

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 80—*[Urban and Teacher Education]* Teacher Quality and Urban Education

Chapter 850—Professional Development

PROPOSED RULE

5 CSR 80-850.025 Missouri Critical Teacher Shortage Forgivable Loan Program

PURPOSE: Section 168.600, RSMo, establishes a critical teacher shortage forgivable loan program. Upper division undergraduate or graduate level students enrolled full-time in approved teacher education programs leading to teacher certification would be eligible to apply for this program. This program would provide forgivable

loans of up to four thousand dollars (\$4,000) for undergraduate students and eight thousand dollars (\$8,000) for graduate students who declared an intent to teach in Missouri public elementary and secondary schools in critical teacher shortage areas. The General Assembly makes an annual appropriation for the purpose of funding this program. This rule sets forth requirements for the implementation of this program.

(1) The Missouri critical teacher shortage forgivable loan program contains the following:

(A) For the purpose of this rule, unless the context clearly requires otherwise, critical teacher shortage area shall mean:

1. Certification areas identified annually by the statistical analysis conducted by the Division of Teacher Quality and Urban Education, Department of Elementary and Secondary Education (DESE) and submitted to the U.S. Department of Education as critical teacher shortage areas; and/or

2. School buildings that serve low income families (one-third (1/3) or more of the students qualify for free and reduced price meals);

(B) An undergraduate forgivable loan may be awarded annually for two (2) undergraduate years and shall not exceed four thousand dollars (\$4,000) per year, or for a maximum of three (3) years for programs requiring a fifth year of instruction to obtain initial teaching certification; and

(C) A graduate forgivable loan may be awarded annually for two (2) graduate years and shall not exceed eight thousand dollars (\$8,000) per year.

(2) Eligible candidates are residents of Missouri and will be chosen on a first come first served basis with preference given to applicants who declare an intent to teach in both an identified certification area and school building that serves low income families and who meet the following requirements:

(A) Are upper division undergraduate or graduate students attending full-time a Missouri higher education institution with a DESE approved teacher education program;

(B) Participate in a program of study leading to issuance of a certificate of license to teach;

(C) Has declared an intent to teach for at least the number of years for which a forgivable loan is received in Missouri public elementary and/or secondary schools of Missouri in a critical teacher shortage area;

(D) Have maintained a minimum cumulative grade point average of 2.5 on a 4.0 scale for all undergraduate work (undergraduate students) or have maintained a minimum grade point average of 3.0 on a 4.0 scale for all graduate work (graduate students); and

(E) Agree to notify DESE annually on October 1 in the format and on the schedule prescribed by DESE, of his/her current status as a student during years of college attendance and as a teacher following receipt of a certificate of license to teach.

(3) Applications must be postmarked by May 1 on a form provided by DESE:

(A) Applications will contain the following:

1. Applicant's name and residential address;

2. Applicant's date of birth and Social Security number;

3. Name of the college or university attending;

4. Certification area being pursued; and

5. Declaration of intent to teach in a critical teacher shortage area.

(4) Following notification that the applicant has been selected to receive a loan, an applicant shall respond to DESE to accept or decline the loan no later than July 1. The loans shall be dispersed as follows:

(A) After the recipient has completed registration procedures at the college or university and is ready to attend class at the beginning of the first and second semester of the fiscal year, the financial aid officer or scholarship awards officer shall give the recipient a check from the state in an amount not to exceed two thousand dollars (\$2,000) for undergraduate or four thousand dollars (\$4,000) for graduate students made payable to the recipient. The exact number of loans will be based upon legislative appropriation and the number of eligible applicants;

(B) At the beginning of the first and second semesters after the recipient has completed all enrollment requirements, is ready to attend class, and when the check from the state is delivered to the student, the recipient shall sign a promissory note which obligates the student to fulfill the commitment to be made by the recipient, with the provision that funds received shall be repaid according to the terms of this rule if the student defaults on the commitments; and

(C) The state board of education may set aside fifteen percent (15%) of the loans for awards to qualified minority recipients.

(5) Participating colleges or universities must:

(A) Be located in Missouri;

(B) Offer a teacher education program approved by DESE;

(C) Report immediately to DESE the name of any enrolled recipient who ceases study leading to teacher certification; and

(D) Agree to serve as agent for the state in obtaining notarized signatures of recipients on promissory notes, which will be sent by DESE to the designated college official along with the loan checks. The college or university agrees to return the signed and notarized promissory notes to DESE.

(6) Repayment.

(A) Credit for repayment of a forgivable loan shall be in the amount of two thousand dollars (\$2,000) in loan principal plus applicable accrued interest for each full year of teaching in a critical teacher shortage area as defined in paragraph (1)(A)1. or 2. of this rule. However, credit in the amount of four thousand dollars (\$4,000) in loan principal plus applicable accrued interest for each full year of teaching in a critical teacher shortage area as defined in paragraphs (1)(A) 1. and 2. of this rule.

(B) Any loan recipient who fails to complete initial certification requirements, fails to obtain a certificate of license to teach in a critical teacher area or fails to teach in a Missouri public elementary or secondary school in a critical teacher shortage area shall repay the loan plus interest accruing at eight percent (8%) annually. In order to provide for the servicing of such loans, DESE may sell such loans to the Missouri Higher Education Loan Authority pursuant to state law and regulations.

AUTHORITY: sections 161.092 and 168.600, RSMo 2000. Original rule filed June 28, 2001.

PUBLIC COST: This proposed rule is estimated to cost the Department of Elementary and Secondary Education five hundred thousand dollars (\$500,000) for the Fiscal Year 2002, with that cost reoccurring annually over the life of the rule subject to legislative appropriations. A fiscal note, estimating the cost of compliance follows this rule.

PRIVATE COST: This proposed rule is not estimated to 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 Elementary and Secondary Education, Attention: Dr. Celeste Ferguson, Assistant Commissioner, Division of Teacher Quality and Urban Education, PO Box 480, Jefferson

City, MO 65102-0480. 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. RULE NUMBER

Title: 5-Department of Elementary and Secondary Education
Division: 80-Division of Teacher Quality and Urban Education
Chapter: 850-Professional Development
Type of Rulemaking: Proposed Rule
Rule Number and Name: 5 CSR 80-850.025 Missouri Critical Teacher Shortage Forgivable Loan Program

II. SUMMARY OF FISCAL IMPACT

The current public cost of this rule for the Department of Elementary and Secondary Education is estimated to be \$500,000 for Fiscal Year 2002, with the cost reoccurring annually for the life of the rule based upon yearly appropriations from the General Assembly.

Affected Agency or Political Subdivision	Estimated cost of Compliance in the Aggregate
Department of Elementary and Secondary Education	\$500,000 amount for FY2002 with this cost reoccurring annually for the life of the rule based upon yearly appropriations from the General Assembly.

III. WORKSHEET

DESE estimates that 100 prospective teachers can be served by this rule using an amount of \$4,000 per prospective teacher and reserving 25 grants for the following year.

IV. ASSUMPTIONS

The Missouri Critical Teacher Shortage Forgivable Loan Program would provide loans for prospective teachers. One hundred (100) education students can apply for and receive up to \$4,000 each year subject to appropriation by the legislature.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 7—Personal Care Assistance Program**

PROPOSED AMENDMENT

5 CSR 90-7.010 *[Personal Care Assistance] Definitions.* The board is amending the title, Purpose, section (1) and deleting sections (2)—(11).

PURPOSE: This amendment is needed to reorganize the rule and implement program changes.

PURPOSE: This rule establishes the standards and procedures for the provision of state-funded participant-directed personal care assistance services to eligible clients subject to legislative appropriations through eligible vendors under guidelines established by the Division of Vocational Rehabilitation. [Section 178.662, RSMo states—“Subject to appropriations, the division shall provide financial assistance for participant-directed personal care assistance services through eligible vendors to each person selected to participate in the program under guidelines established by the division...”]

(1) Definitions. As used in this rule, except as otherwise required for the context, the following terms shall have the meanings ascribed:

(B) **Client/consumer.** A physically disabled person determined by the *[d/Division of Vocational Rehabilitation (DVR)]* to be eligible to receive personal care assistance (PCA) services;

(C) **Counselor.** An employee of *[the division] DVR* responsible for determining eligibility for *[personal care assistance] PCA* services and for developing and implementing a *[personal care assistance] PCA* services plan (**plan of care**);

[(D) Divisions. The Division of Vocational Rehabilitation of the Department of Elementary and Secondary Education;]

[(E)] (D) Employment. A minimum of sixteen (16) hours per week for which an individual receives remuneration;

[(F)] (E) Live independently. To reside and perform routine tasks **of daily living and activities in the community** in a non-institutional or unsupervised residential setting;

[(G)] (F) Participant-directed. Hiring, training, supervising and directing of the personal care attendant by the physically disabled person;

[(H)] (G) Personal care assistant services. Those services required by a physically disabled person to enable him/her to perform those routine tasks **and activities of daily living** necessary to enter and maintain employment or to live independently;

[(I)] (H) Personal care attendant. A person who performs *[personal care assistance] PCA* tasks for a physically disabled person;

[(J)] (I) Physically disabled. Loss of, or loss *[of]* use of, all or part of the neurological, muscular or skeletal functions of the body to the extent that person requires the assistance of another person to accomplish routine tasks;

[(K)] (J) Routine tasks. Routine tasks **and instrumental activities of daily living** include, but are not limited to, the following:

1. Bowel and bladder elimination;
2. Dressing and undressing;
3. Moving into and out of bed;
4. Preparation and consumption of food and drink;
5. Bathing and grooming;
6. **Shopping/transportation;**

[6.] 7. Maintenance and [U]use of prostheses, aids, equipment and other similar devices; and/or

[7.] 8. Ambulation or other functions of daily living based on an independent living philosophy as specified in state law and regulation; [and]

[(L)] (K) Vendor. Any person, firm or corporation certified by *[the division] DVR* as eligible to provide evaluation, training, and administrative services to physically disabled persons. For purposes of this rule, the term “provider” is used synonymously with the term “vendor.”;

(L) **Unmet need.** Unmet needs are those routine tasks and activities of daily living as allowable by Medicaid but not adequately met by current support systems without causing undue hardships to the client/consumer and/or caregiver;

(M) **Undue hardship.** An undue hardship is the result of a significantly difficult circumstance experienced by the caregiver who is currently meeting the needs of the person with a disability that creates a situation of burden, risk or harm to the caregiver or client/consumer. Undue hardship includes, but is not limited to, the following:

1. Loss of income;
2. Overall disintegration of the family;
3. Abuse and neglect;
4. Misuse of child labor;
5. Inadequacy of training; and/or
6. Physically contraindicated;

(N) **Non-Medicaid eligible (NME) program.** The NME program provides PCA services through state funding sources for the NME clients/consumers and serves clients/consumers with physical disabilities who are “employed or ready for employment” to maintain or seek such employment or “live independently”; and/or

(O) **Medicaid state plan (MSP) program.** The MSP program provides PCA services, through a combination of federal and state funding sources, for the Medicaid-eligible client/consumers with physical disabilities who are “employed or ready for employment” to maintain or seek such employment or “live independently.”

[(2) Persons Eligible for Personal Care Assistance. Criteria for eligibility will include:

(A) All persons determined to be eligible for personal care assistance shall meet the criteria defined in 178.662, RSMo;

(B) Persons eligible for Medicaid personal assistance services shall meet the eligibility criteria of 178.662, RSMo and Title XIX of the Social Security Act;

(C) In instances of disagreement about eligibility or services, a hearing shall be afforded the client in accordance with 178.671, RSMo if requested; and

(D) Persons eligible for Title XIX benefits who do not meet the criteria for personal care assistance as defined in 178.662, RSMo shall be referred to the Division of Aging to determine eligibility for personal care services as defined in 13 CSR 70-91.010.

(3) Evaluation. Evaluation will be used to—

(A) Conduct an assessment of the applicant’s qualifications to participate in the program; and

(B) Annually reevaluate each eligible person’s need for continued attendant care.

(4) Assessment Team. The provider’s assessment team must consist of an independent living specialist, rehabilitation counselor, a person from physical therapy, occupational therapy, or a registered nurse. The independent living specialist, physical therapist, occupational therapist, and registered nurse shall be qualified as follows:

(A) Independent Living Specialist—

1. Shall understand basic principles of case management;

2. Shall have previous experience in an independent living program or a related field (that is, case services, peer counseling, etc.);

3. Shall have the ability to communicate effectively; and

4. Shall have skills in training others to live independently;

(B) *Physical Therapist*: Shall be licensed as a physical therapist in accordance with Chapter 334, RSMo who is certified by the American Physical Therapy Association;

(C) *Occupational Therapist*: Shall be licensed as an occupational therapist, registered, in accordance with Chapter 334, RSMo who is certified by the American Occupational Therapy Association; and

(D) *Registered Nurse*: Shall be licensed as a registered nurse in the state of Missouri in accordance with Chapter 335, RSMo.

(5) *The Personal Care Assistance Plan* developed by the assessment team will be available for review by the client's physician.

(6) *Personal Care Assistance Plan*. The personal care assistance plan shall include, but not be limited to, the following:

(A) The maximum number of hours of personal care assistance services to be provided;

(B) The maximum amount of financial assistance to be provided by the division for personal care assistance services;

(C) The starting date for personal care assistance services; and

(D) The date for reevaluation of the personal care assistance services.

(7) *Criteria for Providers*. Providers of personal care assistance shall meet the following:

(A) The provider of personal care assistance services to clients who are Medicaid eligible must have a valid participation agreement with the state Medicaid agency, and must have a contract with Vocational Rehabilitation.

