

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 10—Missouri Plant Law Rules

PROPOSED RULE

2 CSR 70-10.025 Nonprofit Nursery Dealer Defined

PURPOSE: This rule defines a nonprofit nursery dealer.

(1) A nursery dealer registered with the state as a nonprofit organization overseeing membership entities which may offer nursery stock for sale. The sale of such nursery stock is limited to not more than two (2), one- (1-) day sales conducted in a certificate year (October 1 to September 30). Nonprofit nursery dealers and their membership entities shall be subject to the provisions of sections 263.010 to 263.180, RSMo. Nonprofit nursery dealers shall submit notification to the department for each membership entity sale at least thirty (30)

days prior to the sale. Notification shall include, but not be limited to, the name, contact name, address, phone number, and sale date(s) for the membership entity.

AUTHORITY: section 263.040, RSMo 2000. Original rule filed June 22, 2012.

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

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

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

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 10—Missouri Plant Law Rules

PROPOSED AMENDMENT

2 CSR 70-10.075 Fee Schedule. The division is amending section (10).

PURPOSE: This amendment establishes a fee schedule for nonprofit nursery dealers.

(10) Nursery dealer registration-inspection certificates shall be fifty dollars (\$50) annually per outlet, and this fee is payable at the time of making application. Restricted nursery dealer registration-inspection certificates shall be twenty-five dollars (\$25) annually per outlet, and this fee is payable at the time of making application. **Nonprofit nursery dealer registration-inspection certificates shall be one hundred dollars (\$100) annually per nonprofit organization overseeing membership entities, and this fee is payable at the time of making application.** If the nursery dealer registration-inspection certificate is not renewed prior to offering nursery stock for sale, there shall be a penalty of fifty percent (50%) assessed and added to the original fee and paid by the applicant before the registration-inspection certificate shall be issued. This penalty is to recover the costs associated with reinspections.

AUTHORITY: section 263.040, RSMo [1986] 2000. Original rule filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed Dec. 2, 1991, effective April 9, 1992. Amended: Filed June 19, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions eight hundred seventy-five dollars (\$875) 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 Agriculture, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: DEPARTMENT OF AGRICULTURE**
Division Title: Division 70-Plant Industries
Chapter Title: Chapter 10-Missouri Plant Law Rules

Rule Number and Name:	2 CSR 70-10.075 Fee Schedule
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Agriculture	\$875

III. WORKSHEET

It is anticipated that thirty (30) schools, eleven (11) garden clubs and ten (10) master garden groups will be affected by the proposed requirements of 2 CSR 70-10.075. These fifty-one (51) affected entities currently provide one thousand seventy-five dollars (\$1,075) in fees annually to the Department of Agriculture. The proposed amendment will eliminate these required fees. Two nonprofit entities formed to oversee these affected entities will generate \$200 in fees. The proposed amendment will cost the Department of Agriculture eight hundred seventy-five dollars (\$875) in the aggregate.

IV. ASSUMPTIONS

It was assumed that fifty-one (51) entities would be affected by this amendment and that two (2) nonprofit entities would be created.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.001 Definitions and General Provisions. The commission is adding new language to section (1).

PURPOSE: This amendment clarifies one (1) term previously not defined.

(1) Definitions. The following words and phrases shall mean:

(B) “Autogas,” term used for liquefied petroleum gas (LP gas) when it is used as a fuel in internal combustion engines in vehicles for highway use;

[(B)](C) “Commission,” the Missouri Propane Gas Commission;

[(C)](D) “Compressed natural gas” (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been compressed for use as a vehicular fuel;

[(D)](E) “Director,” the executive director of the commission;

[(E)](F) “Director of the Missouri Department of Agriculture,” the director of the Missouri Department of Agriculture or their designee;

[(F)](G) “Dispensing station,” a system of compressors, safety devices, cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents, installation fixtures, and other compressed natural gas equipment intended for use in conjunction with motor vehicle fueling by compressed natural gas but does not include a natural gas pipeline located upstream of the inlet of the compressor;

[(G)](H) “Liquefied petroleum gas,” any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes;

[(H)](I) “Motor vehicle,” all vehicles except those operated on rails which are propelled by internal combustion engines and are used or designed for use in the transportation of a person or persons or property;

[(I)](J) “Person,” any individual, group of individuals, partnership, association, cooperative, corporation, or any other entity;

[(J)](K) “Producer,” the owner of the propane at the time it is recovered at a manufacturing facility, irrespective of the state where production occurs;

[(K)](L) “Propane,” propane, butane, mixtures of propane and butane, and liquefied petroleum gas, as defined by the National Fire Protection Association Standard 58 for the storage and handling of liquefied petroleum gases;

[(L)](M) “Public member,” a member of the commission who is a resident of Missouri, is a user of odorized propane, and is not related by the third degree of consanguinity to any retailer or wholesale distributor of propane;

[(M)](N) “Retail marketer,” a business engaged primarily in selling propane gas, its appliances, and equipment to the ultimate consumer or to retail propane dispensers;

[(N)](O) “Transport,” combination vehicle or vehicle used to haul propane for non-metered delivery; and

[(O)](P) “Wholesaler,” “broker,” or “reseller,” a seller of propane who is not a producer and who does not sell propane to the ultimate consumer.

AUTHORITY: section 323.010, RSMo Supp. [2010] 2011. Original rule filed Oct. 15, 2008, effective March 30, 2009. Amended: Filed June 13, 2011, effective Jan. 30, 2012. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.011 Inspection Authority—Duties. The commission is amending sections (1) and (3).

PURPOSE: This amendment clarifies the authority and duties of the inspection authority and incorporates references to new editions of the applicable national standards being adopted by rule. These rules do not apply to public utilities regulated by the Missouri Public Service Commission.

(1) The director is the officer in charge of the safety in the storage, handling, [transportation,] and use of liquefied petroleum gas of the Missouri Propane Gas Commission referred to as the inspection authority.

(3) The standards for storage and handling of [LPGs] LP gases and the standards for the installation of gas appliances and gas piping as published in the National Fire Protection Association publications, Numbers 54, [2009] 2012 edition; 58, [2008] 2011 edition; and 1192, [2008] 2011 edition. All publications are published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, which are incorporated by reference, and will be adhered to by the inspection authority in the course of administering its duties. This rule does not incorporate any subsequent amendments or additions to the referenced material. These are adopted as rules in 2 CSR 90-10.020, 2 CSR 90-10.040, 2 CSR 90-10.060, and 2 CSR 90-10.090.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.012 Registration—Training. The commission is amending sections (3), (4), and (5).

PURPOSE: This amendment eliminates the term “transporting.”

(3) All persons applying for registration to engage in the business of handling[, or storing[, or transporting] LP gases or in the business of installing, repairing, or servicing piping, equipment, or appliances for use with LP gases shall be properly trained and experienced in the work, familiar with all safety precautions required, and comply with all requirements of Chapter 323, RSMo, and the rules pursuant to it.

(4) Every individual applying for registration to engage in the business of handling[, or storing[, or transporting] LP gases or in the business of installing, repairing, or servicing piping, equipment, or appliances for use with LP gases must score at least seventy-five percent (75%) on a written examination administered or authorized by the Missouri Propane Gas Commission before approval of registration will be granted.

(5) Every individual handling LP gases or servicing appliances or equipment within any business involved in handling[, or storing[, or transporting] LP gases or involved in the installation, repairing, or servicing of piping, equipment, or appliances for use with LP gases must attend and complete an initial training program as defined in 2 CSR 90-10.012(6), including the passing of a written examination. Every individual subject to the requirements of this section shall attend refresher training at least once every three (3) years. New employees shall be trained by their employer until such time that training is available through a training program approved by the director. The employer, or individual if self-employed, is responsible for ensuring compliance with this section.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.013 Installation Requirements. The commission is

amending sections (1), (4), (7), (8), and (9) and deleting sections (5) and (6).

PURPOSE: This amendment brings existing state rules into compliance with national codes and establishes a form for the submission of site plans. It is also adding the term “autogas” and eliminating the exception for hot air balloons.

(1) Prior to any installations at buildings of public assembly or use such as schools, churches, recreational halls, tourist courts, hotels, hospitals, sanitariums, convalescent homes, nursing homes, rest homes, four- (4-)/- unit apartments, and larger or similar types of public buildings having institutional occupancies, for new construction, major renovations or additions to these installations and mobile home parks, shopping center areas, service stations, bulk plants, industrial plants, and other similar locations of public gathering, form MPGC-/0955/0910 must be completed and submitted to the inspection authority. Form MPGC-/0955/0910, [March 1, 2011] **January 1, 2012**, is published by the Missouri Propane Gas Commission, 4110 Country Club Dr., Ste. 200, Jefferson City, MO 65109-0302 and is incorporated by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material.

(3) Form MPGC-0910 including detailed plans shall be furnished to the inspection authority for approval before installation of LP gas containers having a water capacity of over two thousand (2,000) gallons, or two (2) or more containers that are to be connected and have a combined capacity exceeding four thousand (4,000) gallons, or when LP gas in the liquid phase is to be withdrawn or of a container charging plant where portable containers are to be recharged and filled regardless of the capacity of the storage containers used as the supply for filling containers and cylinders. Form MPGC-0910, [March 1, 2011] **January 1, 2012**, is published by the Missouri Propane Gas Commission, 4110 Country Club Dr., Ste. 200, Jefferson City, MO 65109-0302 and incorporated by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material. When approval is granted, one (1) copy of the plans will be returned to the party submitting the original proposal. Final inspection and approval is required before placing the installation into service. If installation of the proposed LP gas system has not begun within one hundred eighty (180) days from the date of approval by the state LP gas inspection authority, new plans shall be resubmitted prior to the time installation does begin.

