapy requirements, and drug quantity limitations.

(C) Categories of counties—

1. Urban counties—Counties with a population of two hundred thousand (200,000) or more persons;

2. Basic counties—Counties with a population between fifty thousand (50,000) persons and one hundred ninety-nine thousand nine hundred ninety-nine (199,999) persons;

3. Rural counties—Counties with a population of fewer than fifty thousand (50,000) persons; and

4. Population figures shall be based on census data as reported in the latest edition of the *Official Manual State of Missouri*.

(D) "Director" means the director of the Department of Insurance.

(E) "Health benefit plan" has the same meaning as stated at section 376.1350, RSMo.

(F) "Health carrier" has the same meaning as stated at section 376.1350, RSMo.

(G) "HMO" means health maintenance organizations licensed pursuant to Chapter 354, RSMo.

(H) "Insured" means any person entitled to benefits under a health benefit plan.

(I) "Insurer" means a health carrier that is not an HMO.

(J) "Mental health condition" means any condition or disorder defined by the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* except for chemical dependency.

(K) "Provider" means any professional or institution which is licensed or otherwise authorized in this or any other state to furnish health care services.

(L) "Utilization review" has the same meaning as stated at section 376.1350, RSMo.

(2) Applicability.

(A) This rule shall apply to all health benefit plans, except for the types of health benefit plans covered under subsection (2)(C) of this rule.

(B) This rule shall apply to managed care organizations providing mental health benefits under a health benefit plan that does not otherwise provide for management of care under the plan or that does not provide for the same degree of management of care for all health conditions.

(C) This rule shall not apply to:

1. Health benefit plans issued by an HMO;

2. Health benefit plans issued by insurers that provide for the same degree of management of care under the plan for all health conditions;

3. Individual health benefit plans, including those that cover dependents;

4. Individually underwritten group health benefit plans;

5. Supplemental insurance policies, including life care contracts, accident-only policies, specified disease policies, hospital policies providing a fixed daily benefit only, Medicare supplement policies, long-term care policies, hospitalization-surgical care policies, or short-term major medical policies of six (6) months or less duration; and

6. Any other supplemental policy as determined by the director.

(3) Timely Access to Care—Appointments with or admissions to medical providers must be available no later than as follows:

(A) For routine care, without symptoms—within thirty (30) days from the time the enrollee contacts the provider;

(B) For routine care, with symptoms—within five (5) business days from the time the insured contacts the provider;

(C) For urgent care for situations which require immediate care, but which do not constitute emergencies as defined by section 376.1350, RSMo—within twenty-four (24) hours from the time the insured contacts the provider;

(D) For emergency care—an appropriate mental health provider or emergency care facility shall be available twenty-four (24) hours per day, seven (7) days per week for people who require emergency care as defined by section 376.1350, RSMo; and

(E) For telephone access—a licensed mental health care professional shall be available twenty-four (24) hours per day, seven (7) days per week.

(4) Adequate Quantity of Health Care Providers—A system for delivery of treatment for mental health conditions shall have sufficient quantities of mental health care providers to meet the timely access requirements stated in section (3) of this rule.

(5) Appropriate Access to Care and Adequate Location and Distribution of Health Care Providers.

(A) A health benefit plan or managed care organization may establish a system for delivery of treatment for mental health conditions that includes utilization review. Such system shall comply with the provisions of sections 376.1350 to 376.1389, RSMo.

(B) If a provider network lacks an appropriate provider or it cannot assure access to medically necessary care without unreasonable delay, then coverage of mental health treatment outside the network shall place no greater cost upon the insured than if the treatment were delivered inside the network.

(C) For purposes of subsection (5)(B) of this rule, an appropriate provider is one that is reasonably suited to provide treatment that reflects the insured's age, diagnosis, anticipated length of treatment, and any other relevant factors.

(6) Administrative and Clinical Protocols.

(A) Administrative and clinical protocols applied by an insurer, either directly or indirectly through a managed care organization shall:

1. Be clearly and completely stated in written or electronic materials distributed to any insured or prospective insured, except that merely posting the information on a website shall not by itself meet this requirement;

2. Be clearly and completely stated in written or electronic materials distributed to any provider responsible for providing treatment to an insured; and

3. Be available for review by the director within thirty (30) days of the director making a request to review protocols.

(B) Administrative and clinical protocols applied by an insurer, either directly or indirectly through a managed care organization, shall not serve to reduce access to medically necessary treatment for any insured.

(7) Filings with the Director. On October 15 of each year, all insurers shall file with the director a certification of compliance with the provisions of this rule and section 376.1550, RSMo, for all health benefit plans. The certification shall be in a format prescribed by the director, and shall contain, at a minimum, the following information:

(A) The legal name and National Association of Insurance Commissions (NAIC) number of the insurer;

(B) The number of insureds covered by health benefit plans that the insurer believes to be subject to this rule, if any;

(C) If applicable, a statement of the reasons an insurer believes none of its health benefit plans are subject to this rule, referencing

the exceptions listed in paragraphs (2)(C)1. through (2)(C)6. of this rule;

(D) The insurer's certification of compliance with all the applicable provisions of this rule, unless subsection (7)(C) applies; and

(E) If the insurer provides coverage of mental health benefits through a managed care organization, the name, address and contact information of that organization.

*AUTHORITY: section 376.1550, RSMo Supp. 2004. Original rule filed Aug. 26, 2005.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on November 8, 2005. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule until 5:00 p.m. on November 8, 2005. Written statements shall be sent to Kevin Hall, Department of Insurance, PO Box 690, Jefferson City, MO 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.*