(B) The term "provider" as used in this rule shall be construed the same as "vendor" in section 178.669, RSMo. In addition to the provisions of section 178.669, RSMo the provider shall complete—

1. An Internal Revenue Service W-4 by the attendant;

2. A time sheet signed by the consumer and the attendant, and certified as accurate by the provider;

3. A United States Department of Justice, Immigration and Naturalization Service, I-9 form; and

4. The supplemental information required to accomplish processing.

(C) *Personal care assistance providers* shall be responsible for—

1. Training the clients in skills helpful to employ and maintain the services of attendants;

2. Assisting clients in the general orientation of attendants as requested by the clients;

3. Training and orientation of clients in skills needed to instruct and supervise attendants;

4. Instructing clients on preparation of time sheets;

5. Training clients in the recruitment and training of personal care attendants; and

6. Maintaining a list of personal care attendants available for selection by the client. The attendants must meet the following qualifications:

A. Be at least eighteen (18) years of age;

B. Meet the physical and mental demands required to perform specific tasks required by a particular client;

C. Agree to maintain client confidentiality;

D. Be emotionally mature and dependable;

E. Be able to handle emergency type situations; and

F. Not be client's spouse.

(8) *Accounting*. The division or the provider shall perform the payroll and fringe benefit accounting functions for the client. These functions include:

(A) Payment to the attendant for services provided;

(B) The withholding and payment of payroll deductions as required by statute or regulations; and

(C) The provision of a W-2 for the attendant at the end of the calendar year.

(9) *Responsibility of Clients*. Responsibilities of clients shall include, but not be limited to, the following:

(A) Selection, hiring, training and supervision of his/her personal care attendant;

(B) Preparation of time sheets, signed by both the client and personal care attendant, which shall be submitted to the provider on a biweekly basis;

(C) Prompt notification to the counselor of any changes in need for personal care assistance services, financial status or place of residence; and

(D) Prompt notification of provider regarding any problems resulting from the quality of services rendered by the personal care attendant.

(10) *Services*. Personal care assistance services shall be provided to accomplish routine tasks of daily living as described in the subsection (1)(L) of this rule.

(11) *Reimbursement*. The following rules will govern the fiscal responsibilities:

(A) The division shall set maximum fees to be paid for personal care assistance services;

(B) The total monthly payment for personal care assistance as defined in this rule made on behalf of an individual cannot exceed one hundred percent (100%) of the average statewide monthly cost for care in a nursing facility as defined in 13 CSR 70-10.010(4)(Q) (excluding intermediate care facility/mentally retarded (ICF/MRs));

(C) The average monthly cost to the state for care in a nursing facility, as defined in 13 CSR 70-10.010(4)(Q) (excluding ICF/MRs), will be established in the month of May of each state fiscal year by the Division of Medical Services, Department Social Services, which will become effective on July 1 of the following state fiscal year;

(D) One (1) hour of service equals one (1) unit; and

(E) Payment will be made on the lower of the established rate per service unit or the provider's billed charges.]

AUTHORITY: sections 161.092, 178.661 and 178.673, RSMo [1994] 2000. Original rule filed Jan. 10, 1985, effective May 13, 1985. Amended: Filed Aug. 1, 1988, effective Nov. 25, 1988. Emergency amendment filed Aug. 31, 1992, effective Sept. 10, 1992, expired Jan. 9, 1993. Amended: Filed Aug. 31, 1992, effective April 8, 1993. Amended: Filed May 31, 1994, effective Dec. 30, 1994. Amended: Filed Oct. 31, 1996, effective June 30, 1997. Amended: Filed June 28, 2001.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities less 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 Elementary and Secondary Education. Attention: Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 Dupont Circle, 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 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 7—Personal Care Assistance Program**

PROPOSED RULE

5 CSR 90-7.100 Eligibility

PURPOSE: This rule establishes the criteria and procedures for determining an applicant eligible to receive personal care assistance program services.

(1) Subject to legislative appropriations, the Division of Vocational Rehabilitation (DVR) shall provide financial assistance for the personal care assistance (PCA) program services through eligible providers to each client/consumer selected to participate and meeting the criteria:

(A) All clients/consumers must meet the following general criteria for eligibility under the PCA program:

1. Be at least eighteen (18) years of age;
2. Able to direct their own care (participant directed);
3. Employed, ready for employment, or capable of living independently with PCA; and
4. Physically disabled;

(B) In addition to the above general criteria, persons eligible for non-Medicaid eligible (NME) PCA services shall meet the following:

1. Document need for a minimum of seven (7) or maximum of forty-two (42) hours per week of PCA. If more than forty-two (42) hours per week are required, substantial documentation may be used to support a request for additional time;
2. Demonstrate financial need based upon the client/consumer adjusted gross income level of the most recent tax records less living expenses as approved by DVR and compared to three hundred percent (300%) of the U.S. Department of Health and Human Services poverty level for Missouri and the Consumer Price Index as updated on an annual basis; and
3. Participate in an evaluation conducted by the assessment team to assess the individual's qualifications to be eligible for PCA services:

A. The initial evaluation shall be conducted in the individual's home or current place of residence at the time of application. If the individual is in the process of relocation, the assessment shall be conducted at the new residence; and

(C) In addition to the above general criteria, persons eligible for Medicaid PCA services shall meet the following:

1. Document proof of Medicaid eligibility under Title XIX of the Social Security Act pursuant to federal/state laws and regulations; and
2. Participate in an assessment with the assessment team that utilizes a level of care evaluation tool that is approved by the state Medicaid agency and assigns a point value pursuant to federal/state laws and regulations.

A. The initial assessment shall be conducted in the individual's home or current place of residence at the time of application. If the individual is in the process of relocation, the assessment shall be conducted at the new residence.

(2) Individuals eligible for Medicaid under Title XIX of the Social Security Act who do not meet the above criteria for PCA shall be referred to the Division of Aging or other agencies as appropriate, to determine eligibility for PCA services pursuant to state laws and regulations.

(3) The assessment team must consist of an independent living specialist, rehabilitation counselor, and a medical professional from physical therapy, occupational therapy, or a registered nurse. Other team members may include additional service providers, including Division of Aging personnel. When a client/consumer is currently receiving PCA services from another agency and wishes to transfer PCA services to DVR, the other agency's case manager should be consulted for planning purposes:

(A) The independent living specialist will serve as a team member, consultant on independent living, and must be qualified as follows:

1. Understand basic principles of case management;
2. Possess previous experience in an independent living program or a related field (that is, case services, peer counseling, etc.);
3. Possess the ability to communicate effectively;
4. Possess skills in training others to live independently; and
5. Participate in assessment and evaluation training provided by DVR;

(B) The medical professional will be contracted by DVR, serve as team leader, conduct the assessment, and must be qualified as follows:

1. If a physical therapist, the individual shall possess a valid and unencumbered license as a registered physical therapist, in accordance with state law and regulation, and be approved as a contractor with DVR;
2. If an occupational therapist, the individual shall possess a valid and unencumbered license as a registered occupational therapist, in accordance with state law and regulation, and be approved as a contractor with DVR; or
3. If a registered nurse, the individual shall possess a valid and unencumbered license as a registered nurse in accordance with state law and regulation, and be approved as a contractor with DVR; and

(C) The rehabilitation counselor will serve as a team member, reviews and approves all assessments.

(4) The PCA services plan (plan of care) is based on the evaluation performed by the assessment team and determines the appropriateness and adequacy of services, ensures the services furnished are consistent with the nature and severity of the individual's disability. The plan of care will be available for review by the client's/consumer's physician:

(A) The evaluation and re-evaluation shall be conducted in the client's/consumer's home or place of residence and include, but not be limited to, the following:

1. The functions of daily living;
2. The frequency and duration of the routine task or activity required to live independently; and
3. A description of met and/or unmet need;

(B) The NME plan of care shall include, but not be limited to, the following:

1. The maximum number of hours of PCA to be provided;
2. The maximum amount of financial assistance to be provided by DVR for PCA services;
3. The date of evaluation, initiation of, and re-evaluation of the PCA services; and

4. Signatures of the client/consumer, rehabilitation counselor, and provider; and

(C) The Medicaid PCA services plan of care, subject to DVR's approval, shall include, but not be limited to, the following:

1. The maximum number of hours of PCA to be provided based on a client's/consumer's unmet need;

2. The description and frequency of services provided as documented on the assessment and evaluation;

3. The type of provider who will furnish each service;

4. The starting date for PCA services;

5. The date for reevaluation of PCA services;

6. Consent signatures by the client/consumer and assessment team members and the approval signature by DVR; and

7. If a client/consumer is receiving services or transferring from another service provider or agency, the provider is responsible for collaborating and coordinating services through the plan of care.

(5) The individual shall be notified by the provider of DVR decision within thirty (30) days of the date of application for eligibility for PCA services.

(6) PCA services are participant directed and the client/consumer shall be responsible, at a minimum, for the following:

(A) Selection, hiring, training, and supervision of the client's/consumer's PCA attendant;

(B) Preparation of biweekly time sheets, signed by both the client/consumer and PCA which shall be submitted to the provider in a timely manner;

(C) Prompt notification to DVR of any changes in need for PCA services, that affect the amount of PCA received, financial status, and/or place of residence;

(D) Prompt notification of the provider regarding any problems resulting from the quality of services rendered by the PCA attendant; and

(E) Ensure that hours submitted for reimbursement do not exceed the amounts authorized by the plan of care.

(7) The client/consumer shall be reassessed and/or re-evaluated for Medicaid eligibility, at least annually, for continued need of PCA services including financial need.

(8) A client's/consumer's PCA services may be discontinued by a provider in certain circumstances:

(A) The provider may request discontinuation of PCA services in the following situations:

1. If the provider learns of circumstances that require the closure of a client's/consumer's case, including but not limited to, death, entry into a nursing home, no longer needing service, and/or the inability to participant direct PCA service;

2. If the client/consumer has falsified records or committed fraud;

3. If the client/consumer is noncompliant with the plan of care. Noncompliance requires persistent actions by the client/consumer or family/representative which negate the services provided in the plan of care;

4. If the client/consumer or client's/consumer's family/representative threatens and/or abuses the PCA attendant and/or provider to the point where the staff's welfare is in jeopardy and corrective action has failed; and/or

5. If a provider is unable to continue to meet the maintenance needs of a client/consumer whose plan of care hours exceed availability;

(B) The provider shall confer with DVR, the client/consumer and/or their representative prior to requesting termination of PCA services in writing. This may include discussion of alternatives, including but not limited to, a transfer to another agency, institutional placement, or other appropriate care;

(C) Prior to termination of PCA services, the provider must notify DVR and client/consumer, in writing, listing the specific reasons, and requesting discontinuation of services; and

(D) The client/consumer may request under the rules promulgated by the State Board of Education, informal review and/or a hearing. The provider shall not suspend, reduce or terminate services provided to a client/consumer during this time period, unless the client/consumer or their representative requests in writing that services be suspended, reduced or terminated.

AUTHORITY: sections 161.092, 178.662, 178.666 and 178.673, RSMo 2000. Original rule filed June 28, 2001.

PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$28,779,905 in Fiscal Year 2001, with the cost reoccurring annually thereafter over the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed rule is estimated to cost private entities less 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 Elementary and Secondary Education. Attention: Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 Dupont Circle, 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.

FISCAL NOTE
PUBLIC COST**I. RULE NUMBER**

Title: 5 – Department of Elementary and Secondary Education
 Division: 90 – Division of Vocational Rehabilitation
 Chapter: 7 – Personal Care Assistance Program
 Type of Rulemaking: Proposed Rule
 Rule Number and Name: 5 CSR 90-7.100 Eligibility

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education	\$28,779,905 per year for the life of the rule

III. WORKSHEET

Estimated cost of the Non-Medicaid Eligible and Medicaid State Plan programs for the state fiscal year 2001 is \$28,779,905. This cost was based on an estimate of 1,870 consumers utilizing 93% of the average hours authorized at the salary/fringe benefits portion of the hourly unit rate.

IV. ASSUMPTIONS

1,715 consumers as of May 31, 2001 + 155 consumers projected to be approved for June 2001
 = 1,870 consumers (Non-Medicaid Eligible and Medicaid State Plan Programs)

1,870 consumers* 5.1 hours/day*365 days*93%*\$8.89 salary/fringe benefits portion of unit rate
 = \$28,779,905

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 7—Personal Care Assistance Program**

PROPOSED RULE

5 CSR 90-7.200 Providers

PURPOSE: This rule establishes the criteria and procedures for certifying a provider eligible to provide personal care assistance program services and the responsibilities of the certified provider.

(1) Providers of personal care assistance (PCA) must be certified by the Division of Vocational Rehabilitation (DVR). To be certified, the provider shall meet the following criteria:

(A) Be a community-based, not-for-profit corporation pursuant to state laws and regulations, in existence for twenty-four (24) consecutive months, with the following:

1. At least fifty-one percent (51%) of the board membership must be persons with disabilities;
2. At least fifty-one percent (51%) of the staff of the corporation must be persons with disabilities;
3. Must manifest and promote an independent living philosophy in accordance with state law and regulation;
4. Demonstrate sound fiscal management through the submission of quarterly financial reports and annual audit to DVR;
5. Have available for clients/consumers, at a minimum, the following independent living services:
 - A. Advocacy;
 - B. Independent living skills training;
 - C. Peer counseling; and
 - D. Information and referral;
6. Meet or exceed program standards for approval by the Commission on Accreditation of Rehabilitation Facilities (CARF) or a certification process accepted by DVR; and
7. Demonstrate a positive impact on consumer outcomes regarding the provision of these services through the submission of quarterly service reports and an annual service report to DVR;

(B) Demonstrate to DVR that the community-based, not-for-profit corporation shall provide, either directly or through contract, the following:

1. Assessment and evaluation of the extent of a client's/consumer's need for PCA;
2. Orientation and training of clients/consumers concerning the recruitment, training and supervision of personal care attendants including but not limited to the preparation of time sheets;
3. Maintain a list of persons interested in being personal care attendants; and
4. Processing of clients/consumers and/or personal care attendants inquiries and/or problems; and

(C) The provider of PCA services to clients/consumers who are Medicaid eligible must have a valid participation agreement with Medicaid pursuant to state laws and regulations.