(4) The following requirements shall be met on plans that shall be submitted to the inspection authority of Missouri for approval before starting construction:

(A) [Two] A complete [copies] copy of the plans shall be submitted to the inspection authority together with detailed specifications;

(B) Plans shall be on good quality paper, legible, and contain the information required by this section; **and**

(C) Plans and specifications are to be accompanied by a written application on a form prescribed by the inspection authority and shall include the following:

1. The address of the proposed location and the name and mailing address of the owner or builder;

2. An outline of the boundary lines of the property owned or leased;

3. A diagram showing adjoining property on all sides and the distance to all adjacent buildings and roadways;

4. A diagram showing the location and sizes of each container or containers on the plot of ground to be used;

5. A diagram pinpointing each location where liquid transfer will be made, such as loading, unloading, and bottling;

6. A general layout of piping, pipe supports, and pipe protection; the location, size, and type of each important piece of equipment, gate

valve, excess flow valve, pressure relief valve, hose, regulator, and all other important parts of the system planned;

7. The location of each building or shed to be built on the property and each sewer or drain opening;

8. The location of electrical lines and poles and telephone poles if located twenty-five feet (25') or less from storage tanks or liquid transfer areas;

9. The location of the electrical service pole;

10. The location of fences;

11. The dimensions of tank foundations, footings, reinforcements, and tank clearance above ground level;

12. Storage container dimensions, whether new or used, and the name of the manufacturer; and

13. All used containers of two thousand (2,000) gallons water capacity or more to be reinstalled shall have all valves, including relief valves, removed and inspected[; and].

[(D) All electrical equipment in vaporizer houses, pump houses and cylinder filling rooms or other similar locations shall be of the type approved for use in Class 1, Group D, Hazardous Locations, of the National Electrical Code.]

[(5) All installations for use of LPGs in containers of sixty to one hundred ten (60–110) pounds, LPG capacity, shall be provided with adequate and safe means of protection to assure that the cylinder is supported in its installed position and that there is reasonable protection from the elements.]

[(6) All commercial, industrial, and institutional LP gas storage systems shall be accessible for emergency firefighting equipment.]

*[(7)](5) All LP gas storage tanks shall be installed a minimum distance of twenty feet (20') from all other Class I, II, and III liquids. In the event of a hazardous location, the LP gas inspection authority may require a greater distance and location up to a maximum distance of one hundred feet (100'). **Distance may be reduced to ten feet (10') when diked.***

[(8)](6) All LP gas dispensers shall have form MPGC-0910 and site plans submitted as required by sections (3) and (4).

[(9)](7) All tanks of one thousand one (1,001) gallons aggregate water capacity or greater being used for liquid withdrawal shall have form MPGC-0910 and site plans submitted as required by sections (3) and (4).

*[(10)](8) All LP gas **and autogas** dispensers shall have recommended fill procedures posted *[in a conspicuous location]*.*

(A) All dispensers in the retail business of refilling *[of]* cylinders shall be equipped with a state-approved scale to be utilized for the safe filling of LP gas cylinders. LP gas cylinders of one hundred (100) pounds propane capacity or less shall be filled by weight only utilizing a state-approved scale. Cylinders of one hundred (100) pounds capacity or less shall not be filled from any LP gas delivery vehicle. *[An exception may be made by the inspection authority for cylinders utilized in hot air balloon service if the cylinders are approved for such service, have an accurate approved method of gauging, are in good condition, and are filled in a safe location away from any source of ignition.]*

[(11)](9) All leak checks shall be performed as per [2009] 2012 NFPA 54 8.2. Documentation shall be kept on file.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.014 Storage. The commission is amending sections (1), (3), and (7) and eliminating section (4) with subsequent renumbering.

PURPOSE: This amendment eliminates or clarifies existing state requirements that duplicate or conflict with national codes adopted by the authority.

(1) All liquefied petroleum gas (LP gas) storage containers or storage systems where one (1) tank is used having a water capacity of one hundred (100) gallons or more, or where two (2) or more tanks are used having a total combined capacity of more than one hundred (100) gallons, and all related equipment located at or near containers which are installed *[on school grounds, public playgrounds, recreation park grounds or any other playground areas where children in age groups from preschool through grade twelve (12) have access]* **within twenty-five feet (25') of a playground where children in age groups of preschool through grade twelve (12) have access** shall be fenced with industrial type fence a minimum of six feet (6') high as to prevent tampering with the gas piping system.

(3) Containers of any size shall not be used for storage other than manufacturer's design and specifications; i.e., railcars, converted railcars, bulk delivery truck tanks both transport and bobtail cannot be utilized for fixed storage. **A variance for bobtail delivery truck tanks may be requested. A written request must be submitted to the commission on form MPGC-0417 included herein.**

[(4) All LP gas bulk storage containers, of four thousand (4,000) gallons water capacity (WC) or more shall have its pumps, piping, vaporizers, hoses, bulkheads, and related equipment protected from tampering by a metal chain link or equivalent industrial-type fence at least six feet (6') tall. All locations with one hundred (100) square feet or less fenced area shall have at least one (1) lockable access gate. All locations with more than one hundred (100) square feet fenced shall have at least two (2) lockable access gates.]

[(5)](4) All aboveground LP gas storage containers shall be kept properly painted with a light reflective paint such as white or aluminum.

[(6)](5) All aboveground LP gas storage containers, two thousand (2,000) **water capacity (WC)** or more, and all dispensers shall be clearly marked PROPANE, FLAMMABLE, NO SMOKING on two (2) sides in a conspicuous location of the dispenser housing, fencing, or a combination thereof. All wording shall be in block-style letters with a minimum height of two inches (2") and a minimum width of one-fourth inch (1/4") on a contrasting background.

[(7)](6) Each LP gas bulk plant or system of two thousand (2,000) gallons WC or more and all dispensers engaged in retail shall have a sign displayed in a conspicuous location stating the name and telephone number of the nearest representative, agent, or owner of the system. **All wording shall be in block-style letters with a minimum height of one inch (1") and on a contrasting background.**

[(8)](7) Any LP gas storage container, including any container used for motor fuel, which has been damaged in any manner shall be repaired according to the requirements of the code it was manufactured under and shall be hydrostatically tested prior to placing in service.

[(9)](8) Repair of any LP gas container shell, excluding valves, fittings, regulators, and attachments, shall be in conformance with the code under which the container was manufactured, and all repairs shall be performed only by a person certified under the code by which the container was manufactured.

[(10)](9) A copy of all container data information and repairs to the container shall be submitted to the inspection authority for review prior to installation of the container.

[(11)](10) LP gas storage containers supplying mobile home parks, schools, hospitals, domestic systems, or other public or institutional facilities shall not be utilized as a bulk storage plant for loading LP gas into any fuel delivery vessel or vehicle.

[(12)](11) At a bulk storage facility that the owner declares out-of-service, the tank or tanks shall be empty, only contain residual pressure, and be capped or plugged as close as practical to the positive shut-off valve just outside the tank or tanks. Before placing the tank or plant back into operation, form MPGC-0910 including detailed plans shall be furnished to the inspection authority for approval and approval must be granted by the inspection authority. Form MPGC-0910, *[March 1, 2011]* **January 1, 2012**, is published by the Missouri Propane Gas Commission, 4110 Country Club Dr., Ste. 200, Jefferson City, MO 65109-0302 and is incorporated by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material.



MISSOURI PROPANE GAS COMMISSION
LP GAS INSPECTION AUTHORITY
APPLICATION FOR VARIANCE

NOTE: ONE APPLICATION/FORM MUST BE SUBMITTED FOR EACH UNIT OF EQUIPMENT.

FOR MPGC OFFICE USE ONLY		
DATE	VARIANCE #	MPGC APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO

THIS FORM MUST BE COMPLETED IN ITS ENTIRETY OR IT WILL BE RETURNED

OWNER NAME	OWNER ADDRESS	OWNER CITY, STATE, ZIP
NAME (IF DIFFERENT FROM OWNER)	MAILING ADDRESS	MAILING CITY, STATE, ZIP
LOCATION NAME	LOCATION ADDRESS	LOCATION CITY, STATE, ZIP
LOCATION COUNTY	LOCATION PHONE	NUMBER OF UNITS AT LOCATION

ACTIVITY	TYPE OF EQUIPMENT	USAGE
NEW INSTALLATION	CARGO TANK	OFFICE/GOVT BUILDING
OTHER	OTHER	HOSPITAL/INSTITUTIONAL
		CHURCH/RELIGIOUS
		COMMERCIAL/INDUSTRIAL
		RETAIL
		SCHOOL/LIBRARY/EDUCATIONAL
		DISPENSER
		RESIDENCE
		MOTEL/HOTEL
		AGICULTURE
		NURSING/RETIREMENT HOME
		OTHER

MANUFACTURER	DATE OF MANUFACTURER	SERIAL NUMBER	CAPACITY
WORKING PRESSURE	SPECIFIC LOCATION	LAST INSPECTION DATE	

COMMENTS AND DESCRIPTION DETAIL OF INSTALLATION

North ↑

Draw plan here, or attach plan in duplicate.

WRITTEN RESPONSE REQUIRED BEFORE INSTALLATION.

SIGNATURE OF CONTACT PERSON AT LOCATION	INSPECTOR SIGNATURE
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PRINTED NAME AND TITLE OF CONTACT PERSON AT LOCATION

Return to: MISSOURI PROPANE GAS COMMISSION, 4110 COUNTRY CLUB DR., STE. 200, JEFFERSON CITY, MO 65109-0302
OR FAX TO: 573-893-1074

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.020 NFPA Manual No. 54, National Fuel Gas Code. The commission is amending section (1).

PURPOSE: This amendment incorporates references to new editions of the applicable national standards being adopted by rule.

(1) Standards contained in National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code*, [2009] 2012 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, are incorporated herein by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material. The balance of this rule sets forth requirements for liquefied petroleum gas (LP gas) applications not covered in the manual. The scope of National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code*, [2009] 2012 edition, is to develop fire safety codes, standards, recommended practices, and manuals, as may be considered desirable, covering the installation of piping and appliances using fuel gases such as natural gas, manufactured gas, liquefied petroleum gas, and liquefied petroleum gas-air mixture.

AUTHORITY: section 261.023.6., RSMo 2000, and section 323.020, RSMo Supp. [2010] 2011. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.040 NFPA Manual No. 58, Storage and Handling of Liquefied Petroleum Gases. The commission is amending section (1) and eliminating section (4).