(2) DVR will monitor the certified PCA providers' responsibilities. In addition, DVR will administer the following fiscal services:

- (A) Mail the individual payment directly to the employee;
- (B) DVR shall set maximum fees to be paid for PCA services;
- (C) The total monthly payment for PCA services made on behalf of client/consumer cannot exceed one hundred percent (100%) of the average statewide monthly cost for care in a nursing facility as defined in state laws and regulations (excluding intermediate care facility/mentally retarded);
- (D) One (1) hour of PCA service equals one (1) unit; and
- (E) DVR's payment will be made on the lower of the established rate per service unit or the provider's billed charges.

(3) Certified PCA providers shall be responsible for the following:

(A) Training and orientation of clients/consumers in skills needed to recruit, employ, instruct, supervise and maintain the services of attendants including but not limited to the preparation of time sheets;

(B) Assisting clients/consumers in the general orientation of attendants as requested by clients/consumers;

(C) Maintaining a list of personal care attendants available for selection by the client/consumer. The attendants are employees of the client/consumer only for the time period subsidized with PCA funds, but are never employees of DVR or the state of Missouri. The attendants must meet the following qualifications:

1. Be at least eighteen (18) years of age;
2. Meet the physical and mental demands required to perform specific tasks required by a particular client/consumer;
3. Agree to maintain confidentiality;
4. Be emotionally mature and dependable;
5. Be able to handle emergency type situations; and
6. Not be the client's spouse;

(D) Public information, outreach and education activities to ensure that persons with disabilities are informed of the services available and have maximum opportunity for participation;

(E) Coordination with other PCA providers in developing the plan of care to assure comprehensive delivery of services and reduce duplication;

(F) Assuring that federal funds shall not be used to replace funds from nonfederal sources and that the provider shall continue or initiate efforts to obtain support from private sources or other public organizations;

(G) Operation of programs, services, and/or activities in such a manner as to be readily accessible to and usable by persons with disabilities;

(H) Assurance of compliance with Title VI of the Civil Rights Act of 1964, Section 504, The Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975;

(I) Maintain confidentiality of client/consumer records and eligibility information from DVR;

(J) Conduct assessments and re-evaluations for determining eligibility and the need for continued attendant care;

(K) Document that a valid written plan of care was developed by the assessment team and/or qualified individuals for each client/consumer prior to the provision of PCA services;

(L) Perform case management activities at least monthly, to provide ongoing monitoring of the provision of services in the plan of care and other services as needed to live independently;

(M) Ensure that the client's/consumer's case file contains at a minimum, the following:

1. Written plan of care that documents the type of services and quantity of units to be provided;
2. The client's/consumer's service time sheets contain the following information:
 - A. Attendant's name;
 - B. Client's/consumer's name;
 - C. Dates of service delivery;
 - D. Time spent;
 - E. Types of activities performed on each date;
 - F. Attendant's signature each day; and
 - G. Client's/consumer's verifying signature;
3. Copies of all correspondence with DVR, the client's/consumer's physician or other service providers, including but not limited to other administrative agencies;
4. Signed documentation that indicates the client/consumer has been informed of their rights concerning background checks, advanced directives, hearings and participant responsibilities;
5. Documentation of training provided to client/consumer;
6. For clients/consumers eligible for services under Title XIX of the Social Security Act, the assessment shall be available for

review by a physician possessing a valid license pursuant to state laws and regulations;

7. Evaluations and/or assessments;

8. Annual financial documentation for the non-Medicaid eligible (NME) program to include the financial application or documentation of Medicaid eligibility for the Medicaid state plan program; and

9. Any pertinent documentation regarding the client/consumer;

(N) Perform duties necessary to coordinate accounting processing requirements, including the following but not limited to:

1. Accumulate time sheets, certify accuracy and forward a copy to DVR for processing;

2. File original time sheet in client's/consumer's case file;

3. Maintain required client/consumer payroll information on a computer system compatible with DVR's PCA computer system;

4. Monitor utilization of hours by the client/consumer at least monthly;

5. Be responsible for any federal and/or state funds for attendant services that are deferred or ultimately disallowed arising from a failure to comply with a federal and/or state requirement; and

6. Provide as requested by DVR, the information necessary to conduct state or federal audits or both;

(O) Ensure that a copy of the plan of care, assessment, and evaluation are in the client's/consumer's home and accessible to all attendants at all times;

(P) Submit quarterly financial reports to DVR one (1) day after the end of the quarter or as soon as practicable thereafter, but no later than fifteen (15) days after the end of the quarter. Quarterly service reports will be submitted to DVR thirty (30) days after the end of the quarter. If required reports are not submitted on a timely basis, future funding will be withheld by DVR until the provider submits the required documentation;

(Q) Maintain PCA financial records separately from any other financial records and make all client/consumer and PCA financial records, documents, reports and data available to DVR; and

(R) Submit an annual audit by a properly licensed independent practitioner (certified public accountant licensed in the state of Missouri) in accordance with all applicable federal and state laws and regulations. The audit report must be submitted to DVR within ninety (90) days after the end of the provider's fiscal year.

(4) Providers not meeting the above-stated responsibilities may have their funds and/or certification as a PCA provider suspended or terminated by DVR.

AUTHORITY: sections 161.092, 178.662, 178.664, 178.666, 178.669 and 178.673, RSMo 2000. Original rule filed June 28, 2001.

PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$10,650,831 in Fiscal Year 2001, with the cost reoccurring annually thereafter over the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed rule is estimated to cost private entities less 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 Elementary and Secondary Education. Attention: Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 Dupont Circle, 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.

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Title: 5 – Department of Elementary and Secondary Education
Division: 90 – Division of Vocational Rehabilitation
Chapter: 7 – Personal Care Assistance Program
Type of Rulemaking: Proposed Rule
Rule Number and Name: 5 CSR 90-7.200 Providers

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education	\$10,650,831 per year for the life of the rule

III. WORKSHEET

Estimated cost of the Non-Medicaid Eligible and Medicaid State Plan programs for the state fiscal year 2001 is \$10,650,831. This cost was based on an estimate of 1,870 consumers utilizing 93% of the average hours authorized per the administrative portion of the hourly unit rate.

IV. ASSUMPTIONS

1,715 actual consumers as of May 31, 2001 + 155 consumers projected to be approved for June 2001 = 1,870 consumers (Non-Medicaid Eligible and Medicaid State Plan Programs)

1,870 consumers* 5.1 hours/day*365 days*93%*\$3.29 administrative portion of unit rate = \$10,650,831

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 7—Personal Care Assistance Program**

PROPOSED RULE

5 CSR 90-7.300 Appeals

PURPOSE: This rule establishes procedures for appeal by an applicant or client/consumer dissatisfied with a determination made regarding the provision of services by the Division of Vocational Rehabilitation.

(1) When an applicant or client/consumer is determined ineligible for services or when a dispute arises concerning the provision of services, after preparation of the personal care assistance program services plan (plan of care), the applicant or client/consumer may request under the rules promulgated by the State Board of Education, informal review and/or a hearing.

(2) When a non-Medicaid eligible (NME) applicant or client/consumer is denied financial assistance or financial assistance is set below what the client/consumer believes is necessary, the NME applicant or client/consumer may request under the rules promulgated by the State Board of Education, informal review and/or a hearing.

(3) Division of Vocational Rehabilitation will not suspend, reduce, or terminate services provided to a client/consumer under an existing plan of care pending a decision from informal review or a hearing, unless the client/consumer or their representative requests in writing that services be suspended, reduced or terminated.

AUTHORITY: sections 161.092, 178.671 and 178.673, RSMo 2000. Original rule filed June 28, 2001.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost private entities less 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 Elementary and Secondary Education. Attention: Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 Dupont Circle, 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 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 7—Personal Care Assistance Program**

PROPOSED RULE

5 CSR 90-7.310 Informal Review

PURPOSE: This rule establishes the procedures for informal review of a decision made by the Division of Vocational Rehabilitation.

(1) The applicant or client/consumer may request informal review in writing to the assistant director of personal care assistance program (PCA).

(2) The assistant director of PCA will conduct an informal review within twenty (20) working days from receipt of the applicant's or client's/consumer's request.

(3) An applicant or client/consumer client may request a hearing without informal review.

(4) If the informal review is not successful, a hearing will be conducted within forty-five (45) days from the applicant or client's/consumer's written request for informal review unless both parties agree to a specified time extension.

(5) The applicant or client/consumer will be informed of the results of their informal review in writing and the right to a hearing.

AUTHORITY: sections 161.092, 178.671 and 178.673, RSMo 2000. Original rule filed June 28, 2001.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost private entities less 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 Elementary and Secondary Education. Attention: Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 Dupont Circle, 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 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 90—Vocational Rehabilitation
Chapter 7—Personal Care Assistance Program**

PROPOSED RULE

5 CSR 90-7.320 Hearings

PURPOSE: This rule establishes the procedures for hearings for applicants or clients/consumers dissatisfied with a determination made regarding the provision of services by the Division of Vocational Rehabilitation.

(1) An applicant or client/consumer may request a hearing without informal review.

(2) An applicant or client/consumer may request a hearing in writing by contacting the assistant commissioner, Division of Vocational Rehabilitation (DVR) within thirty (30) days of denial of eligibility, denial of financial assistance, the determination of financial assistance, discontinuation of services, or the signing of the plan of care.

(3) A hearing will be held by the assistant commissioner, or his/her designee (hearing officer), within forty-five (45) days of the request unless a party requests a specified time extension.

(4) The applicant or client/consumer, or if appropriate, the individual's representative will be allowed an opportunity to present additional evidence, information and witnesses during the hearing.

(5) Copies of all correspondence, reports of contact and written decisions rendered by the hearing officer shall be placed in the applicant's or client's/consumer's case file at the center for independent living.

(6) The hearing officer will make a decision based upon the provisions of the approved state plan, the federal act and/or applicable regulations, and appropriate state laws and/or regulations. A written report will be submitted to the applicant or client/consumer, or if appropriate, the individual's representative, the case file and to the assistant commissioner within a timely manner.

AUTHORITY: sections 161.092, 178.671 and 178.673, RSMo 2000. Original rule filed June 28, 2001.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost private entities less 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 Elementary and Secondary Education. Attention: Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 Dupont Circle, 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 15—Division of Aging
Chapter 9—Certification**

PROPOSED AMENDMENT

13 CSR 15-9.010 General Certification Requirements. The division proposes to amend sections (9) and (11).

PURPOSE: This amendment corrects errors made in sections (9) and (11) of this rule.

(9) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program elects to change the size of its distinct part, it must submit a written request to the Licensure/Certification Unit or the ICF/MR Unit of the division, as applicable. The request shall specify the room numbers involved, the number of beds in each room and the facility cost reporting year end date. The request must include a floor diagram of the facility and a signed DA-113 form, Bed Classification for Licensure and Certification by Category. A facility is allowed two (2) changes in the size of its distinct part during the facility *[fiscal]* cost reporting year. This may be two (2) increases or one (1) increase and one (1) decrease. It may not be two (2) decreases. The first change can be done only at the beginning of the *[fiscal]* facility cost reporting year and the second change can be done effective at the beginning of a *[calendar]* facility cost reporting quarter within that *[fiscal]* facility cost reporting year. All requests must be submitted to the Licensure/Certification Unit or the ICF/MR Unit of the division at least forty-five (45) days in advance. Any facility wishing to eliminate its distinct part to go to full certification may do so effective at the beginning of the next *[fiscal]* facility cost reporting year with forty-five (45) days

notice. The distinct part may be reestablished only at the beginning of the next *[fiscal]* facility cost reporting year. A facility may change the location of the distinct part with thirty (30) days notice to the Licensure/Certification Unit or the ICF/MR Unit of the division.

(11) If it is determined by the division that a facility certified to participate in Medicaid or Medicare does not comply with federal regulations at the time of a federal survey, complaint investigation or state licensure inspection, the division shall take enforcement action using the regulations and procedures contained in the following sources:

(A) 42 CFR chapter IV, part 431, subparts D, E and F;

(B) 42 CFR chapter IV, part 442;

[(C)] 42 CFR chapter IV, subparts E and F;

[(D)](C) Sections 1819(h) and 1919(h) of the Social Security Act;

[(E)](D) 42 U.S.C. 1396(r);

[(F)] The State Operations Manual (SOM) (HCFA Publication 7);

[(G)] Survey and Certification Regional Letters;

[(H)](E) Sections 198.026 and 198.067, RSMo; and

[(I)](F) 13 CSR 70-10.015 and 13 CSR 70-10.030.

AUTHORITY: sections 208.151 and 536.021, RSMo 2000. Emergency rule filed Sept. 18, 1990, effective Oct. 1, 1990, expired Jan. 25, 1991. Original rule filed Nov. 2, 1990, effective June 10, 1991. Amended: Filed June 3, 1993, effective Dec. 9, 1993. Amended: Filed Feb. 1, 1995, effective Sept. 30, 1995. Amended: Filed May 11, 1998, effective Nov. 30, 1998. Amended: Filed Nov. 20, 2000, effective July 30, 2001. Emergency amendment filed July 13, 2001, effective July 30, 2001, expires Feb. 28, 2002. Amended: Filed July 13, 2001.