PURPOSE: This amendment reconciles the current version of Missouri's adopted propane code to the applicable national standard and brings existing state rules into compliance with national codes

(1) This rule incorporates by reference National Fire Protection Association (NFPA) Manual No. 58, *Storage and Handling of Liquefied Petroleum Gases*, [2008] 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, as the current standard for the storage and handling of liquefied petroleum gases (LP gas). This rule does not incorporate any subsequent amendments or additions to the referenced material.

[(4) The written Fire Safety Analysis, required by the 2008 edition of the National Fire Protection Association's Pamphlet 58, Liquefied Petroleum Gas Code, 6.25.3, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, and incorporated by reference, shall be prepared by a person approved by the Missouri Propane Gas Commission, who has relevant experience and is knowledgeable of the practices of the LP gas industry. Except for an engineered facility, the Fire Safety Analysis may be prepared by the owner of the facility in cooperation with the local fire department and/or Fire Marshall. The Fire Safety Analysis for an engineered facility, such as one that incorporates refrigerated storage, automated fuel standby (either industrial or utility) or pipeline terminals, shall be prepared, stamped, and signed by a professional engineer who has relevant experience in LP gas or fire protection. This rule does not incorporate any subsequent amendments or additions to the referenced material.]

AUTHORITY: section 261.023.6., RSMo 2000, and section 323.020, RSMo Supp. [2010] 2011. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.090 NFPA Manual No. 1192, Chapter 5, Standard

for Recreational Vehicles. The commission is amending section (1).

PURPOSE: This amendment reconciles the current version of Missouri's adopted propane code to the applicable national standard.

(1) The scope of National Fire Protection Association Manual No. 1192, Chapter 5, *Standard on Recreational Vehicles, [2008] 2011* edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, covers the heat producing appliances and fuel systems within or on recreational vehicles. Whenever nationally recognized standards for heat producing appliances and fuel systems and this Chapter 5 differ, the requirements of the latter shall apply.

AUTHORITY: section 323.020, *RSMo Supp. [2010] 2011*. Original rule filed May 13, 1977, effective Jan. 13, 1978. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.120 Reporting of Odorized LP Gas Release, Fire, or Explosion. The commission is amending section (1).

PURPOSE: This amendment eliminates duplication of national codes adopted by the authority.

(1) [In addition to NFPA 58, 2008 edition, 14.4.3.3, at] At the earliest practical moment or within two (2) hours following discovery, the owner, manager, or operator of a vehicle or equipment regulated by this chapter shall notify the Missouri Propane Gas Commission by telephone of any event involving odorized liquefied petroleum gas (LP gas) release, fire, or explosion which:

(E) Could reasonably be judged as significant because of rerouting of traffic, [or] evacuation of buildings, or media interest; or

AUTHORITY: section 323.025, *RSMo Supp. [2010] 2011*. Original rule filed June 13, 2011, effective Jan. 30, 2012. Amended: Filed June 26, 2012.

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 Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. 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 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.433 Deer: Firearms Hunting Seasons. The commission proposes to amend subsections (1)(D) and (5)(C) of this rule.

PURPOSE: This amendment renames this muzzleloader portion of the fall firearms deer season to more accurately reflect the new methods allowed.

(1) The firearms deer hunting season is comprised of six (6) portions.

(D) [Muzzleloader] **Alternative methods** portion: December 15 through 25, 2012; use muzzleloader and archery methods, crossbows, atlatl, handguns, and air-powered guns as defined in 3 CSR 10-7.431 to take deer statewide.

(5) Feral hogs, defined as any hog, including Russian and European wild boar, not conspicuously identified by ear tags or other forms of identification and roaming freely on public or private lands without the landowner's permission (refer to section 270.400 of *Missouri Revised Statutes*), may be taken in any number during the firearms deer hunting season as follows:

(C) During the youth and [muzzleloader] **alternative methods** portions statewide and the urban zones portion in open counties—

1. Deer permittees may only use methods allowed for deer; and

2. Small game permittees may only use methods allowed for small game.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, *RSMo 2000*. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the *Code of State Regulations*. Amended: Filed July 2, 2012.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.400 Definitions for the Screening and Testing for the Illegal Use of Controlled Substances by Temporary Assistance

Applicants and Recipients

PURPOSE: This rule establishes the definitions that will govern the use of certain terms used to establish the procedures for the screening and testing for illegal use of controlled substances by Temporary Assistance applicants and recipients.

(1) Applicant—A person who has applied for Temporary Assistance benefits in accordance with Temporary Assistance eligibility regulations, but has not yet been determined eligible for benefits.

(2) Appropriate substance abuse treatment program—A substance abuse treatment program that the Department of Mental Health has approved and—

(A) Is certified as an alcohol and drug abuse treatment program by the Department of Mental Health; and

(B) Is contracted with the Department of Mental Health to provide Comprehensive Substance Treatment and Rehabilitation (CSTAR) services.

(3) Drug test—The urine dipstick five- (5-) panel test.

(4) Entry into the substance abuse treatment program—A recipient shall be considered to have entered into a substance abuse treatment program when the recipient has been enrolled in the Department of Mental Health's consumer information system by an appropriate treatment provider.

(5) Controlled substance—a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425, RSMo.

(6) Head-of-household—The individual who is registered as the applicant or recipient for Temporary Assistance benefits with the division.

(7) Individual—A person who is either an applicant or recipient for Temporary Assistance benefits with the Family Support Division.

(8) Misdemeanor or felony drug offense—Any arrests or convictions for violating any federal or Missouri state statutes relating to any illegal use, possession, trafficking, delivery, distribution, registration, creation, production, or manufacturing of any drugs, narcotics, controlled substances, controlled substance analogues, imitation controlled substances, drug paraphernalia, counterfeit substances, or immediate precursor shall constitute the misdemeanor or felony drug offenses that shall be screened for by a search of the records of the Missouri Highway Patrol.

(9) Protective payee—An individual appointed by the Family Support Division to act on behalf of the Temporary Assistance household with regard to Temporary Assistance benefits.

(10) Reasonable cause—Reasonable cause exists when there is reasonable suspicion that there is an articulable individualized basis for suspecting that the Temporary Assistance applicant or recipient is engaging in the illegal use of controlled substances. Reasonable suspicion shall be deemed to exist based on the response to the screening tool or when a search of the law enforcement records of the Missouri Highway Patrol establishes that the individual has been arrested or convicted of a misdemeanor or felony drug offense within the last twelve (12) months.

(11) Recipient—A person who receives public assistance benefits in accordance with Temporary Assistance eligibility regulations.

(12) Successful completion of substance abuse treatment program—A recipient referred under section 208.027, RSMo, has successfully

completed a substance abuse program when a letter or other official notice is issued from the appropriate substance abuse treatment program verifying the recipient has made satisfactory progress toward the criteria outlined in 9 CSR 30-3.130(8)(A) and if the recipient has not tested positive in accordance with 13 CSR 40-2.420.

(13) Temporary Assistance (TA)—Missouri's Temporary Assistance for Needy Families program that provides temporary cash assistance to families as set forth in sections 208.040, RSMo, et seq. and 13 CSR 40-2.300 to 13 CSR 40-2.370.

(14) Temporary Assistance for Needy Families (TANF)—The federal program under which Missouri's Temporary Assistance benefits are distributed as set forth in 42 U.S.C. section 601, et seq. and 42 CFR 260.10, et seq.

(15) Treatment provider—Is an individual or entity that operates a substance abuse treatment program that the Department of Mental Health has approved and—

(A) Is certified as an alcohol and drug abuse treatment program by the Department of Mental Health; and

(B) Is contracted with the Department of Mental Health to provide Comprehensive Substance Treatment and Rehabilitation (CSTAR) services.

(16) Urine dipstick five- (5-) panel test—A test that will analyze an individual's urine sample to determine whether an individual has used the following controlled substances:

(A) Amphetamines/Methamphetamines;

(B) Cannabinoids (THC);

(C) Cocaine;

(D) Opiates; and

(E) Phencyclidine (PCP).

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

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 Department of Social Services, Family Support Division, PO Box 2320, Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.410 Screening Temporary Assistance Applicants and Recipients for Illegal Use of a Controlled Substance

PURPOSE: This rule adds the requirement that all applicants or recipients for the payment of Temporary Assistance who are age eighteen (18) or older and are the head-of-household complete a screening for illegal use of a controlled substance. This rule also establishes the individual's eligibility due to the screening and consequences when the individual fails to comply with the screening requirement and when the screening provides reasonable cause for

illegal use of a controlled substance.

(1) The Family Support Division shall conduct a screening to determine illegal use of a controlled substance for all Temporary Assistance applicants and recipients who are age eighteen (18) or older, are the head of the household, and are otherwise eligible for Temporary Assistance benefits as defined in 13 CSR 40-2.300 through 13 CSR 40-2.370.

(A) The individual must cooperate with the screening process.

1. The individual must agree to complete the screening process.

2. The individual must answer all questions.

(B) Screening shall consist of the following two (2) processes:

1. The individual shall submit answers to a screening tool administrated by the Family Support Division at the time of application; and

2. The Family Support Division shall conduct a periodic match of Temporary Assistance recipients with the Missouri Highway Patrol law enforcement records for individuals that have an arrest or conviction for a misdemeanor or felony drug offense upon implementation of the screening process.

(C) The individual may request referral to and then must successfully complete an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.430 in lieu of a drug test as set forth in 13 CSR 40-2.420 at his/her request.

1. The division shall not provide Temporary Assistance to or on behalf of an individual who refuses or fails to cooperate with the screening process. The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(2) The individual shall submit to a urine dipstick five- (5-) panel drug test, as defined in 13 CSR 40-2.420 if—

(A) The individual's response to the screening tool gives rise to reasonable suspicion the individual engages in the illegal use of a controlled substance; or

(B) An individual has an arrest or conviction for a misdemeanor or felony drug offense from the match with the Missouri Highway Patrol within the preceding twelve (12) months of the date of the match with the Missouri Highway Patrol.