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 Director, Division of Aging, PO Box 1337, Jefferson City, MO 65102-1337. 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 70—Division of Medical Services
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.150 Enhancement Pools. The division is amending subsections (1)(B) and (1)(C).

PURPOSE: This amendment changes the dates in order for the Division of Medical Services to implement the enhancement pool for State Fiscal Year 2002.

(1) Medicaid Enhancement Pools. Subject to federal approval, the Division of Medical Services shall administer two (2) enhancement payment pools to pay for services covered by the Missouri Medicaid program. The total payment from the pools shall not exceed the difference between the Medicare upper limit and the per-diem reimbursement for all Medicaid nursing facilities for services covered by the Missouri Medicaid program. The Medicaid

enhancement pool shall be calculated and distributed in the manner described below.

(B) All Medicaid enrolled nursing facilities may participate in distributions from the second enhancement payment pool, for State Fiscal Year *[2001] 2002*.

1. The distributions from the second pool shall be calculated as a percentage, to be determined by the Department of Social Services, of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid enrolled nursing facilities, for the period *[August 1, 2000] July 1, 2001*–June 30, *[2001] 2002*.

2. The second pool shall be distributed based on a quarterly amount, made in addition to per-diem payments, to all Medicaid enrolled nursing facilities, applicable to services provided in State Fiscal Year *[2001] 2002*, based on their pro-rata share of Medicaid days.

(C) The aggregate difference between the Medicare Upper Limit and the per-diem reimbursement for Medicaid nursing facilities will be calculated on an annual basis. The per-diem Medicaid rates used in the calculation will be those being paid at the time of the calculation and the Medicare Upper Limit will be based on the current RUGS system of Medicare nursing facility reimbursement with appropriate adjustments to assure comparability with the Medicaid rate. The difference will be calculated on a facility basis and multiplied by the reported Medicaid days at the particular nursing facility for the most recent cost report year. The product of all calculations will be added together to obtain the aggregate difference. Medicaid days will be determined from the paid day report from Missouri's fiscal agent for pay cycles during the State's Fiscal Year *[2000] 2001*.

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Nov. 3, 2000, effective Nov. 13, 2000, expired May 11, 2001. Original rule filed Nov. 13, 2000, effective May 30, 2001. Emergency amendment filed July 9, 2001, effective July 19, 2001, expires Feb. 28, 2002. Amended: Filed July 9, 2001.

PUBLIC COST: This proposed amendment is estimated to cost public entities or political subdivisions in SFY 2002 \$124,257,000 in the aggregate. A detailed fiscal note, which estimates the cost of the amendment, has been filed with the secretary of state.

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 Division of Medical Services, PO Box 6500, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 13 -- Department of Social Services

Division: 70 -- Division of Medical Services

Chapter: 10 -- Nursing Home Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-10.150

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services Division of Medical Services	\$124,257,000

III. WORKSHEET

IV. ASSUMPTIONS

The amount to be distributed to nursing facilities participating in the second enhancement pool distribution is estimated to cost \$124,257,000 in state fiscal year 2002. The amount was determined through the state appropriations process and includes a 3% withholding.

**Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and
Epidemiology
Chapter 3—General Sanitation**

PROPOSED RESCISSION

19 CSR 20-3.050 Sanitation of Tourist Courts, Cabins, and Resorts. This rule established sanitation and safety standards for commercial lodging facilities.

PURPOSE: This rule is being rescinded and replaced with an updated set of sanitation and safety standards for commercial lodging establishments.

AUTHORITY: sections 192.020 and 315.250, RSMo 1986. This rule was previously filed as 13 CSR 50-66.010. Original rule filed as Missouri Division of Health E 9.01 on Sept. 4, 1957, effective Sept. 14, 1957. Rescinded: Filed June 28, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Health, Division of Environmental Health and Communicable Disease Prevention, Pamela Rice Walker, Director, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and
Communicable Disease Prevention
Chapter 3—General Sanitation**

PROPOSED RULE

19 CSR 20-3.050 Sanitation and Safety Standards for Lodging Establishments

PURPOSE: This rule establishes sanitation and safety standards for lodging establishments that are defined in section 315.005(4), RSMo 2000.

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

(1) General.

(A) Definitions.

1. "Administrative authority" shall mean local or state health department representative, local codes administrator/fire marshal, state fire marshal or his/her representative.

2. "Air gap" is the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank or plumbing fixture and the flood-level rim of the receptacle.

3. "Approved" shall mean acceptable to administrative authority having jurisdiction.

4. "Domestic well" is a private water supply well that is constructed to meet minimum standards and is equipped with a pump that does not have the capacity to produce more than seventy (70) gallons of water per minute and services three (3) or less service connections. A multifamily well for the purposes of this rule shall be considered a domestic well.

5. "Exit" is the portion of a means of egress that is separated from all other spaces of the building or structure by construction or equipment required providing a protected way of travel to the exit discharge. Exits include exterior exit doors, exit passageways, horizontal exits, separated exit stairs, and separated exit ramps.

6. "Exit access" is the portion of a means of egress that leads to an exit.

7. "Exit discharge" is the portion of a means of egress between the termination of an exit and a public way.

8. "Fire barrier" is a structural element, either vertical or horizontal, such as a wall or floor assembly, that is designed and constructed with a specified fire resistance rating to limit the spread of fire and restrict the movement of smoke. Such barriers may have protected openings.

9. "Fire resistance rating" is the length of time, in minutes or hours, that materials or structural elements can withstand fire exposure.

10. "Flame resistant material" is the property of material or their structural elements that prevents or retards the passage of excessive heat, hot gases, or flames under conditions in which they are used.

11. "Flame retardant" is a chemical applied to material or other substance that is designed to retard ignition or the spread of fire.

12. "Guest suite" is an accommodation with two (2) or more contiguous rooms comprising a compartment with or without doors between such rooms providing living, sleeping, sanitary, and storage facilities.

13. "Guest room" is any room or unit where sleeping accommodations are regularly furnished to the public.

14. "Hazardous areas" are areas of structures or buildings posing a degree of hazard greater than normal to the general occupancy of a building or structure, such as areas used for the storage or use of combustibles or flammable, toxic, noxious, or corrosive materials, or heat-producing appliances.

15. "Means of egress" is a continuous and unobstructed way of travel from any point in a building or structure to a public way. A means of egress consists of three (3) distinct parts, the exit access, the exit, and the exit discharge.

16. "Multifamily well" is a private water supply well constructed for the purpose of serving more than three (3) dwellings, but having less than fifteen (15) service connections and serving less than twenty-five (25) individuals daily at least sixty (60) days out of the year.

17. "Public water supply" is a piped water supply having fifteen (15) or more service connections or serving twenty-five (25) or more people at least sixty (60) days out of the year. It may be either a community water system, transient non-community water system or non-transient non-community public water.

18. "Public way" is an area such as a street or sidewalk that is open to the outside and is used by the public for moving from one (1) location to another.

19. "Remote exit or means of egress" is when two (2) exits or two (2) exit access doors are required.

20. "Self-closing" means to be equipped with an approved device that will ensure closing after having been opened.

21. "Smoke barrier" is a structural element, either vertical or horizontal, such as a wall, floor, or ceiling assembly, which is

designed and constructed to restrict the movement of smoke. A smoke barrier may or may not have a fire resistance rating.

22. "Smoke proof enclosure" shall be a stair enclosure designed, so that the movement into the smoke proof enclosure of products of combustion, produced by a fire occurring in any part of the building shall be limited.

23. "Spa" is a pool designed for recreational and/or therapeutic use and not drained, cleaned, and refilled for each individual. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems or any combination thereof.

24. "Supervised sprinkler system" is a system with the initiating devices monitored by the fire alarm control panel. This may include switches used to monitor the position of valves, a low air pressure switch, a water flow switch, and a tamper switch.

(2) Requirements for initial license or renewal of a license on a lodging establishment that has been renovated.

(A) Lodging establishments located within jurisdictions regulated by local ordinances and regulations, shall be erected, renovated, and maintained in compliance with such ordinances and regulations. Such lodging establishments must comply with the following requirements before a license may be issued.

1. Present an occupancy permit issued by the regulating jurisdiction.

2. Comply with the Missouri Department of Natural Resources laws and regulations regarding, but not limited to:

- A. Sewage treatment;
- B. Drinking water;
- C. Trash disposal;
- D. Backflow.

3. Comply with the Missouri Department of Health laws and regulations regarding lodging establishments.

4. Comply with Great Lakes Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers most recent standards for construction of swimming pools and spas.

(B) Lodging establishment located in areas outside of jurisdictions regulated by local ordinances and regulations shall comply with the following requirements before a state lodging license may be issued.

1. Must certify to the Missouri Department of Health that the establishment has been erected or renovated in accordance with the latest national standards for life safety, structural, electrical, plumbing, mechanical and architectural elements of the establishment to be licensed. Certification to these facts will be accepted from a registered professional engineer, registered architect, or the general contractor responsible for the construction of the establishment being licensed.

2. Comply with the Missouri Department of Natural Resources laws and regulations regarding, but not limited to:

- A. Sewage treatment;
- B. Drinking water;
- C. Trash disposal;
- D. Backflow.

3. Comply with the Missouri Department of Health laws and regulations regarding lodging establishments.

4. Comply with Great Lakes Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers most recent standards for construction of swimming pools and spas.

5. Comply with the Missouri Department of Public Safety's laws and regulations that relate to pressure vessels.

(3) Requirements for Operating a Lodging Establishment.

(A) Drinking Water Supply. Water supplies that serve lodging establishments shall provide bacteriologically safe drinking water and shall consist of the following:

1. Public water supplies.

A. Shall be in compliance with the current "Missouri Safe Drinking Water Act," "Safe Drinking Water Commission Rules," "The Water Well Drillers' Act," and the "Missouri Well Construction Rules."

B. Those establishments operating from a non-community water supply shall have a valid Missouri Department of Natural Resources, (MO DNR) permit to dispense water. (A current copy of the MO DNR permit to dispense water must be provided to the administrative authority.)

C. A "domestic" well, appearing to come under the jurisdiction of the MO DNR, shall be referred to that agency for verification of departmental authority. Otherwise, water supplies not appearing to meet the MO DNR definition of a public water supply shall come under the jurisdiction of the Missouri Department of Health, (MO DoH);

2. Domestic wells. Water supplies which come under the jurisdiction of the MO DoH:

A. Shall be constructed and located according to the "Missouri Well Construction Rules," 10 CSR 23-3.010-10 CSR 23-3.110 with the following aboveground construction components verified by inspection:

(I) Well casing shall extend a minimum of twelve (12) inches above grade.

(II) The top of well casing shall be free of openings which may allow the entry of contaminants, (i.e. wiring harness grommets, breather pipe installed with terminus properly screened, approved sanitary well seal or well cap installed).

B. Water wells appearing to meet all minimal construction and setback requirements shall have an annual bacteriological water sample collected and analyzed for the presence of coliform bacteria.

C. Domestic wells not meeting satisfactory bacteriological water results following the collection of two (2) consecutive samples shall provide a permanent disinfection process as authorized by the MO DNR.

(B) Wastewater Handling. Sewage and wastewater treatment and disposal systems which serve lodging establishments:

1. On-site sewage treatment and disposal systems:

A. On-site systems which generate less than three thousand (3,000) gallons of wastewater per day and that are maintained in a subsurface treatment and disposal system shall come under MO DoH jurisdiction. Any on-site system built after January 1, 1996 shall be constructed according to 19 CSR 20-3.060 "Minimum Construction Standards for On-Site Sewage Disposal Systems."

2. Existing on-site systems regulated by MO DoH:

A. On-site systems installed prior to January 1, 1996, operating satisfactorily.

B. Upon completion of a visual inspection, the following conditions shall exist:

(I) No surfacing or discharging of effluent.

(II) No production of odors or the creation of a habitat for insect breeding, (i.e. mosquitoes, flies, etc.).

(III) No contamination of surface water or groundwater.

(IV) No tall weeds or trees shall be allowed to grow on or in a lagoon or its berm.

C. Malfunctioning systems shall be renovated according to 19 CSR 20-3.060 "Minimum Construction Standards for On-Site Sewage Disposal Systems."

3. Existing or proposed on-site systems which generate three thousand (3,000) gallons or more daily effluent flow or connected into waste stabilization ponds, extended aeration package treatment plants, and other alternative systems which discharge shall have a National Pollutant Discharge Elimination System (NPDES) Permit or a General Permit issued by the MO DNR and comply with (3)(B)2.B. (A current copy of the MO DNR NPDES permit or a general permit must be provided to the administrative authority.)

(C) Sanitation/Housekeeping. Lodging establishments shall be kept in a clean and sanitary condition; in good repair, and shall be maintained and operated with strict regard to health and safety of the patrons. The following items shall be held in compliance:

1. Walls, floors and ceilings of guest rooms shall be kept clean and in good repair. Furnishings, including draperies, beds, furniture and lamps, shall be kept clean and in good repair.

2. Clean and proper housekeeping shall be employed in guest rooms and related facilities.

A. A room in use shall be cleaned each time a different guest rents the room, but in any event not less than daily except on the request of a guest. Tub and shower enclosures shall be kept clean, and free of mold.

B. Towels and washcloths that have been cleaned shall be provided in the guest room each day that guest room is occupied by a different guest.

C. Bed linens that have been cleaned shall be provided in the guest room each day that guest room is occupied by a different guest. If a room is continuously occupied by the same guest, bed linens shall be changed at least weekly.