(3) The Temporary Assistance application or receipt of Temporary Assistance benefits constitutes consent to obtain all relevant information necessary to determine whether the individual engages in the illegal use of a controlled substance.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions one hundred sixty-three thousand nine hundred twenty dollars (\$163,920) in the aggregate in state fiscal year 2013.

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 Department of Social Services, Family Support Division, PO Box 2320, Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services
Division Title: Family Support Division
Chapter Title: Income Maintenance**

Rule Number and Name:	13 CSR 40-2.410
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$163,920 in state fiscal year 2013

III. WORKSHEET

House Bill Nos. 73 & 47, passed during the 2011 legislative session, require DSS to establish a system to screen, test and sanction applicants for and recipients of Temporary Assistance(TA) benefits for illegal drug use. The bill requires DSS/FSD to develop a program to screen TA applicants and recipients, and then test for the illegal use of a controlled substance, based on reasonable cause from the screening, using a urine dipstick five-panel test, when they are otherwise eligible for TA. Those individuals who test positive shall have the opportunity to comply with a substance abuse treatment program approved by the Department of Mental Health. If they fail to comply with treatment, test positive within six months of entering a treatment program, or refuse to submit to the screening or the drug test, the individual is ineligible for TA for a period of three years (208.027.1). When this occurs, DSS/FSD is required to appoint a protective payee for the other eligible members of the TA household, so they may continue to receive TA benefits (208.027.3). This request is funded with expected TANF savings due to the implementation of Drug Testing.

FSD arrived at the screening cost in the following manner:

OA-ITSD cost for system changes for screening (one-time cost): \$73,980

OA-ITSD start-up for required changes to the FAMIS system (one-time cost): \$68,580

OA-ITSD on-going system cost for maintenance: \$2,000
OA-ITSD-Start-up cost to implement required changes to the Family Assistance
Management Information System (FAMIS) for tracking protective payees (one-time
cost): \$19,360

Total system costs for development, implementation and changes to screening process:
\$163,920 ($\$73,980 + \$68,580 + \$2,000 + \$19,360 = \$163,920$)

IV. ASSUMPTIONS

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

PROPOSED RULE

13 CSR 40-2.420 Testing for the Illegal Use of a Controlled Substance by Applicants and Recipients of Temporary Assistance

PURPOSE: This rule adds the requirement that applicants for Temporary Assistance and recipients for the payment of Temporary Assistance who are age eighteen (18) or older and are the head-of-household whose screening for illegal use of a controlled substance establishes reasonable cause to believe the individual engages in the illegal use of a controlled substance must submit to a urine dipstick five- (5-) panel drug test. This rule also establishes the individual's ineligibility for Temporary Assistance pursuant to the drug testing requirement.

(1) The Family Support Division shall require an individual to submit to a urine dipstick five- (5-) panel drug test when the Family Support Division determines there is reasonable cause to believe the individual is engaging in the illegal use of a controlled substance. The determination of reasonable cause shall be based upon the screening process set forth in 13 CSR 40-2.410.

(A) The division or its designee shall notify the individual in writing of the reasonable cause determination that requires the individual to submit to a urine dipstick five- (5-) panel drug test.

(B) The division or its designee shall notify the individual in writing of the location of the test and the date by which the test must be completed and of the drug testing process.

(C) The division or its designee shall make the test available within the individual's county of residence as known to the division.

(D) The individual must provide verification of identity when submitting to the drug test. Acceptable forms of identity verification include: U.S. passport; driver's license issued by the state or U.S. territory with a photograph or other identifying information; certificate of degree of Indian blood; school identification card; U.S. military card or draft card with photograph; identification card issued by federal, state, or local government; and Native American tribal document.

(2) The division shall not provide Temporary Assistance to or on behalf of an individual who is required to submit to a drug test and who refuses or fails to cooperate with any part of the drug testing process.

(A) Refusal to cooperate shall include:

1. Failure to provide a sample for drug testing within the required time frame;
2. Failure to fully comply with the drug testing process as directed by the Family Support Division or its designee;
3. Failure to appear for drug testing at the designated location and time;
4. Failure to contact or cooperate with any medical review process.

A. Cooperation with the medical review process shall include, but is not limited to:

(I) An interview; and

(II) Providing copies of medical records needed to confirm the result of the drug testing;

5. Failure to provide verification of identity; and

6. Failure to complete any documents or consent forms required by the Family Support Division or its designee, the drug testing provider, the Department of Mental Health, or the substance abuse treatment provider.

(B) The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth

in 13 CSR 40-2.440.

(3) The division shall not provide Temporary Assistance to or on behalf of an individual who tests positive for illegal use of a controlled substance and fails to enter, participate, and successfully complete an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.430. The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(4) The division may require a urine dipstick five- (5-) panel drug test at six (6) months from the date the recipient entered the substance abuse treatment program as defined in 13 CSR 40-2.430. If the individual tests positive, the individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(5) The amount of assistance that would otherwise be required to be provided under the Temporary Assistance Program to the family members of an individual to whom sections (2), (3), and (4) apply shall be reduced by the amount which would have otherwise been made available to the individual who has been declared ineligible.

(6) The division shall add an otherwise eligible individual who has been declared ineligible for Temporary Assistance as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.430 to the Temporary Assistance household after the three- (3-) year period of ineligibility has elapsed. The individual is subject to the rules as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.450.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions three hundred thirty-four thousand, two hundred ninety-seven dollars (\$334,297) in the aggregate in state fiscal year 2013.

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 Department of Social Services, Family Support Division, PO Box 2320, Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services
Division Title: Family Support Division
Chapter Title: Income Maintenance**

Rule Number and Name:	13 CSR 40-2.420
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$334,297 in state fiscal year 2013

III. WORKSHEET

DSS is required to establish a system to screen, test and sanction applicants for and recipients of Temporary Assistance (TA) benefits for illegal drug use. The bill requires DSS/FSD to develop a program to screen TA applicants and recipients, and then test for the illegal use of a controlled substance, based on reasonable cause from the screening, using a urine dipstick five-panel test, when they are otherwise eligible for TA. Those individuals who test positive shall have the opportunity to comply with a substance abuse treatment program approved by the Department of Mental Health. If they fail to comply with treatment, test positive within six months of entering a treatment program, or refuse to submit to the screening or the drug test, the individual is ineligible for TA for a period of three years (208.027.1). When this occurs, DSS/FSD is required to appoint a protective payee for the other eligible members of the TA household, so they may continue to receive TA benefits (208.027.3).

Based on this information, FSD determined the cost of testing in the following manner:

In March 2011, there were 37,363 adult recipients of TANF benefits. In addition to recipients, approximately 36,624 new adult applicants are approved annually for a total population of 73,987 that would be subject to drug screening and testing. (37,363 + 36,624 = 73,987).

FSD estimates that 10% of the population will be sent for testing.

FSD estimates that 25% of those selected to test will not test, 25% will test positive and 50% will test negative.

The cost of a negative test result is \$42.00 for an annual cost of $7399 \times 50\% = 3,699 \times$
 $\$42.00 = \$155,358$

The cost of a positive test result is \$96.75 for an annual cost of $7399 \times 25\% = 1849.5 \times$
 $\$96.75 = \$178,939$

The total cost of testing is \$334,297 ($\$155,358 + \$178,939 = \$334,297$)

IV. ASSUMPTIONS

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.430 Substance Abuse Treatment Program for Temporary Assistance Recipients

PURPOSE: This rule explains the referral and treatment process for recipients of Temporary Assistance benefits who are required to enter and complete a substance abuse treatment program as a result of 13 CSR 40-2.420.

(1) The Family Support Division shall refer recipients of Temporary Assistance benefits who are determined to have tested positive for the illegal use of a controlled substance under the provisions of section 208.027, RSMo, to an appropriate substance abuse treatment program approved by the Department of Mental Health, as set forth in 13 CSR 40-2.400.

(2) Recipients referred to an approved substance abuse treatment program as set forth in these rules shall receive a comprehensive assessment to determine the appropriate level of care and to develop an initial treatment plan. Treatment services shall be delivered in accordance with all rules applicable to certified programs as defined in 9 CSR 30-3.032.

(3) Active participation in the substance abuse treatment program by recipients referred as provided in section 208.027, RSMo, shall be demonstrated by—

(A) Completion of comprehensive assessment as set forth in section (2);

(B) Enrollment in an appropriate substance abuse treatment program;

(C) Consent to communication between and among the treatment provider, Family Support Division, and Department of Mental Health personnel about participation and progress in substance abuse treatment; and

(D) Participation in the development of an individualized treatment plan and satisfactory progress toward treatment goals.

(4) The Department of Mental Health or the treatment provider shall inform the Family Support Division in writing within five (5) days of the following:

(A) The date the recipient enters into the substance abuse treatment program; and

(B) The date upon which the recipient successfully completed the substance abuse treatment program; and

(C) The date the recipient did not successfully complete the substance abuse treatment program.

(5) The written notice(s) required in section (4) shall be signed by the treatment provider. The original, signed notice(s) shall be self-authenticating and shall be admissible into evidence without further foundation at any hearing conducted under 13 CSR 40-2.440. The hearing officer may authorize a substitution of the original with a copy for the record. If the division or the recipient objects to the introduction of the notice(s) into evidence, the party making the objection shall have the burden to establish that the notice(s) is not authentic and should not be admitted into evidence. The recipient or the division may request that the hearing officer issue a subpoena to the treatment provider for examination or cross-examination on the record.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$1,940,280 in the aggregate in state fiscal year 2013.

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 Department of Social Services, PO Box 1527, Jefferson City, MO 65102-1527. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services
Division Title: Family Support Division
Chapter Title: Income Maintenance**

Rule Number and Name:	13 CSR 40-2.430
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$1,940,280 in state fiscal year 2013

III. WORKSHEET

HB 73, passed in the 2011 legislative session, requires the Department of Social Services to develop a program to screen each applicant for or recipient of TANF benefits whom the department has reasonable cause to believe engages in the illegal use of a controlled substance. Any applicant or recipient who tested positive for the illegal use of a controlled substance must be referred to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse with the Department of Mental Health.