D. Mattresses and boxsprings shall be clean and in good repair. The sleeping surfaces of a mattress in use shall be completely covered by a sheet. Excessively damaged or soiled mattresses and/or boxsprings shall be replaced.

E. Rodents and insects shall be controlled at all times. If rodenticides and/or pesticides are stored and/or used on the premises, they shall be stored away from areas containing food, and not accessible to guests.

F. Ice provided for the use of guests and patrons shall be made from a potable water supply approved by the Department of Health or Department of Natural Resources. The ice shall be protected from contamination which shall include the following:

(I) Ice machines, dispensers or chests shall be sheltered from the weather, kept in good repair and the ice compartment shall be kept clean and free of mold, rust, debris, foreign objects or other contaminants. Establishments licensed after January 1, 2002 shall provide only dispensing self-service ice machines for guest use. Any establishment licensed before January 1, 2002 that replaces or adds a new self-service ice machine for guest use shall only provide a dispensing type self-service ice machine.

(II) An approved scoop with a handle that is seamless and without cracks shall be provided for each bin-type ice machine or chest. The scoop may be stored in a holster in the ice compartment, in a smooth non-absorbent holder outside the ice machine or chest, or in another manner acceptable to the Department of Health.

(III) Individual ice buckets or containers, if provided, shall be kept clean, in good repair, and constructed of a smooth non-absorbent food grade material. Ice buckets or containers shall be washed, rinsed and sanitized as described in paragraph (3)(C)3.J.(I)(a)-(b) of this rule, or shall be provided with a food-grade single service liner. Re-use of the food-grade single service liner is forbidden.

G. The guest rooms, buildings and premises shall be kept neat and free of refuse and debris. Guest room trash containers shall be emptied daily.

(I) Garbage and refuse shall be stored in a covered durable, leak-proof, and vermin-proof, non-absorbent container. Outdoor trash containers shall be stored on a smooth, hard surface such as concrete or machine-laid asphalt that is sloped to drain. Garbage and refuse shall be disposed of on a routine basis.

(II) Plant growth shall be controlled by cutting/trimming in a manner that prevents/eliminates harborage (cover) for pests such as rodents, vermin, reptiles and other small animals within close proximity to the lodging establishment and its attendant facilities.

(III) Items which create a harborage for insects or vermin, or create a health or safety hazard shall be removed.

3. Lodging establishments that prepare or serve food, except those serving only continental breakfasts or similar repasts shall comply with current Missouri Department of Health regulations governing food establishments. Lodging establishments that offer only continental breakfasts or similar repasts to their guests shall conform strictly to the following rules.

A. Continental breakfast shall be defined as consisting of prepackaged foods, brewed/prepared non-alcoholic beverages, and foods not needing additional preparation before service to the public.

B. Food shall be of sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources approved or considered satisfactory by the Department of Health.

C. Food offered to the public for continental breakfast shall be protected from consumer contamination by the use of packaging or by the use of an easily cleanable counter serving line with "sneeze guards," display cases, or by other effective means.

D. All beverages shall be offered in either single service containers or dispensed from covered containers to prevent contamination of drinks that are offered to the general public. Leftover beverages other than from unopened single service or bulk dispensers shall be discarded.

E. Food serving areas and food contact surfaces shall be smooth, free of breaks, open seams, cracks, chips, and similar imperfections. Food shall be presented in such a way as to be protected from cross-contamination.

F. Once served to a consumer, portions of leftover food and beverages shall not be served again. Exception—packaged food that is still in the package and in sound condition may be reserved.

G. Condiments provided for table or counter service shall be individually portioned. Sugar and sweetener for consumer use shall be provided in individual packages or in covered pour-type dispensers.

H. Potentially hazardous foods shall be held at temperatures according to current food regulations of the Missouri Department of Health.

I. To avoid unnecessary manual contact with food, suitable dispensing utensils or items shall be provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be stored in the food with the dispensing utensil's handle extended out of the food, or stored clean and dry.

(I) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come into contact with food or with the mouth of the user.

(II) Reuse of single-service items is prohibited.

(III) Reuse of soiled tableware for additional food is prohibited.

(IV) Tableware offered for guest use for continental breakfasts may be either reusable utensils or single-service articles. All utensils not intended for single service use shall be washed, rinsed and sanitized as per paragraph (3)(C)3.J.(I)(a)-(b) of this rule.

(V) A convenient handwashing facility shall be available for attendants of the continental breakfast.

J. Drinking glasses or utensils provided to rooms shall be single-service items, or if reusable glasses or coffeepots are offered, these shall be clean, sanitary and conform to the following practices:

(I) Prior to placement in the guest room, reusable drinking glasses and utensils shall be washed, rinsed and sanitized in either of the methods below. After sanitization, all drinking glasses and utensils shall be air-dried and protected from subsequent contamination. Sanitization is to be accomplished by one of the following methods.

(a) A clean three (3)-vat sink may be used with glasses washed in a clean, hot detergent solution in the first vat, rinsed in clean water in the second vat, and sanitized in the third vat. This

dishwashing facility shall be so located as to be protected from possible outside sources of biological or chemical contamination. Sanitization is to be accomplished by one of the following methods:

I. Sanitized by immersion for at least one-half (1/2) minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F).

II. Immersed for at least ten (10) seconds in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and at a temperature of at least one hundred degrees Fahrenheit (100°F).

III. Immersed for at least thirty (30) seconds in a clean solution containing between twelve and one-half (12.5) and twenty-five (25) parts per million of available iodine and having a pH not higher than five (5.0) and at a temperature of at least seventy-five degrees Fahrenheit (75°F).

IV. Immersed in a clean solution containing any other chemical sanitizing agent recognized by the regulating authority as effective and that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite at a temperature of at least one hundred degrees Fahrenheit (100°F) for ten (10) seconds.

(b) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be so installed to be protected from possible outside sources of biological or chemical contamination, and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

I. Single-tank, stationary-rack and door-type machines and spray-type glass washers using chemicals for sanitization may be used if the following requirements are met:

a. The temperature of the wash water shall not be less than one hundred twenty degrees Fahrenheit (120°F);

b. The wash water shall be kept clean;

c. Chemicals added for sanitization purposes shall be automatically dispensed;

d. Glasses and utensils shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration;

e. The chemical sanitizing rinse water temperature shall not be less than seventy-five degrees Fahrenheit (75°F) nor less than the temperature specified by the machine's manufacturer;

f. Chemical sanitizers used shall meet the requirements of the regulating authority; and

g. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

II. Machines using hot water for sanitizing may be used if wash water and pumped rinse water is kept clean and if water is maintained at not less than these temperatures.

a. Single-tank, stationary-rack, dual-temperature machine—wash temperature, one hundred fifty degrees Fahrenheit (150°F), and final rinse temperature, one hundred eighty degrees Fahrenheit (180°F).

b. Single-tank, stationary-rack, single temperature machine—wash temperature and final rinse temperature one hundred sixty-five degrees Fahrenheit (165°F).

c. Single-tank, conveyor machine—wash temperature, one hundred sixty degrees Fahrenheit (160°F) and final rinse temperature, one hundred eighty degrees Fahrenheit (180°F).

d. Multi-tank, conveyor machine—wash temperature one hundred fifty degrees Fahrenheit (150°F), pumped rinse temperature, one hundred sixty degrees Fahrenheit (160°F), and final rinse temperature, one hundred eighty degrees Fahrenheit (180°F).

e. Single-tank, pot, pan, and utensil washer (either stationary or moving-rack)—wash temperature, one hundred forty degrees Fahrenheit (140°F) and final rinse temperature, one hundred eighty degrees Fahrenheit (180°F).

4. During all working periods of food service, employees shall observe good hygienic practices. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work and as often as is necessary to keep them clean and after using the toilet, smoking, eating or drinking.

(D) Plumbing/Mechanical. Installation and maintenance of plumbing supply lines and equipment shall conform to the following requirements:

1. General requirements are as follows:

A. Hot and cold running water shall be available at all times.

B. Restrooms shall be provided with adequate ventilation to the outside air.

C. Adequate venting of the drainage system shall be provided. Vents shall extend above the roof unless exempted by local code.

D. All fixtures shall be adequately trapped; and

2. Water heaters, boilers and pressure vessels shall meet the following requirements:

A. Water heaters with greater than one hundred twenty (120) gallon capacity, water temperatures exceeding two hundred ten degrees Fahrenheit (210°F) or heat input greater than two hundred thousand (200,000) Btu/hr (fifty-seven (57) kW), and all boilers shall show evidence of inspection and approval by the Missouri Division of Fire Safety. (A copy of the Certification of Inspection issued by the Missouri Division of Fire Safety must be provided to the administrative authority);

B. Water heaters not inspected and approved by the Missouri Division of Fire Safety shall be rated for a minimum working pressure of one hundred twenty-five (125) psi. The maximum pressure allowed shall be permanently marked on all water heating units and holding tanks. Burner output rating on the safety devices should not exceed the burner output rating specified on the heater;

C. A separate valve or switch shall be provided to shut the fuel supply off to water heating units. LP gas systems shall be tested for leaks on a yearly basis;

D. Water heaters, boilers and other pressure vessels must be provided with safety devices to prevent excessive buildup of heat and/or pressure. Safety devices shall be installed so that the sensing element extends into the tank, and monitors the temperatures in the top six inches (6") of the tank.

(I) Pressure relief valves are required on or adjacent to hot water holding tanks, water heaters, and boilers but cannot be separated from the tank by a check valve or shut off valve.

(II) Relief valve discharge pipes shall be rigid pipes approved for water distribution with a temperature rating of two hundred ten degrees Fahrenheit (210°F). The discharge piping shall be the same diameter as the relief valve outlet, and shall be installed so as to drain by gravity flow. Valves shall not be connected to the relief valve discharge pipe. Relief valves shall not discharge so as to be a hazard, or a potential cause of damage.

E. Potable water supplies shall be protected from sources of potential contamination. All backflow devices used must meet DNR rule 10 CSR 60-11.010 or local codes.

(I) The following shall be protected by reduced pressure principle valves: boiler units, fire sprinkler systems with chemical additives, and pumped or re-pressurized cooling or heating sys-

tems. Fire sprinklers not using chemical additives and lawn sprinklers may use a double-check valve assembly.

(II) Vacuum breakers shall protect the following: threaded faucets, flush valves and shower spray hoses. Commercial dishwashers shall be protected by either a vacuum breaker or an air gap; and

(III) Air gaps shall serve the following: ice containers, ice machines, relief valve discharge pipes from water heaters and water holding tanks, potable water inlets to all plumbing fixtures, water softeners, condensation water lines and discharge lines from commercial laundry machines. Swimming pool feed lines shall be protected by either an air gap or a double-check valve assembly.

(IV) Make-up water lines for cooling towers shall terminate above the flood rim at twice the inside diameter of the make-up water line.

(E) Swimming Pools/Spas. Construction, maintenance and operation of swimming pools, spas, and other bathing facilities shall be in accordance with the requirements listed below:

1. New swimming pools shall be designed by a registered engineer. The design developed by the engineer must comply with the newest version of the *Great Lakes Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers* which is incorporated by reference in this rule, and that fact shall be certified by the contractor, registered engineer, or architect;

2. Requirements regarding design, detail and structural stability of existing swimming pools are as follows:

A. The boundary line between the shallow (five feet (5') or less in depth) and the deep (greater than five feet (5') in depth) areas shall be marked by a line of contrasting color on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers;

B. Diving boards, if provided, shall conform to the criteria listed in Table 1, which is included herein. Further, there shall be a completely unobstructed clear distance of sixteen feet (16') above the diving board measured from the center of the front end of the board. This area shall extend at least eight feet (8') to each side, and sixteen feet (16') ahead of the measuring point.

C. Slides for use in swimming pools shall conform to general requirements of part 1207.3 to 1207.5 of the Consumer Product Safety Act;

D. Steps, ladders or stairs shall be provided at the shallow end, and steps or ladders shall be provided in the deep portion. If the pool is over thirty feet (30') wide, such steps, ladders or stairs shall be installed on each side.

(I) Pool ladders, stairs, and steps shall be easily cleanable, corrosion-resistant and equipped with non-slip treads. All ladders shall be so designed as to provide a handhold. Where stairs, steps or ladders are provided, there shall be a handrail at the top of each side thereof extending over the coping of the edge of the deck.

E. General safety requirements are as follows:

(I) Swimming pools shall be protected by a fence, wall, building or other enclosure that is at least four feet (4') in height. The enclosure shall be made of a durable material. Artificial barriers shall be constructed so as to afford no external handholds, footholds, or opening large enough to allow a toddler to pass through, be equipped with a self-closing and positive self-latching closure mechanism on gates. The latch shall be installed as high as possible, located inside the gate. All natural barriers, hedges, pool covers, or other protective devices must be approved by the administrative authority;

(II) Depth of water shall be plainly marked with four inch (4")-high black numbers at or above the water surface on the vertical pool wall and on the edge of the deck, at maximum and minimum points of break between the deep and shallow portions, and at intermediate increments of depth, spaced at not more than twenty-five foot (25') intervals measured peripherally. Markings

shall be on both sides and ends of the pool. Where depth markings cannot be placed on the vertical walls above the water level, other means shall be used so that the markings will be plainly visible to persons in the pool;

(III) Pool ladders, stairs, and steps shall be maintained in good repair at all times;

(IV) One unit of lifesaving equipment consisting of both a throwable device and a reaching device shall be provided for each two thousand (2,000) square feet of water surface area. Lifesaving equipment shall be mounted in conspicuous places, distributed around the swimming pool deck. Lifesaving equipment shall be kept in good repair and ready condition. It shall be kept in an established location and shall be used only for its intended purpose. Minimum lifesaving equipment shall consist of the following:

(a) Throwable devices: A U.S. Coast Guard approved device, fitted with a one quarter inch (1/4") diameter line with a length of 1.5 times the maximum width of the pool or fifty feet (50'), whichever is greater;

(b) Reaching devices: A life pole or shepherd's crook type of pole, having blunted ends with minimum length of twelve feet (12');

(V) Whenever the pool area is less than two thousand (2,000) square feet and is opened for use and no lifeguard service is provided, warning signs shall be placed in plain view of the entrances and inside the pool area which state "WARNING—NO LIFEGUARD ON DUTY" with plainly legible letters. Swimming pools having an area two thousand (2,000) square feet of water surface or greater shall have a certified lifeguard present at all times the pool is available for use. In pools with two thousand (2,000) square feet or more of water surface area, one (1) additional certified lifeguard shall be provided for each additional two thousand (2,000) square feet;

(VI) A first aid kit must be readily available for pool use at all times;

(VII) No glass containers shall be used in the pool area;

F. Lighting and electrical requirements are as follows:

(I) Artificial lighting shall be provided at all swimming pools which are to be used at night or which do not have adequate natural lighting so that all portions of the pool, including the bottom, may be readily seen without glare.