For those participating in treatment under this rule, it is assumed that the Department of Mental Health will be responsible for the State's Medicaid match and associated treatment costs that are not Medicaid reimbursable. The demand for DMH-funded substance abuse treatment in Missouri already far exceeds the capacity of contracted community providers. A significant cost will be incurred by DMH for the costs related to the treatment of those referred under this new legislation.

The on-going cost for DMH is \$1,940,280 for treatment services for an additional 740 individuals entering a substance abuse treatment program. This assumes that 3,699 individuals will be referred for testing. Based on that, the following calculation was made:

Assumed potential positive tests:	3,699
50% will not test or will drop off:	<u>(1,850)</u>
Total tested positive:	1,850

Assumed 40% of total testing positive will present for treatment: 740

Average cost of Medicaid Treatment Services	\$1,816 x 740 = \$1,343,840
Average cost of Non-Medicaid Treatment Services	\$806 x 740 = \$596,440
Total on-going cost for DMH treatment:	\$1,940,280.

IV. ASSUMPTIONS

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.440 Hearings for Proceedings under 13 CSR 40-2.400 through 13 CSR 40-2.450

PURPOSE: This rule adds the requirement that all applicants or recipients for Temporary Assistance benefits who are age eighteen (18) or older and are the head-of-household who refuses or fails to cooperate with the screening process, who refuses to submit to a drug test, or who tests positive for the illegal use of controlled substances and fails to participate in a substance abuse treatment program will have a hearing. This rule establishes the procedures to be followed in the hearing.

(1) Eligibility for Hearing.

(A) Any applicant for or recipient of Temporary Assistance shall have an automatic administrative hearing before the director of the Family Support Division or his/her designee when he/she—

1. Refuses or fails to cooperate with the screening process;
2. Refuses or fails to submit to a drug test; or
3. Tests positive for the illegal use of controlled substances for the first time.

(B) Any applicant for or recipient of Temporary Assistance may request the director of the Family Support Division provide an administrative hearing before the director of the Family Support Division or his/her designee when he/she—

1. Does not participate in an appropriate substance abuse treatment program after having been ordered to participate in a treatment program following an administrative hearing;
2. Fails to successfully complete an appropriate substance abuse treatment program after having been ordered to participate in a treatment program following an administrative hearing; or
3. Tests positive for the illegal use of controlled substances a subsequent time.

(2) Notification of Adverse Action and Hearings.

(A) Notice(s). The Family Support Division shall notify the individual in writing of any action affecting his/her Temporary Assistance benefit(s) as set forth in subsection (1)(A) or (1)(B). The notification shall be sent by mail to his/her address of record at least ten (10) days before the date the action becomes effective. The individual has the duty to notify the Family Support Division of any change in his/her residence address, mailing address, and other contact information.

1. The notice for the automatic administrative hearings required under subsection (1)(A) shall meet the requirements set out in Chapter 536, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations.

2. The notice for administrative hearings made upon request under subsection (1)(B) shall meet the requirements set out in section 208.080, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations. The individual shall have ninety (90) days from the date of the notice of the action affecting his/her Temporary Assistance benefit(s) in which to request an appeal to the director of the Family Support Division.

(B) Hearings.

1. The automatic administrative hearings required under subsection (1)(A) shall be conducted pursuant to procedures set forth in Chapter 536, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations by administrative hearing officers designated by the director of the Family Support Division.

2. The administrative hearings made upon request under subsection (1)(B) shall be conducted pursuant to procedures set forth in section 208.080, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations by administrative hearing officers designated by the director of the Family Support Division.

(3) Hearing Procedure. The following procedure shall apply to all administrative hearings required by either subsection (1)(A) or (1)(B).

(A) Notice. The hearing officer shall mail a notice of the hearing to the Family Support Division, the individual at his/her address of record, and if appropriate, to the individual's attorney or designated representative. The notice shall include any information required by either Chapter 208, RSMo, Chapter 536, RSMo, 45 CFR section 205.10, or any other federal statutes or regulations that are applicable to the hearing being conducted under the authority of either subsection (1)(A) or (1)(B). In addition, the following information shall be included in every hearing notice:

1. The caption and number of the case;
2. The time and place of the hearing;
3. The subject of the hearing;
4. An order will be entered in accordance with the adverse action notice if the individual fails to appear and participate at the hearing;
5. Information on how to contact the hearing officer to request an in-person hearing if the individual has a need for a special accommodation due to a disability; and
6. The individual may represent him/herself or the individual may authorize another individual, such as legal counsel or relative, to act as a representative.

(B) No answer or responsive pleading shall be required to respond to any notice affecting his/her Temporary Assistance benefit(s) mailed by the Family Support Division or notice of an administrative hearing provided for under this regulation.

(C) The hearing officer shall set the date and time for the hearing. The hearing may be continued once on request of the individual or the Family Support Division.

(D) The hearing shall be conducted by telephone if the individual agrees, or at the local office of the Family Support Division.

(E) The Family Support Division shall have the burden to establish by a preponderance of the evidence that the individual—

1. Tested positive for the illegal use of a controlled substance;
2. Failed or refused to cooperate or submit to the screening as set forth in 13 CSR 40-2.410;
3. Failed or refused to cooperate or submit to the test for illegal use of a controlled substance as required by 13 CSR 40-2.420;
4. Failed or refused to sign any required consent form required by 13 CSR 40-2.400 through 13 CSR 40-2.430;
5. Failed or refused to participate in an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.420; or
6. Failed or refused to successfully complete substance abuse treatment as set forth in 13 CSR 40-2.440.

(F) Affirmative Defenses. The individual shall have the burden of proving the following affirmative defenses. Failure to comply with any of the requirements of subsection (3)(F) shall be cause to consider the individual as having waived the affirmative defenses set forth below.

1. The individual was prescribed drugs by a licensed physician that resulted in the positive test for the illegal use of controlled substances. It shall be presumed that the ingestion of medication prescribed to someone other than the individual subject to the test for illegal use of controlled substances required under section 208.027, RSMo, will not constitute an affirmative defense to excuse or negate the positive test result for the illegal use of a controlled substance.

2. The individual has a medical condition that prevented the individual from submitting a sample for testing for illegal use of controlled substances or from completing an appropriate substance

abuse treatment program. The assertion of this affirmative defense shall be governed by the following rule:

A. The individual must produce a copy of medical records and a written report from the individual's physician providing the medical diagnosis along with any supporting medical tests and examinations that establish the existence of the medical condition that the individual asserts prevented compliance with the testing for illegal use of controlled substances or from completing an appropriate substance abuse treatment program.

(G) Evidence at the Hearing.

1. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents submitted by the individual or the Family Support Division at the hearing are declared to be competent evidence and admissible into evidence at the hearing to be considered by the hearing officer along with any other evidence or testimony submitted.

2. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents purporting to be executed and signed by the medical doctor or other appropriate authority, its agents or employees accompanied by a business record affidavit that meets the requirements of section 490.692, RSMo, shall be prima facie evidence of it being properly executed and signed without further proof of identification.

3. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents reporting a positive drug test result shall create a rebuttable presumption that the individual has tested positive for the illegal use of a controlled substance in violation of section 208.027, RSMo, or has failed to successfully complete an appropriate substance abuse treatment program. The entry of the written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents reporting a positive drug test result or the failure to successfully complete an appropriate substance abuse treatment program into evidence at the administrative hearing required by either subsection (1)(A) or (1)(B) shall shift the burden of proof to the individual to refute the presumption.

(H) The hearing shall be on the record.

(4) The hearing officer in an administrative hearing required by either subsection (1)(A) or (1)(B) shall make specific written findings of fact and conclusions of law pertinent to the questions in issue. The findings of fact and conclusions of law shall be based solely upon the evidence introduced into the record at the hearing. Copies of the decision of the hearing officer shall be mailed to the individual and their attorney at law or legal guardian and the Family Support Division.

(5) Judicial Review.

(A) Any applicant for or recipient of Temporary Assistance who has an automatic administrative hearing under subsection (1)(A) may obtain judicial review pursuant to sections 536.100 to 536.140, RSMo.

(B) Any applicant for or recipient of Temporary Assistance who may request the director provide an administrative hearing under subsection (1)(B) may obtain judicial review pursuant to section 208.100, RSMo.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions one hundred eighty thousand eight hundred eighty-eight dollars (\$180,888) in state fiscal year 2013.

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 Department of Social Services, PO Box 1527, Jefferson City, MO 65102-1527. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services
Division Title: Family Support Division
Chapter Title: Income Maintenance**

Rule Number and Name:	13 CSR 40-2.440
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$180,888.00 in state fiscal year 2013

III. WORKSHEET

House Bill Nos. 73 & 47 requires DSS to establish a system to screen, test and sanction applicants for and recipients of Temporary Assistance (TA) benefits for illegal drug use. The bill requires DSS/FSD to develop a program to screen TA applicants and recipients, and then test for the illegal use of a controlled substance, based on reasonable cause from the screening, using a urine dipstick five-panel test, when they are otherwise eligible for TA. Those individuals who test positive shall have the opportunity to comply with a substance abuse treatment program approved by the Department of Mental Health. If they fail to comply with treatment, test positive within six months of entering a treatment program, or refuse to submit to the screening or the drug test, the individual is ineligible for TA for a period of three years (§208.027.1). When this occurs, DSS/FSD is required to appoint a protective payee for the other eligible members of the TA household, so they may continue to receive TA benefits (§208.027.3).

DSS/DLS estimates a need of one hearing officer and two attorneys to handle the additional caseload.

In March 2011, there were 37,363 adult recipients of TANF benefits. In addition, approximately 36,624 new adult applicants are approved annually, for a total of 73,987 people who would be subject to drug screening and testing. FSD submitted several different plans for drug testing, and the plan that tested the least number of people was to test 10% of the population. Based on that number, DLS assumed that 50% test negative and 50% will test positive. Positive results automatically are given a hearing. The hearings will take between 1 1/2 - 2 hours to complete.