(a) All lighting shall be maintained in good repair at all times.

G. Electrical requirements specific to swimming pools are as follows:

(I) Receptacles on the property shall be located at least ten feet (10') from the inside walls of a pool. However, one (1) receptacle that provides power for a recirculating pump motor for a permanently installed pool, shall be permitted not less than five feet (5') from the inside walls of the pool provided the receptacle is single, of the locking and grounding types and protected by a ground-fault circuit-interrupter. All receptacles located within twenty feet (20') of the inside walls of a pool shall be protected by a ground-fault circuit-interrupter;

(II) Switching devices on the property shall be located at least five feet (5') from the inside walls of a pool unless separated from the pool by a solid fence, wall or other permanent barrier;

(III) Only utility-owned, operated and maintained supply lines or service drops may be allowed to pass over swimming pool areas in accordance with Table 2, which is included herein. Utility-owned, operated and maintained communication lines (i.e. telephone, cable TV) shall be permitted to pass over swimming pool areas if at a height of no less than ten feet (10') above the area except over the existing diving board;

(IV) The recirculation system shall comply with the following requirements:

(a) Swimming pools shall be designed to provide for continuous disinfection of the pool water with a chemical which is

an effective disinfectant and which imparts an easily measurable, active residual. The disinfecting materials and methods shall not be dangerous to public health, create objectionable physiological effects, or impart toxic properties to the water. An automatic disinfection feeder which is easily adjustable shall be provided for the continuous application of disinfectant at a rate supplying disinfectant to the pool in the range at recommended levels.

I. When chlorine is the disinfectant, a free chlorine residual of at least one (1.0) ppm shall be maintained throughout the pool.

II. Other disinfecting materials or methods are subject to approval of the administrative authority and may be used when it has been demonstrated that they provide a satisfactory residual which is easily measured and is operated according to the manufacturer's specifications;

(b) The recirculation system serving the pool shall operate in accordance with manufacturer's criteria or other engineering criteria;

(V) Swimming pools shall meet the following requirements regarding water quality:

(a) An appropriate test kit shall be provided and capable of properly measuring disinfectant and pH residual;

(b) The swimming pool water pH shall be maintained at a level between 7.2 and 7.8;

(c) Swimming pool water shall have sufficient clarity that the main drain cover is readily visible at the deepest point of the swimming pool when viewed from the side of the swimming pool;

(d) Any chemical applied in swimming pools must be used in accordance with the manufacturer's instructions;

(VI) Miscellaneous requirements are as follows:

(a) The swimming pool and deck areas shall be kept clean, free of cracks, peeling paints, and tripping hazards;

(b) A cleaning system shall be provided to remove dirt from the bottom of the pool;

(c) Surface skimmers, strainer baskets and perimeter overflow systems shall be kept clean and in good repair;

(d) Main drain grates shall be whole and in good repair and firmly affixed at all times;

(e) All pool equipment shall be kept clean and in good repair at all times;

(f) Discharged pool water shall conform to Missouri Department of Natural Resources regulations;

(g) Water shall be maintained at the overflow level;

(h) Daily operating records shall be maintained by the owner or operator and available upon request. The residual concentration of all chemicals used in the pool, pH, and the date and time of the information provided shall be recorded. Other information to be recorded includes water temperature, amount of chemicals used, flow rate, equipment breakdowns, amount of makeup water, number of patrons and personal accidents;

(i) Pool chemicals shall be stored separately from all other chemicals. All chemicals shall be handled, stored and labeled properly in accordance with the manufacturer's recommendations; and

(j) Indoor pool areas shall be vented to the exterior;

(VII) Spas shall meet the additional following requirements, exemption—a pool used under direct supervision of qualified medical personnel is excluded:

(a) The maximum water depth shall be four feet (4') measured from the water line. The maximum depth of any seat or sitting bench shall be two feet (2') measured from the water line;

(b) Water temperature controls shall be provided to prevent water temperatures from exceeding one hundred four degrees Fahrenheit (104°F). The controls shall be accessible only to the pool operator;

(c) Outlets shall be designed so that each pumping system prevents user entrapment;

(d) Disinfectant feeders shall be capable of supplying at least twenty (20) ppm chlorine or equivalent;

(e) The agitation system shall be separate from the water treatment recirculation system. The agitation system shall be connected to a timer; and

(f) A legible sign visible from the spa shall be provided. It shall state: "Caution. Any person having an acute or chronic disease such that use of this spa might adversely affect their health should consult a physician before using this spa. Do not use the spa alone or without supervision. Do not use the spa longer than 10 minutes. Children shall be accompanied by an adult."

(F) Life Safety. The lodging establishment shall be constructed, operated and maintained with strict regard to health and safety.

1. General requirements are as follows:

A. Combustibles, whether solid, liquid or gaseous, shall be properly used and stored so that they do not present a hazard to health or life safety;

B. Toxic, corrosive, oxidizing or other hazardous materials shall be properly used, stored, and disposed so that they do not present a hazard to health or life safety;

C. If the inspecting authority suspects that defects are present with regards to the integrity of the structure or electrical system of the lodging establishment, that authority may require the owner to retain the services of a registered engineer to certify the lodging facility for building safety;

2. Safety—Electrical. Electrical components of lodging facilities must be installed and maintained in accordance with this rule. General requirements are as follows:

A. Electrical service entrances to lodging facilities must be approved by the public utility serving the establishment prior to opening and within three (3) years of the implementation of this rule for existing lodging establishments;

B. New lodging facilities having electrical outlets installed in wet locations or outdoors are required to be fitted with ground-fault circuit interrupters. This rule applies to existing lodging facilities if the facility undergoes renovation or rewiring;

C. Electrical switches, outlets and junction boxes must be covered and properly protected from physical damage at all times;

D. All appliances must be grounded to design specifications;

E. Wire splices shall be located in covered junction boxes at all times;

F. Bare or frayed wiring is prohibited;

G. Three (3)-prong receptacles must be properly grounded at all times;

H. Public hallways, stairways, landings, and foyers shall be sufficiently illuminated at all times to prevent tripping or other injuries to persons at the lodging facility's foyers;

I. Temporary wiring and flexible cords shall not be used in place of fixed wiring except for extension cords that are appropriately sized for appliances;

(I) Use of extension cords longer than six feet (6') is prohibited. No more than one (1) extension cord per room may be used;

J. Wattage of light bulbs shall not exceed the wattage rating of corresponding light fixtures;

K. Empty light sockets are prohibited;

L. Circuit boxes shall be protected from physical damage and maintained in good condition. Storage of items that obstruct the vision of or access to circuit boxes is prohibited. Access to electrical panels is to be unobstructed; and

M. Fuses and circuits must be labeled for identification;

3. Safety—Fire.

A. General Requirements.

(I) Hangings or draperies shall not be placed over exit doors or located to conceal or obscure any exit.

(II) Mirrors shall not be placed on exit doors or adjacent to any exit that may confuse the direction of exit.

(III) Housekeeping practices that ensure fire safety shall be maintained daily.

(IV) Stairways, walks, ramps, and porches shall be kept free of ice and snow.

(V) No fresh-cut Christmas trees shall be used unless they are treated with a flame resistant material. Documentation of the treatment shall be on file at the facility.

(VI) All facilities shall comply with all local building codes, fire codes and ordinances.

(VII) Dead-end corridors or hallways shall not exceed thirty-five feet (35').

B. Exiting and Means of Egress.

(I) Means of egress, from all guest rooms/guest suites to the outside of the building shall have access to a primary means of escape. The primary means of escape shall be a door, stairway, or ramp providing a means of unobstructed travel without traversing any corridor or space exposed to an unprotected vertical opening. The primary means of escape shall lead outside of the dwelling unit at street or ground level. Exemption: all facilities that are licensed prior to the effective date of these rules.

(II) Where the guest rooms/guest suites are above or below the level of exit discharge, the primary means of escape shall be an enclosed interior stair, an exterior stair, a horizontal exit, or an existing fire escape stair. Exemption: All facilities that are licensed prior to the effective date of these rules.

(III) In addition to the primary route, each room shall have a second means of escape in accordance with the following:

(a) A door, stairway, passage, or hall providing a way of unobstructed travel to the outside of the dwelling at street or ground level, that is independent of and remote from the primary means of escape;

(b) A passage through an adjacent non-lockable space, independent of and remote from the primary means of escape, to any approved means of escape;

(c) An outside window or door operable from the inside without the use of tools, keys, or special effort and providing a clear opening of not less than twenty inches (20") in width, twenty-four inches (24") in height, and 5.7 square feet in area. The bottom of the opening shall not be more than forty-four inches (44") above the floor. Such means of escape shall be acceptable if the window is within twenty feet (20') of grade, the window is directly accessible to fire department rescue apparatus as approved by the local fire inspector or State Fire Marshal's office, or the window or door opens onto an exterior balcony. Exceptions: A secondary means of escape shall not be required:

I. If the bedroom or living area has a door leading directly to the outside of the building at or to grade level; or

II. If the dwelling unit is protected throughout by an approved, supervised automatic sprinkler system.

(IV) Every story more than two thousand (2,000) square feet in area or with a travel distance to the primary means of escape more than seventy-five feet (75') shall be provided with two (2) primary means of escape remotely located from each other. A remote exit or a remote means of egress is when two (2) exits or two (2) exit access doors are required. Each door or exit access door shall be placed at a distance apart equal to not less than one-half (1/2) the length of the maximum overall diagonal dimension of the building or area to be used. Exception No. 1: All facilities that are licensed prior to the effective date of these rules. No. 2: Building protected throughout by an approved, supervised automatic sprinkler system.

(V) There shall be no storage on stairs or landings.

(VI) No door in any means of egress shall be locked against egress when the building is occupied.

(a) Exception: Delayed egress locks shall be permitted, provided not more than one (1) such device is located in any one egress path. The door lock unlocks upon loss of power to the building. The door lock unlocks upon actuation of the fire sprin-

kler system. The door lock unlocks upon activation of the fire alarm system in the building.

(b) Exception: Exterior doors shall be permitted to have key-operated/or knob-operated locks provided the key cannot be removed from the lock.

(VII) All facilities that use stairs as a component in the means of egress shall comply with the following:

(a) All open face stairs shall have guards placed on the sides. Guards shall be placed so that a four-inch (4") diameter sphere shall not pass through them. All guards shall be attached to the stair in a sturdy manner. Exception: Existing stairs may continue to be used subject to approval of administrative authority having jurisdiction.

(b) All ramps that are used in the exit discharge shall have a minimum width of forty-four inches (44") in all facilities.

(c) All ramps shall have a slip resistant surface.

(d) All ramps that are greater than six inches (6") in height shall have handrails and guards placed on each side. The handrails and guards shall comply with the stair requirements listed above;

(e) No door or path of travel in a means of escape shall be less than twenty-eight inches (28") wide in existing facilities, and in all new facilities the doors shall be thirty-two inches (32") wide. Exception: Bathroom doors shall be not less than twenty-four inches (24") wide;

(f) Every closet door latch shall be such that it can be readily opened from the inside in case of emergency;

(g) Every bathroom door shall be designed to allow opening from the outside during an emergency when locked;

(h) No door in any means of escape shall be locked against egress when the building is occupied. See exception (b) in (3)(F)3.B.(VI) of this rule;

(i) Doors serving a single dwelling unit shall be permitted to be provided with a lock, however, a key operation shall be allowed, providing that the key cannot be removed when the door is locked from the side from which egress is made.

C. Protection.

(I) Every floor that separates stories in a building shall be constructed as a smoke barrier to provide a basic degree of compartmentation. Exemption: All facilities that are licensed prior to the effective date of these rules.

(II) Openings through floors, such as stairways, hoistways for elevators, dumbwaiters, inclined and vertical conveyors; shaftways used for light, ventilation, or building services; or expansion joints and seismic joints used to allow structural movements, shall be enclosed with fire barriers (vertical), such as wall or partition assemblies whose fire resistance rating is not less than thirty (30) minutes. Such enclosures shall be continuous from floor to floor. Openings shall be protected as appropriate for the fire resistance rating of the barrier.

D. Interior Finishes.

(I) Textile materials having a napped, tufted, looped, woven, non-woven, or similar surface shall not be applied to walls or ceilings. Foam plastic materials or other highly flammable or toxic material shall not be used as an interior wall, ceiling, or floor finish unless approved by the administrative authority having jurisdiction.

E. Fire Alarms, and Extinguishment.

(I) A fire alarm system shall be installed and maintained in good working order.

(a) Where manual fire alarm pull stations are provided, they shall be located in the natural path of escape near each required exit from an area. Each manual fire alarm station on a system shall be accessible, unobstructed, visible, and of the same general type. A manual fire alarm station is to be located at the hotel desk or other convenient central control point under continuous supervision by responsible employees. Exception: Buildings

protected throughout by an approved, supervised automatic sprinkler system.

(b) Facilities using equipment or appliances that pose a potential carbon monoxide risk, including facilities with attached parking garages, shall install a carbon monoxide detector(s) within the immediate vicinity of the carbon monoxide source. The number of detectors shall be determined by the local administrative authority.

(c) Smoke detectors shall be installed in all sleeping rooms, common areas, and workspaces.

(d) Carbon monoxide and smoke detectors shall be in good operating condition. If a battery-operated detector is routinely not operational, the provider shall install a detector that is powered by the building's electrical system with a battery backup.

(e) By June 2005, all smoke detectors and carbon monoxide detectors shall be interconnected and powered by the building's electrical system with battery backup.

(II) Occupant notification shall be provided automatically, without delay, throughout the entire building, by internal audible alarm. Visible signals shall be installed in guest rooms designated for hearing-impaired individuals.

(III) All buildings shall be protected throughout by an approved, supervised automatic sprinkler system.

(a) Exception: Buildings other than high rise, where all guest sleeping rooms have a door that opens directly to the outside at street or ground level or to exterior exit access.

(b) Exception: All facilities that are licensed prior to the effective date of these rules shall be permitted to use the existing exiting arrangements in the facility.

(IV) Smoke and carbon monoxide detectors shall be tested once per month or as needed to ensure they are operating properly, and batteries shall be changed yearly or as needed. All sprinkler and smoke detector systems shall be tested and approved annually by a fire alarm or sprinkler company.

(V) Records shall be kept on file showing the dates the sprinkler, and smoke and carbon monoxide detector systems were tested, results of those tests, and dates that the batteries were changed in smoke and carbon monoxide detectors.

(VI) Portable fire extinguishers (51b, 2A-10BC) shall be required in all facilities. Fire extinguishers shall be located in or near the cooking area, and near all sleeping rooms. The maximum travel distance to a fire extinguisher shall be no greater than seventy-five feet (75').

(VII) All fire extinguishers shall be inspected, maintained, and installed annually by a fire extinguisher company.

F. Separation of Sleeping Rooms.

(I) All sleeping rooms shall be separated from escape route corridors by walls and twenty (20) minute fire rated doors that are smoke resistant. There shall be no louvers or operable transoms or other air passages penetrating the wall except properly installed heating and utility installations.

(II) Sleeping room doors shall be provided with sleeping room latches or other mechanisms suitable for keeping the doors closed. Doors shall be self-closing or automatic-closing upon detection of smoke. Exception: Door-closing devices shall not be required in buildings protected throughout by an approved, automatic sprinkler system or exterior doors that lead to outside of the dwelling unit at street or ground level.

G. Emergency Evacuation Plans, and Drills.

(I) A floor diagram reflecting the actual floor or exterior doors that lead outside of the dwelling unit at street or ground level arrangement, exit locations, and room identification shall be posted in a location and manner acceptable to the local authorities in every guest room or immediately adjacent to every guest room door.

(II) Employees shall be instructed and drilled in the duties they are to perform in the event of fire, panic, or other emer-

gency. A copy of an emergency evacuation plan and employee instruction guide shall be kept on file that is accessible by all staff.

(III) Fire safety information shall be provided to allow guests to decide either to evacuate to the outside, evacuate to an area of refuge, remain in place, or any combination of the three (3).

H. Heating, Cooling and Air Conditioning Equipment.

(I) Unvented fuel-fired room heaters, portable electrical space heaters, shall not be used.

(II) Facilities heating with a boiler or with a water heater over two hundred thousand British thermal units (200,000 Btu) per hour input or larger, shall have a valid permit posted on the premises, as well as on file with the State Fire Marshal's Office, Division of Fire Safety.

(III) Gas and electric heating equipment shall be equipped with thermostatic controls. Gas water heaters shall be vented properly by a galvanized flue pipe with screws at every joint in the pipe, or by material recommended by the manufacturer.

(IV) Furnace rooms shall be properly vented to the outside. Furnace flue pipes shall be constructed of galvanized pipe or material recommended by the manufacturer. All galvanized pipe shall be secured by screws at every joint in the pipe.

(V) Joints in gas supply pipes shall be located outside the furnace cabinet housing.

(VI) Gas shut-off valves shall be located next to all gas appliances, furnaces, and water heaters.

(VII) The furnace and water heater shall be located inside a fire resistant room. The room shall have a one (1)-hour fire rated door. Furnace rooms and rooms containing water heaters shall not be required to be fire resistive if an automatic sprinkler head is installed off the domestic water system and a smoke detector is located directly outside the room that is interconnected to the other smoke detectors throughout the facility.

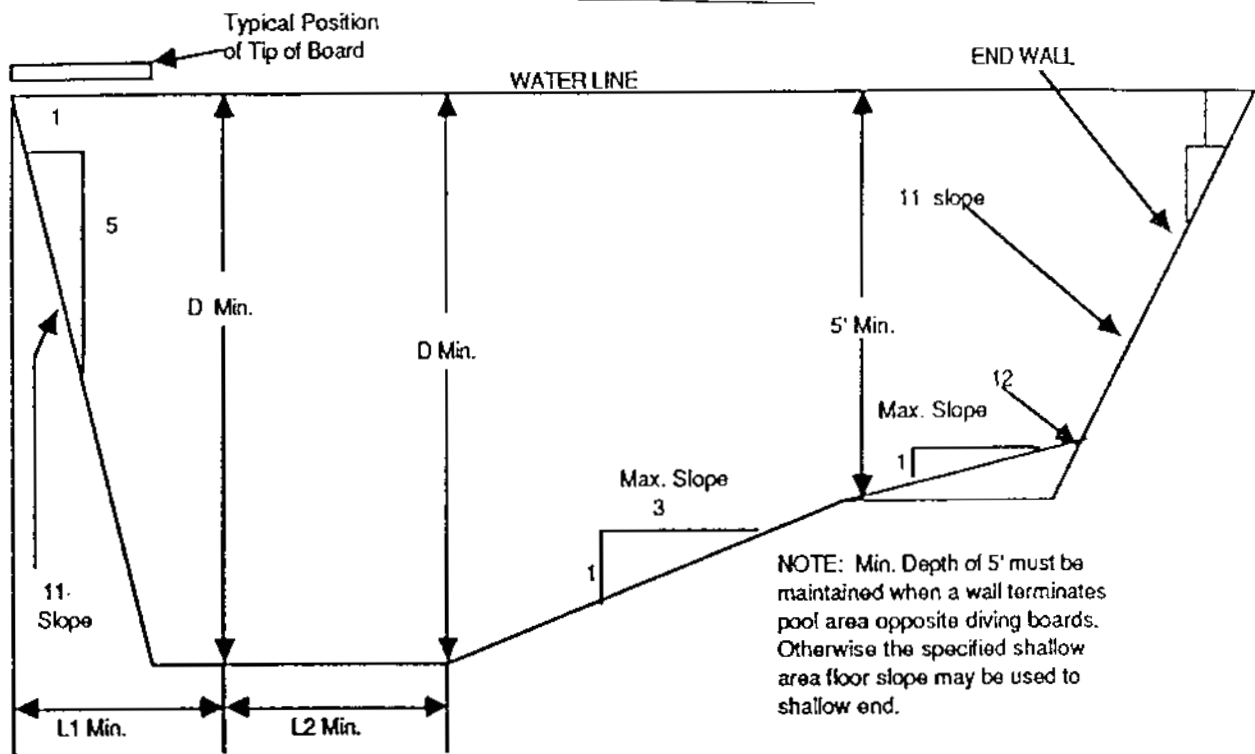
(VIII) If a furnace or water heater is located inside a garage, it shall be at least eighteen inches (18") above the finished floor and enclosed inside a fire resistant room.

(IX) Furnaces shall be equipped with an electrical fused switch to protect the unit from electrical overloading and to disconnect the electrical supply.

(X) Furnace rooms and rooms containing water heaters shall have adequate combustion air for the units. The vent size openings for the combustion air shall be measured at one (1) square inch per one thousand (1,000) Btu input, if the combustion air is drawn from inside the structure, and one (1) square inch per four thousand (4,000) Btu input if the air is drawn from outside the structure. There shall be two (2) combustion air vent openings in each furnace room. One (1) shall be located at the lower level and the other at the upper level. One (1) combustion air vent opening shall be permitted if the vent opening extends directly to the outside of the structure. This opening shall be one (1) square inch per three thousand (3,000) Btu input of the total gas appliances located in the room. The gas appliances shall have a clearance around them of one inch (1") from the sides and back and six inches (6") from the front of the unit.

(XI) Air conditioning, heating, ventilating duct work, and related equipment shall be installed in a safe manner and be in good operating condition.

Minimum Dimensions for Pools with Diving Equipment



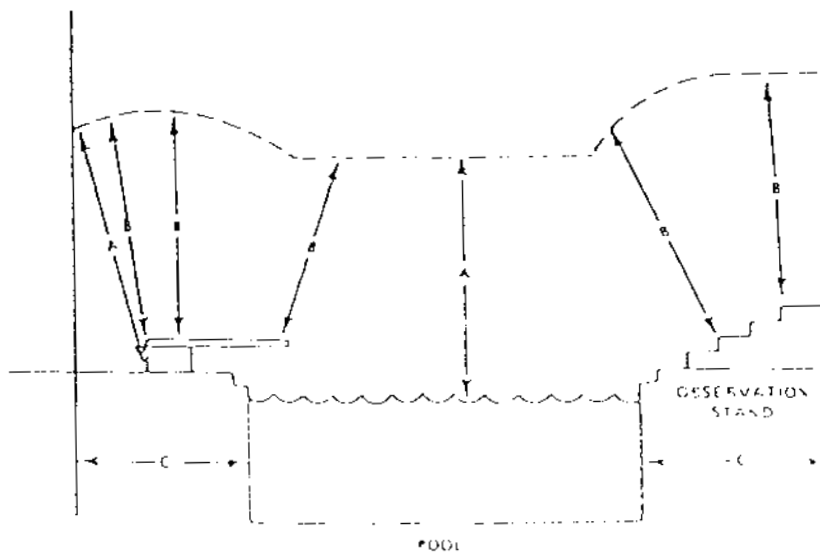
		Minimum Dimensions			
Max. Board Height Over Water	Max. Diving Board Length	D	L1	L2	Pool Width
26" (2/3 meter)	10'	8'-6"	2'-6"	10'-0"	20'-0"
30" (3/4 meter)	12'	9'-0"	3'-0"	10'-0"	20'-0"
1 meter	16'	10'-0"	4'-0"	12'-0"	20'-0"
3 meter	16'	12'-0"	6'-0"	12'-0"	20'-0"

Placement of boards shall observe the following minimum dimensions. With multiple board installations minimum pool widths must be increased accordingly.

- 1 Meter or less Board to Pool Side 10'-0"
- 3 Meter Board to Pool Side 12'-0"
- Distance between adjacent boards 10'-0"

TABLE 2
 Clearance for Electrical
 Supply Lines

	Insulated supply or service drop cables, 0-750 volts to ground, supported on and cabled together with an effectively grounded bare messenger	All other supply or service drop conductors	
		Voltage to Ground	
		0-15 kV	15-50 kV
A. Clearance in any direction to the water level, edge of water surface, base of diving platform or permanently-anchored raft	18 feet	23 feet	27 feet
B. Clearance in any direction to the diving platform or tower	14 feet	16 feet	18 feet
C. Horizontal limit of clearance measured from inside wall of the pool.	This limit shall extend to the outer edge of the structures listed in (A) and (B) above but not less than 10 feet.		