Personal Service:

One Hearing Officer annual salary: \$42,504
Two Legal Council annual salary (\$44,220 each): \$88,440
Total PS: \$130,944

Each staff person has specific start-up and ongoing needs. The following is the request for each staff person:

On-Going E&E:

Travel (\$2,000 per year)
Office Supplies, Postage, Publications/Subscriptions (\$3,729)
Memberships/Professional Development (\$160)
Telephone (\$240)
Rent (200 sq feet per person X \$13 = \$2,600 per person)
Total On-Going E&E: \$26,187 annually for 3 FTE.

One time needs E&E (per FTE):

Professional Desk (\$497)
Chair (\$379)
Side Chair (\$139)
File Cabinet (\$555)
PC (\$645)
Calculator (\$69)
Telephone Installation (\$600)
Systems Furniture Setup (\$5035)
Total one-time needs are (3FTE): \$23,757

Total cost to handle additional hearings is \$180,888. ($\$130,944 + \$26,187 + \$23,757 = \$180,888$)

IV. ASSUMPTIONS

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.450 Assignment of a Protective Payee Over Temporary Assistance Benefits When the Head of Household is Declared Ineligible for Temporary Assistance Pursuant to 13 CSR 40-2.400 through 13 CSR 40-2.440

PURPOSE: This rule adds the requirement that all recipients for Temporary Assistance benefits who are age eighteen (18) or older and are the head-of-household and who become ineligible as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.440 will have a protective payee assigned to administer the Temporary Assistance benefit.

(1) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household refuses to complete the screening process as set forth in 13 CSR 40-2.410.

(2) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household refuses to submit to a drug test for the illegal use of a controlled substance as set forth in 13 CSR 40-2.420.

(3) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household tests positive for the illegal use of a controlled substance and does not enter or successfully complete a substance abuse treatment program as set forth in 13 CSR 40-2.430.

(4) The Family Support Division shall designate the protective payee, within forty-five (45) days of the administrative hearing decision that affirms the division as outlined in 13 CSR 40-2.440, or when a new protective payee must be designated.

(A) A relative, friend, clergy person, or other qualified adult may be designated as the protective payee.

(B) The protective payee shall certify to the division he/she meets the following qualifications before being appointed to be a protective payee:

1. Over the age of twenty-one (21);
2. Able to read, write, and willing and able to act in a fiduciary capacity to handle funds on behalf of another person;
3. Has the ability to keep his/her current residence and mailing address on file at all times with the Family Support Division and keep the individual and other household members informed of his/her current address and contact information;
4. Able to maintain records and account for the use of funds as provided in this regulation;
5. The Department of Social Services has not established a claim against him/her for fraud or misuse arising from any program administered by the Department of Social Services;
6. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any felony;
7. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor set forth in Chapter 570, RSMo;
8. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor involving the use and/or possession of controlled substances;
9. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor involving the

ineligible individual or a family member that is in the Temporary Assistance household;

10. Has not been placed on the central registry maintained by the Department of Social Services for any actions or inaction involving the ineligible individual or a family member that is in the Temporary Assistance household; and

11. Has no civil or criminal court order that hinders the ability of the protective payee to perform any duties as provided in this regulation.

(C) The protective payee has an affirmative obligation to notify the division of any changes in circumstances that would affect his/her qualifications to serve as protective payee as set forth in section (4) including changes in his/her address or contact information within ten (10) days of the change.

(5) A person shall not be qualified to serve as a protective payee under the following circumstances:

(A) The person does not meet the qualifications set out in section (4) of this regulation; or

(B) The person makes any false statements in the certification as set out in section (4) of this regulation.

(6) Responsibilities of the protective payee include:

(A) Acting in a fiduciary capacity on behalf of the members of the Temporary Assistance household when receiving and using the Temporary Assistance benefits under this regulation;

(B) Keeping receipts and other records necessary and appropriate to document how he or she has spent or otherwise utilized the Temporary Assistance benefits paid to the protective payee under this regulation;

(C) Providing an accounting to the individual, to other household members or their legal representative and/or the Family Support Division for the receipt and expenditure of all Temporary Assistance benefits paid under this regulation; and

(D) Providing copies of the receipts and other documents to the individual or the division upon request.

(7) The protective payee must use the Temporary Assistance benefits as follows:

(A) To meet the needs of the Temporary Assistance household. Approved uses may include, but are not limited to the following examples: clothing, food, household supplies such as cleaning supplies and sanitary supplies, medicine, school supplies for children in the household, utility payments, rent, and activities for the children;

(B) Shall not be used to meet the needs of the protective payee or to compensate the protective payee for managing the Temporary Assistance benefits;

(C) Shall not be given to or used in any way to benefit the ineligible individual, or an individual or entity that does not provide a need for the Temporary Assistance household;

(D) Shall not be utilized to purchase controlled substances without a prescription from a licensed health care professional; and

(E) Any payments made to the protective payee that are utilized in violation of this regulation shall be considered a misuse of Temporary Assistance benefits.

(8) The Family Support Division may remove and designate a new protective payee when—

(A) The protective payee fails to use the benefits as set out in section (7) of this regulation;

(B) The protective payee fails to meet the qualifications in section (4); and

(C) A protective payee who has been previously removed shall be disqualified from serving as a protective payee under this regulation.

(9) The Family Support Division may remove the protective payee at such time when the head-of-household is no longer ineligible for Temporary Assistance benefits as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.440.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

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 Department of Social Services, PO Box 1527, Jefferson City, MO 65102-1527. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates. The division is adding paragraph (3)(A)16.

PURPOSE: This amendment provides for a per diem increase to nursing facility and HIV nursing facility reimbursement rates by granting a trend adjustment resulting in an increase of six dollars and zero cents (\$6.00) effective for dates of service beginning July 1, 2012.

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the cur-

rent NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of three and four-tenths percent (3.4%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of two and one-tenth percent (2.1%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of one and ninety-four hundredths percent (1.94%) of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003, through June

30, 2004, of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003, and is effective for payment dates after August 1, 2003.

10. FY-2007 quality improvement adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2006, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2006, of three dollars and seventeen cents (\$3.17) to improve the quality of life for nursing facility residents.

B. The quality improvement adjustment shall be added to the facility's current rate as of June 30, 2006, and is effective for dates of service beginning July 1, 2006, and after.

11. FY-2007 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning February 1, 2007, of three dollars and zero cents (\$3.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's reimbursement rate as of January 31, 2007, and is effective for dates of service beginning February 1, 2007, for payment dates after March 1, 2007.

12. FY-2008 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2007, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2007, and is effective for dates of service beginning July 1, 2007.

13. FY-2009 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2008, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2008, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2008, and is effective for dates of service beginning July 1, 2008.

14. FY-2010 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2009, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2009, of five dollars and fifty cents (\$5.50) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2009, and is effective for dates of service beginning July 1, 2009.

15. FY-2012 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on October 1, 2011, shall be granted an increase to their per diem rate effective for dates of service beginning October 1, 2011, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of September 30, 2011, and is effective for dates of service beginning October 1, 2011.

C. This increase is contingent upon the federal assessment rate limit increasing to six percent (6%) and is subject to approval by the Centers for Medicare and Medicaid Services.

16. FY-2013 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2012, shall be granted an increase to their

per diem rate effective for dates of services beginning July 1, 2012, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2012, and is effective for dates of service beginning July 1, 2012.

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

AUTHORITY: section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. [2010] 2011. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the Code of State Regulations. Amended: Filed June 20, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$53,784,192 in SFY 2013.

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 Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated cost for SFY 2013: \$53,784,192

III. WORKSHEET

Description	NFRA Add-On Increase	Effect on Hospice in NF	Total Impact
Estimated Paid Days: SFY 2013	8,396,046 \$6.00	597,880 \$5.70	
Total Estimated Impact: SFY 2013	\$50,376,276	\$3,407,916	\$53,784,192
State Share (NFRA fund)	\$19,198,399	\$1,298,757	\$20,497,156
Federal Share (61.89%)	\$31,177,877	\$2,109,159	\$33,287,036

IV. ASSUMPTIONS

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2013 are based on the actual Medicaid days paid for nursing facility services during SFY 2012, increased by .5% for 2013.

Hospice:

The estimated paid days for SFY 2013 for hospice are based on the actual hospice days provided in nursing facilities from January 2011 through December 2011.

Effect on Hospice:

Hospice providers are reimbursed 95% of the nursing facility per diem for hospice participants residing in a nursing facility. The total increase to the nursing facility per diem is \$6.00. The increase to hospice reimbursement rates resulting from this amendment is \$5.70 (\$6.00 x 95%).

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (2)(O).

PURPOSE: This amendment provides for a change in the Nursing Facility Reimbursement Allowance rate to twelve dollars and eleven cents (\$12.11) effective for dates of service July 1, 2012.

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

(M) Effective January 1, 2010, the NFRA will be nine dollars and twenty-seven cents (\$9.27) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *[and]*

(N) Effective October 1, 2011, the NFRA will be eleven dollars and seventy cents (\$11.70) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K). *[.]*; **and**

(O) Effective July 1, 2012, the NFRA will be twelve dollars and eleven cents (\$12.11) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, and 208.159, RSMo 2000, and sections 198.439, 208.153, and 208.201, RSMo Supp. [2010] 2011. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$3,675,552 for SFY 2013.

PRIVATE COST: This proposed amendment will result in a net cost to private entities of approximately \$2,660,605 for SFY 2013 (total increase in NFRA of \$6,102,984 less the increased reimbursement to nursing facilities due to NFRA being an allowable cost of \$3,442,379 yields a net impact of \$2,660,605).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services**
Division Title: MO HealthNet Division
Chapter Title: Nursing Home Program

Rule Number and Name:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated cost for SFY 2013: \$3,675,552

III. WORKSHEET

Description	NFRA Add-On Increase	Effect on Hospice in NF	Total Impact
Estimated Paid Days: SFY 2013	8,396,046	597,880	
X NFRA Per Diem Rate Increase	.41	.39	
Total Estimated Impact: SFY 2013	\$3,442,379	\$233,173	\$3,675,552
State Share (NFRA fund)	\$1,311,891	\$88,862	\$1,400,753
Federal Share (61.89%)	\$2,130,488	\$144,311	\$2,274,799

IV. ASSUMPTIONS

This proposed NFRA rate change will change the reimbursement rates for nursing facilities since the NFRA is an allowable cost for reimbursement under 13 CSR 70-10.015.

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2013 are based on the actual Medicaid days paid for nursing facility services during SFY 2012, increased by 0.5% for 2013.

Hospice:

The estimated paid days for SFY 2013 for hospice are based on the actual hospice days provided in nursing facilities from January 2011 through December 2011.

NFRA Add-On Increase:

An increase in the NFRA assessment of \$0.41 from \$11.70 to \$12.11 effective July 1, 2012 has an impact to nursing facilities under 13 CSR 70-10.015. The NFRA assessment is an allowable cost for reimbursement and is accounted for as an add-on to the per diem rate under 13 CSR 70-10.015; therefore, the cost has been included in this fiscal note.

Effect on Hospice:

Hospice providers are reimbursed 95% of the nursing facility per diem for hospice participants residing in a nursing facility. The total increase to the nursing facility per diem is \$0.41. The increase to hospice reimbursement rates resulting from this amendment is \$0.39 ($\$0.41 \times 95\%$).

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Nursing Facility Program

Rule Number and Title:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance (NFRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
520	Nursing Facilities	Annual estimated cost for SFY 2013: \$2,660,605

III. WORKSHEET

SFY 2013:		
Estimated Assessment Days: SFY 2013		14,885,328
\$11.70 NFRA Rate		
Estimated Assessment Days:		14,885,328
x NFRA Rate		<u>\$ 11.70</u>
Total Estimated Impact		<u>\$ 174,158,338</u>
\$12.11 NFRA Rate		
Estimated Assessment Days:		14,885,328
x NFRA Rate		<u>\$ 12.11</u>
Total Estimated Impact		<u>\$ 180,261,322</u>
Total Difference SFY 2013 July 2012 - June 2013		\$ 6,102,984
Less: Increase in Nursing Facility Rate due to NFRA being an Allowable Cost (per 13 CSR 70-10.015) (See Public Cost Fiscal Note for additional detail)		<u>(\$ 3,442,379)</u>
Net Impact to Private Entities		<u>\$ 2,660,605</u>

IV. ASSUMPTIONS

Effective July 1, 2012 the Nursing Facility Reimbursement Allowance (NFRA) rate changes from eleven dollars and seventy cents (\$11.70) to twelve dollars and eleven cents (\$12.11) resulting in an increase of \$.41. The determination of the number of assessment days for SFY 2013 is in the current regulation. These days were multiplied by the NFRA rate in effect of \$11.70 which would occur if the proposed amendment was not implemented. The

same number of days was multiplied by the proposed NFRA rate of \$12.11. The difference between the total impact for the \$11.70 and \$12.11 NFRA rates is the total impact.

The nursing facility reimbursement regulation, 13 CSR 70-10.015, allows NFRA as an allowable, reimbursable cost. To account for the NFRA being an allowable cost, the current NFRA rate is included as part of the nursing facility's total reimbursement rate. With this NFRA rate increase of \$.41, nursing facilities will be given a corresponding reimbursement rate increase of the same amount. This increased reimbursement will reduce the impact of the NFRA increase for nursing facilities by the same amount as computed in the Public Cost Fiscal Note.

After SFY 2013 these amounts (the increased NFRA collections and increased reimbursement) will become part of the core budget and continue annually until amended.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending section (3).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2013 trend factor to be applied in determining FRA funded hospital payments for SFY 2013.

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a MO HealthNet per diem rate based on the following computation.

(B) Trend Indices (TI). Trend indices are determined based on the four- (4-)/- quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital indexed as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

- A. SFY 1994—4.6%
- B. SFY 1995—4.45%
- C. SFY 1996—4.575%
- D. SFY 1997—4.05%
- E. SFY 1998—3.1%
- F. SFY 1999—3.8%
- G. SFY 2000—4.0%
- H. SFY 2001—4.6%
- I. SFY 2002—4.8%
- J. SFY 2003—5.0%
- K. SFY 2004—6.2%
- L. SFY 2005—6.7%
- M. SFY 2006—5.7%
- N. SFY 2007—5.9%
- O. SFY 2008—5.5%
- P. SFY 2009—5.5%
- Q. SFY 2010—3.9%
- R. SFY 2011—3.2%—The 3.2% trend shall not be applied in

determining the per diem rate, Direct Medicaid payments, or uninsured payments.

- S. SFY 2012—4.0%
- T. SFY 2013—4.4%**

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998, rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999, rate shall be trended by 2.4%. The OC of the June 30, 2000, rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid payments computed in accordance with subsection (15)(B).

4. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, shall have its MO HealthNet rate determined in accordance with section (4).

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. [2010] 2011. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed June 20, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions \$87.7 million annually.

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 Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimate Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	SFY 2013 Impact: Total Cost = \$87.7 million; State Share = \$33.4 million

III. WORKSHEET

Estimated Cost for SFY 2013:

Estimated Payments with 4.4% Trend	\$2,246,870,177
Estimated Payments without 4.4% Trend	<u>\$2,159,125,586</u>
Estimate Impact of 4.4% Trend	\$87,744,591
State Share Percentage	<u>38.11%</u>
State Share	\$33,439,464

IV. ASSUMPTIONS

The estimated cost is based upon the data in FRA 13-1. The base year for the SFY 2013 payments are the 2009 cost reports, which are trended by 4.4%.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).
 The division is amending section (1).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2013 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the FRA fiscal year cost report.

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-)/-/ month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-)/-/ month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-)/-/ month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-)/-/ month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6.

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1.

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.)

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2.

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7.

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2.

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50–63.59.

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24.

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology.

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and
 (II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue."

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1, of the most recent cost report that is available for a hospital.

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2, of the most recent cost report that is available for a hospital.

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue."

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%

(II) SFY 2009 Missouri Specific Trend = 1.50%

(III) SFY 2010 = 3.90%

(IV) SFY 2010 Missouri Specific Trend = 1.50%

(V) SFY 2011 = 3.20%

(VI) SFY 2012 = 5.33%

(VII) SFY 2013 = 4.4%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

AUTHORITY: sections 208.201 and 208.453, RSMo Supp. [2010] 2011, and section 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in SFY 2013.

PRIVATE COST: The FRA will raise approximately \$1.063 billion for SFY 2013 (July 1, 2012–June 30, 2013), of which \$44.8 million is attributable to the trend factor that is the subject of this proposed amendment.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 - Hospital Program

Rule Number and Title:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
147	Hospitals	Estimated cost for SFY 2013 \$1.063 billion

III. WORKSHEET

	No. of Facilities	Inpatient Revenues	Outpatient Revenues	Total
Private Facilities Revenues	102	\$7,972,461,788	\$6,541,759,963	\$14,514,221,751
Public Facilities Revenues	45	\$1,397,320,272	\$1,195,606,859	\$2,592,927,131
Total Revenues	147	\$9,369,782,060	\$7,737,366,822	\$17,107,148,882
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment without Trend		\$557,502,033	\$460,373,326	\$1,017,875,358
Revenue Trend 4.4%		4.40%	4.40%	4.40%
Total Revenues Trended to 4.4%		\$9,782,052,471	\$8,077,810,962	\$17,859,863,433
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment with Trend		\$582,032,122	\$480,629,752	\$1,062,661,874
Impact of Trend (Assessment with trend less Assessment without trend)				\$44,786,516
Prior SFY Total Assessment using Prior Year Methodology				\$1,005,795,954
Increase of Total Assessment over Prior SFY				\$56,865,920

IV. ASSUMPTIONS

This fiscal note reflects the total assessment to be collected during SFY 2013 of approximately \$1.063 billion and is an increase of approximately \$56.9 million over SFY 2012. The impact of the 4.4% trend is approximately \$44.8 million.

The fiscal note is based on establishing the FRA assessment rate at 5.95% and a trend of 4.4% effective for dates of service beginning July 1, 2012. The FRA assessment rate of 5.95% is levied upon Missouri hospitals' trended, inpatient and outpatient net adjusted revenue in accordance with the Missouri Partnership Plan.

As indicated above, 45 of the total 147 hospitals are owned or controlled by the state, counties, cities, or hospital districts.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology. The division is amending section (1).

PURPOSE: This amendment provides for a change to increase the prospective outpatient rate for federally-designated critical access hospitals and state-designated critical access hospitals for dates of service July 1, 2012, through June 30, 2013.

(1) Prospective Outpatient Hospital Services Reimbursement Percentage for Hospitals Located Within Missouri.

(C) Outpatient Hospital Services Reimbursement Limited by Rule.

1. Effective for dates of service September 1, 1985, and annually updated, certain clinical diagnostic laboratory procedures will be reimbursed from a Medicaid fee schedule which shall not exceed a national fee limitation.

2. Effective for service dates beginning October 1, 2011, and annually updated, the technical component of outpatient radiology procedures will be reimbursed from a Medicaid fee schedule. Medicaid fee schedule amounts will be based on one hundred twenty-five percent (125%) of the Medicare Physician fee schedule rate using Missouri Locality 01. The list of affected procedure codes and the Medicaid fee schedule rate for the technical component of outpatient radiology procedures will be published on the MO HealthNet website at www.dss.mo.gov/mhd beginning October 1, 2011.

3. Effective for service dates October 1, 2011, through June 30, 2012, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

4. Effective for service dates July 1, 2012, through June 30, 2013, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

5. Effective for service dates July 1, 2012, through June 30, 2013, hospitals which meet the state definition of Critical Access Hospital (CAH) defined in 13 CSR 70-15.010 will receive a three percent (3%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

[4.]6. Services of hospital-based physicians and certified registered nurse anesthetists shall be billed on a CMS-1500 professional claim form and reimbursed from a Medicaid fee schedule or the billed charge, if less. The CMS-1500 professional claim form is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at www.dss.mo.gov/mhd, November 1, 2010. This rule does not incorporate any subsequent amendments or additions.

[5.]7. Outpatient hospital services provided for those recipients having available Medicare benefits shall be reimbursed by Medicaid to the extent of the deductible and coinsurance as imposed under Title XVIII.

[6.]8. Effective for payment dates beginning October 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part B and Medicare Advantage/Part C outpatient hospital services with dates of service on or after January 1, 2010, except for public hospitals operated by the Department of Mental Health (DMH), shall be determined as follows:

A. Crossover claims for Medicare Part B outpatient hospital services in which Medicare was the primary payer and the MO HealthNet Division (MHD) is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Part B outpatient hospital services that were provided to MO HealthNet participants also having Medicare Part B coverage; and

(II) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(III) The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment regardless of how the claim is submitted. Providers submitting crossover claims for Medicare Part B outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Part B plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

B. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) outpatient hospital services in which a Medicare Advantage plan was the primary payer and MHD is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Advantage outpatient hospital services that were provided to MO HealthNet participants who also are either a Qualified Medicare Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

(II) The crossover claim must be submitted as a Medicare UB-04 Part C Professional Crossover claim through the MHD online *[Internet]* billing system; and

(III) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(IV) The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment. Providers submitting crossover claims for Medicare Advantage outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

C. MHD reimbursement for approved outpatient hospital services. MHD will reimburse seventy-five percent (75%) of the allowable cost-sharing amount; and

D. MHD will continue to reimburse one hundred percent (100%) of the allowable cost-sharing amounts for outpatient services provided by public hospitals operated by DMH as set forth above in paragraph (1)(C)4.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2011. Emergency rule filed June 20, 2002, effective July 1, 2002, expired Feb. 27, 2003. Original rule filed June 14, 2002, effective Jan. 30, 2003. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed June 20, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions \$13.4 million annually.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate for SFY 2013.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimate Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	SFY 2013 Impact: Total Cost = \$13.4 million; State Share = \$5.1 million

III. WORKSHEET

Estimated Cost for SFY 2013:

Estimated Payments with Increased OP % for State and Federally Designated CAH	\$628,856,828
Estimated Payments without Increased OP % for State and Federally Designated CAH	<u>\$615,469,980</u>
Estimated Impact of Increased OP % for State and Federally Designated CAH	\$13,386,848
State Share Percentage	<u>38.11%</u>
State Share	\$5,101,728

IV. ASSUMPTIONS

The flat percentage increase was added the estimated SFY 2013 OP rate with no MM-1 adjustment.

OP charges from calendar year 2011 were trended to 2013 by the hospital specific trend in OP charges.

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 Retirement System is amending section (9).

PURPOSE: This amendment deletes from the existing rule the option to complete payment for a purchase of Public Education Employee Retirement System credit after disability retirement.

(9) If a member dies before retirement or retires on service or disability retirement after having made partial payments but not payment in full to reinstate or purchase credit, the partial payments will be refunded to the member's beneficiary or the retiree if proportional credit is not allowable by law or by rule of the board of trustees. If proportional credit is allowable, the payments will be credited to the member's accumulated contributions and proportional credit will be allowed. If a member retires on disability retirement before completing payment for a reinstatement of credit [or for a purchase of Public Education Employee Retirement System of Missouri (PEERS) credit] only, the balance due with interest shall be deducted from the disability retirement allowance as provided by law. Only payments purchasing less than first one-one-hundred thousandth (0.00001) year of credit will be refunded.

AUTHORITY: section 169.020, RSMo Supp. [2010] 2011. Original rule filed June 23, 1998, effective Jan. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

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 Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. 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 10-5.010 Service Retirement. The Retirement System is amending section (15) and adding a new section to be numbered section (18).

PURPOSE: This amendment clarifies and expands on the existing rule that sets forth the procedure for naming successor beneficiaries and clarifies the effective date of a retirement allowance increase due to a member following the death of a joint and survivor beneficiary.

(15) [The effective date of] Any actuarial adjustment to a retirement allowance payment made because of the nomination of a successor beneficiary as provided in [House Bill 496 enacted by the 87th General Assembly] 169.141, RSMo, shall [be the next regular payment date following receipt in the retirement office of the] take effect in the month a properly completed nomination of successor beneficiary form is received by the Retirement System or the month of the retiree's marriage to the successor beneficiary, whichever occurs later. The nomination of a successor beneficiary shall be effective immediately upon receipt by the Retirement System of the properly completed nomination of successor beneficiary form or the date of the retiree's marriage to the successor beneficiary, whichever occurs later.

(18) If the designated joint and survivor beneficiary of a retiree who elected Option 2, 3, or 4 dies before the retired member, the retired member's retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected Option 1. The increase in retirement allowance shall be effective the month of the beneficiary's death.

AUTHORITY: section 169.020, RSMo Supp. [2010] 2011. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

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 Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. 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 Public Education Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.045 Payment for Reinstatement and Credit Purchases. The Retirement System is amending the title of the rule and section (7).

PURPOSE: This amendment deletes from the existing rule the option to complete payment for a purchase of Public School Retirement System credit after disability retirement.

(7) If a member dies before retirement or retires on service or disability retirement after having made partial payments but not payment in full to reinstate or purchase credit, the partial payments will be refunded to the member's beneficiary or the retiree if proportional credit is not allowable by law or by rule of the board of trustees. If proportional credit is allowable, the payments will be credited to the member's accumulated contributions and proportional credit will be allowed. If a member retires on disability retirement before completing payment for a reinstatement of credit [or for a purchase of Public School Retirement System of Missouri (PSRS) credit]

only, the balance due with interest shall be deducted from the disability retirement allowance as provided by law. **Only payments purchasing less than first one-one-hundred thousandth (0.00001) year of credit will be refunded.**

AUTHORITY: section 169.610, RSMo Supp. [2010] 2011. Original rule filed June 15, 1994, effective Nov. 30, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

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 Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. 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 Public Education Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.060 Service Retirement. The Retirement System is amending section (8) and adding a new section to be numbered section (14).

PURPOSE: This amendment clarifies and expands on the existing rule that sets forth the procedure for naming successor beneficiaries and clarifies the effective date of a retirement allowance increase due to a member following the death of a joint and survivor beneficiary.

(8) [The effective date of] **Any actuarial adjustment** to a retirement allowance payment made because of the nomination of a successor beneficiary as provided in [House Bill 496 enacted by the 87th General Assembly] **169.715, RSMo**, shall [be the next regular payment date following receipt in the retirement office of the] **take effect in the month** a properly completed nomination of successor beneficiary form [(see 16 CSR 10-5.010)] is received by the Retirement System or the month of the retiree's marriage to the successor beneficiary, whichever occurs later. **The nomination of a successor beneficiary shall be effective immediately upon receipt by the Retirement System of the properly completed nomination of successor beneficiary form or the date of the retiree's marriage to the successor beneficiary, whichever occurs later.**

(14) **If the designated joint and survivor beneficiary of a retiree who elected Option 2, 3, or 4 dies before the retired member, the retired member's retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected Option 1. The increase in retirement allowance shall be effective the month of the beneficiary's death.**

AUTHORITY: section 169.610, RSMo Supp. [2009] 2011. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening his-

tory, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

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 Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. 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 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2205—Missouri Board of Occupational Therapy

Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2205-1.050 Fees. The board is proposing to amend subsections (1)(D) and (1)(E).

PURPOSE: The Board of Occupational Therapy is statutorily obligated to enforce and administer the provisions of sections 324.050 to 324.089, RSMo. Pursuant to sections 324.065 and 324.074, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.050 to 324.089, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions. Therefore, the committee is proposing a one- (1-) time reduction of the biennial renewal fees.

(1) The Division of Professional Registration establishes the following fees which are nonrefundable:

(D) Biennial Occupational Therapist License Renewal Fee	\$55.00
1. Effective July 1, 2013, to June 30, 2015, for the 2013 renewal period	\$30.00
2. Effective July 1, 2015, beginning with the 2015 renewal period	\$55.00
(E) Biennial Occupational Therapy Assistant License Renewal Fee	\$30.00
1. Effective July 1, 2013, to June 30, 2015, for the 2013 renewal period	\$25.00
2. Effective July 1, 2015, beginning with the 2015 renewal period	\$30.00

AUTHORITY: section[s 324.065, 324.068, and] 324.074, RSMo 2000, and sections 324.065 and 324.068, RSMo Supp. 2011. This rule originally filed as 4 CSR 205-1.050. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. For intervening history, please consult the Code of State Regulations. Amended: Filed June 25, 2012.

PUBLIC COST: This proposed amendment will cost state agencies approximately fifty-six thousand dollars (\$56,000) in the aggregate. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately fifty-six thousand dollars (\$56,000) in the aggregate. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase 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 amendment with the Board of Occupational Therapy, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at ot@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 FISCAL NOTE

I. RULE NUMBER**Title 20 -Department of Insurance, Financial Institutions and Professional Registration****Division 2205 - Missouri Board of Occupational Therapy****Chapter 1 - General Rules****Proposed Amendment to 20 CSR 2205-1.050 Fees**

Prepared June 22, 2012 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT**Estimated Fiscal Impact**

Affected Agency or Political Subdivision	Estimated Revenue	
Missouri Board of Occupational Therapy		(56,000)
	Estimated Revenue for FY2013 Renewal Period	(56,000)

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings reflected in the Private Entity Fiscal Note filed with this amendment.
2. The board utilizes a rolling five year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five year analysis is based on the projected revenue, expenses, and number of licensees. Based on the board's recent five year analysis, the board voted on a one-time twenty-five dollar (\$25) reduction in the biennial occupational therapist license renewal fee and a one-time five dollar (\$5) reduction in the biennial occupational therapy assistant license renewal fee.

Note: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment, and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2205 - Missouri Board of Occupational Therapy
Chapter 1 - General Rules
Proposed Amendment to 20 CSR 2205-1.050 Fees
Prepared June 22, 2012 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

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:
2,100	Occupational Therapist (Renewal Fee Decrease @ \$25)	\$52,500
700	Occupational Therapy Assistant (Renewal Fee Decrease @ \$5)	\$3,500
	Estimated Savings for FY2013 Renewal Period	\$56,000

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY09-FY11 actuals.

Note: The board is statutorily obligated to enforce and administer the provisions of sections 324.050 to 324.089, RSMo. Pursuant to section 324.065, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.050 to 324.089, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.050 to 324.089, RSMo.