AUTHORITY: section 192.006, and 315.005–315.065, RSMo 2000. This rule was previously filed as 13 CSR 50-66.010. Original rule filed as Missouri Division of Health E 9.01 on Sept. 4, 1957, effective Sept. 14, 1957. Rescinded and readopted: June 28, 2001.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions fourteen thousand eight hundred fifty dollars (\$14,850) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities seventy-four thousand eight hundred forty-seven dollars (\$74,847) annually 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 Health, Division of Environmental Health and Communicable Disease Prevention, Pamela Rice Walker, Director, PO Box 570, 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 ENTITY COST**

I. RULE NUMBER

Title: 19 - Missouri Department of Health
 Division: Division 20 - Environmental Health and Communicable Disease Prevention
 Chapter: Chapter 3 - General Sanitation
 Type of Rule Making: PROPOSED RULE
 Rule Number and Name: 19 CSR 20-3.050 Sanitation and Safety Standards for Lodging Establishments

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DOH	\$9,100 one-time cost
Local Public Health Agencies	\$5,750 one-time cost

III. WORKSHEET

Department of Health

Training Costs:		Printing Costs:	
Materials	\$300.00	Rule	\$7,500
Travel Expense	\$300.00	(150 pages, spiral bound,	
(\$50/training x 6 training sessions per year)		7,500 copies)	
		Inspection forms	\$1,000
		(10,000 sets)	
		Total Printing Costs =	\$8,500

Local Public Health Agencies (LPHA)

Training Costs:
 Travel Expenses \$5,750
 (\$50 per training x 115 LPHAs)

IV. ASSUMPTIONS

The fiscal impact on public agencies is associated with printing, training, and related expenses. Program could be implemented using existing staff.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 19 – Missouri Department of Health

Division: Division 20 – Environmental Health and Communicable Disease Prevention

Chapter: Chapter 3 – General Sanitation

Type of Rule Making: PROPOSED RULE

Rule Number and Name: 19 CSR 20-3.050 Sanitation and Safety Standards for Lodging Establishments

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
1768 Lodging Facilities	Lodging Industry	\$74,847 Annually

III. WORKSHEETPrivate Industry Cost

Small Equipment:

1. Ice Scoop: \$5.00 per scoop x 884 establishments = \$4,420

Replacement Parts:

2. Miscellaneous parts: \$10.00 x 1768 establishments = \$17,680

3. Smoke alarm batteries: 26,640 rooms x \$1.98 per battery = \$52,747

Total Estimated Cost to Industry: \$74,847 per year

IV. ASSUMPTIONS

The rule sets the standards for sanitation and life safety. Most standards duplicate existing state and local laws, industry operating standards, and insurance requirements. There will be costs associated with the purchase of small equipment; new and replacement parts for the interior of lodging establishments. Specifically (see corresponding calculations above):

1. It is estimated that 50% of the 1,768 lodging establishments will need to purchase an ice scoop annually.
2. Approximately \$10.00 will be spent in replacing well plate, extension cords, etc. for each establishment annually.
3. Approximately 25% of the 106,560 rooms (26,640) will require battery replacements in the smoke alarms annually.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 20—Hospitals

PROPOSED AMENDMENT

19 CSR 30-20.011 Definitions Relating to Hospitals. The Department of Health is proposing to add sections (39) and (40).

PURPOSE: This amendment sets forth the definition(s) of "diversion" and "defined service area" to be used throughout this chapter. This amendment also incorporates a definition "for immediate and serious threat."

(39) Diversion—A plan to temporarily close a hospital emergency department to ambulance traffic. This may be due to the emergency department being overwhelmed with significantly critically ill or injured patients, or an overwhelming number of minor emergency patients, to the extent that the hospital is unable to provide quality care or protect the health or welfare of the patients it serves.

(A) Resource diversion—A plan to temporarily close a hospital emergency department to ambulance traffic due to limitations such as no available and staffed bed in general acute care or a selected specialty unit of a hospital due to the hospital's inability to care for new patients. This may be due to a specialty unit being filled to capacity or because of other shortages of equipment or personnel.

(B) Defined service area—The geographic area served by a defined group of hospitals and emergency services. In areas where there is a community-based emergency medical services diversion plan, the service area(s) defined as the catchment area by the plan will be the defined service area(s). In areas where there is not a community-based emergency medical services diversion plan, the defined service area will be a twenty (20)-mile radius from a hospital.

(40) Immediate and serious threat—Having caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.

AUTHORITY: sections 192.006, 197.080 and 197.293, RSMo [Supp. 1997] 2000. This rule was previously filed as 13 CSR 50-20.011. Original rule filed June 2, 1982, effective Nov. 11, 1982. Amended: Filed June 2, 1987, effective Sept. 11, 1987. Amended: Filed Aug. 16, 1988, effective Dec. 29, 1988. Amended: Filed Nov. 21, 1995, effective July 30, 1996. Amended: Filed June 28, 2001.

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 Department of Health. Lois Kollmeyer, Director, Division of Health Standards and Licensure, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 20—Hospitals

PROPOSED AMENDMENT

19 CSR 30-20.015 Administration of the Hospital Licensing Program. The department proposes to amend subsection (9)(B) and to add subsection (9)(C).

PURPOSE: This rule sets forth the guidelines to be used by the Missouri Department of Health to render a decision as to whether a deficiency constitutes an immediate and serious threat to the patient's health and safety. These guidelines follow the guidelines adopted by the U.S. Department of Health and Human Services, Health Care Financing Administration, HCEA Pub. 7, Rev. 1 (3/98), Medicare Medicaid State Operations Manual, Provider Certification, Appendix Q, Transmittal 19, August 25, 2000, for immediate jeopardy.

(9) Inspection Findings.

(B) Should the findings of the inspection constitute an immediate and serious threat to the safety or health of the patients, public or hospital staff, a condition of substantial noncompliance shall be considered to exist. The department representative shall verbally convey any determination of substantial noncompliance to the chief executive officer or designee at the exit conference. Findings of substantial noncompliance shall be documented in the normal reporting method described in subsection (9)(A) of this rule.

(C) The following guidelines, applicable to the inspection, shall be used by the licensing representative to determine if a finding during an inspection constitutes an immediate and serious threat to the health and safety of one (1) or more patients. The guidelines used to determine immediate and serious threat serve only as guides for authorized department representatives to use when making the determination.

1. Failure to protect from abuse—
 - A. Serious injuries such as head trauma or fractures;
 - B. Non-consensual sexual interactions; e.g., sexual harassment, sexual coercion or sexual assault;
 - C. Unexplained serious injuries that have not been investigated;
 - D. Staff striking or roughly handling an individual;
 - E. Staff yelling, swearing, gesturing or calling an individual derogatory names;
 - F. Bruises around the breast or genital area; or
 - G. Suspicious injuries; e.g., black eyes, rope marks, cigarette burns, unexplained bruising.
2. Failure to prevent neglect—
 - A. Lack of timely assessment of individuals after injury;
 - B. Lack of supervision for individual with known special needs;
 - C. Failure to carry out doctor's orders;
 - D. Repeated occurrences such as falls which place the individual at risk of harm without intervention;
 - E. Access to chemical and physical hazards by individuals who are at risk;
 - F. Access to hot water of sufficient temperature to cause tissue injury;
 - G. Non-functioning call system without compensatory measures;
 - H. Unsupervised smoking by an individual with a known safety risk;
 - I. Lack of supervision of cognitively impaired individuals with known elopement risk;

J. Failure to adequately monitor individuals with known severe self-injurious behavior;

K. Failure to adequately monitor and intervene for serious medical/surgical conditions;

L. Use of chemical/physical restraints without adequate monitoring;

M. Lack of security to prevent abduction of infants;

N. Improper feeding/positioning of individual with known aspiration risk; or

O. Inadequate supervision to prevent physical altercations.

3. Failure to protect from psychological harm—

A. Application of chemical/physical restraints without clinical indications;

B. Presence of behaviors by staff such as threatening or demeaning, resulting in displays of fear, unwillingness to communicate, and recent or sudden changes in behavior by individuals; or

C. Lack of intervention to prevent individuals from creating an environment of fear.

4. Failure to protect from undue adverse medication consequences and/or failure to provide medications as prescribed—

A. Administration of medication to an individual with a known history of allergic reaction to that medication;

B. Lack of monitoring and identification of potential serious drug interaction, side effects, and adverse reactions;

C. Administration of contraindicated medications;

D. Pattern of repeated medication errors without intervention;

E. Lack of diabetic monitoring resulting or likely to result in serious hypoglycemic or hyperglycemic reaction; or

F. Lack of timely and appropriate monitoring required for drug titration.

5. Failure to provide adequate nutrition and hydration to support and maintain health—

A. Food supply inadequate to meet the nutritional needs of the individual;

B. Failure to provide adequate nutrition and hydration resulting in malnutrition; e.g., severe weight loss, abnormal laboratory values;

C. Withholding nutrition and hydration without advance directive; or

D. Lack of potable water supply.

6. Failure to protect from widespread nosocomial infections; e.g. failure to practice standard precautions, failure to maintain sterile techniques during invasive procedures and/or failure to identify and treat nosocomial infections—

A. Pervasive improper handling of body fluids or substances from an individual with an infectious disease;

B. High number of infections or contagious diseases without appropriate reporting, intervention and care;

C. Pattern of ineffective infection control precautions; or

D. High number of nosocomial infections caused by cross contamination from staff and/or equipment/supplies.

7. Failure to correctly identify individuals—

A. Blood products given to wrong individual;

B. Surgical procedure/treatment performed on wrong individual or wrong body part;

C. Administration of medication or treatments to wrong individual; or

D. Discharge of an infant to the wrong individual.

8. Failure to safely administer blood products and safely monitor organ transplantation—

A. Wrong blood type transfused;

B. Improper storage of blood products;

C. High number of serious blood reactions;

D. Incorrect cross match and utilization of blood products or transplantation organs; or

E. Lack of monitoring for reactions during transfusions.

9. Failure to provide safety from fire, smoke and environment hazards and/or failure to educate staff in handling emergency situations—

A. Nonfunctioning or lack of emergency equipment and/or power source;

B. Smoking in high risk areas;

C. Incidents such as electrical shock, fires;

D. Ungrounded/unsafe electrical equipment;

E. Widespread lack of knowledge of emergency procedures by staff;

F. Widespread infestation by insects/rodents;

G. Lack of functioning ventilation, heating or cooling system placing individuals at risk;

H. Use of non-approved space heaters, such as kerosene, electrical, in resident or patient areas;

I. Improper handling/disposal of hazardous materials, chemicals and waste;

J. Locking exit doors in a manner that does not comply with NFPA 101;

K. Obstructed hallways and exits preventing egress;

L. Lack of maintenance of fire or life safety systems; or

M. Unsafe dietary practices resulting in high potential for food-borne illnesses.

10. Failure to provide initial medical screening, stabilization of emergency medical conditions and safe transfer for individuals and women in active labor seeking emergency treatment—

A. Individuals turned away from emergency room (ER) without medical screening exam;

B. Women with contractions not medically screened for status of labor;

C. Absence of ER or obstetrical (OB) medical screening records;

D. Failure to stabilize emergency medical condition; or

E. Failure to appropriately transfer an individual with an unstabilized emergency medical condition.

AUTHORITY: sections [192.005.2, and 197.040, RSMo 1994] 192.006, 197.080, and 197.293, RSMo 2000. This rule was previously filed as 13 CSR 50-20.015. Original rule filed April 9, 1985, effective July 11, 1985. Amended: Filed Nov. 4, 1992, effective June 7, 1993. Amended: Filed Nov. 21, 1995, effective July 30, 1996. Amended: Filed Oct. 6, 1998, effective April 30, 1999. Amended: Filed June 28, 2001.

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 Department of Health, Lois Kollmeyer, Director, Division of Health Standards and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 20—Hospitals**

PROPOSED AMENDMENT

19 CSR 30-20.021 Organization and Management for Hospitals. The Department of Health is proposing to amend this rule by adding paragraph (3)(C)12.

PURPOSE: The purpose of this amendment is to monitor and set criteria for hospital diversions.

(3) Required Patient Care Services. Each hospital shall provide the following: central services, dietary services, emergency services, medical records, nursing services, pathology and medical laboratory services, pharmaceutical services, radiology services, social work services and inpatient care unit.

(C) Emergency Services.

1. Each hospital providing general services to the community shall provide an easily accessible emergency area which shall be equipped and staffed to ensure that ill or injured persons can be promptly assessed and treated or transferred to a facility capable of providing needed specialized services. In multiple-hospital communities where written agreements have been developed among the hospitals in accordance with an established community-based hospital emergency plan, individual hospitals may not be required by the Department of Health to provide a fully equipped emergency service.

2. A hospital shall have a written hospital emergency transfer policy and written transfer agreements with one (1) or more hospitals within its service area which provide services not available at the transferring hospital. Transfer agreements shall be established which reflect the usual and customary referral practice of the transferring hospital, but are not intended to cover all contingencies.

3. Hospital emergency services shall be under the medical direction of a qualified staff physician who is board-certified or board-admissible in emergency medicine and maintains a knowledge of current ACLS and ATLS standards or a physician who is experienced in the care of critically ill and injured patients and maintains current verification in ACLS and ATLS. In pediatric hospitals, PALS shall be substituted for ACLS. With the explicit advanced approval of the Department of Health, a hospital may contract with a qualified consultant physician to meet this requirement.

A. That physician shall be responsible for implementing rules of the medical staff relating to patient safety and privileges and to the quality and scope of emergency services.

B. A qualified registered nurse shall supervise and evaluate the nursing and patient care provided in the emergency area by nursing and ancillary personnel. Supervision may be by direct observation of staff or, at a minimum, the nurse shall be immediately available in the institution.

C. Any person assigned to the emergency services department administering medications shall be a licensed physician, registered nurse, EMT-paramedic or appropriately licensed or certified allied health practitioner and shall administer medications only within his/her scope of practice except for students who are participating in a training program to become physicians, nurses, emergency medical technician-paramedics who may be allowed to administer medication under the supervision of their instructors as a part of their training. Trained individuals from the respiratory therapy department may be allowed to administer aerosol medications when a certified respiratory therapy assistant is not available.

4. Any hospital which provides emergency services and does not maintain a physician in-house twenty-four (24) hours a day for

emergency care shall have a call roster which lists the name of the physician who is on call and available for emergency care and the dates and times of coverage. A physician who is on call and available for emergency care shall respond in a manner which is reasonable and appropriate to the patient's condition after being summoned by the hospital.

5. Any hospital with surgical services that also provides emergency surgical services shall have a general surgical call roster which lists the name of the general surgeon who is on call for emergency surgical cases, and the dates and times of coverage. The surgeon who is on call for emergency surgical cases shall arrive at the hospital within thirty (30) minutes of being summoned. Patients arriving at a hospital that does not provide emergency surgical services and are found upon examination to require emergency surgery shall be immediately transferred to a hospital with the necessary services.

6. All patients admitted to the emergency service shall be assessed prior to discharge by a physician or registered professional nurse.

7. If discharged from the emergency department, other than to the inpatient setting, the patient or responsible person shall be given written instructions for care and an oral explanation of those instructions. Documentation of these instructions shall be entered on the emergency service medical record.

8. There shall be a quality improvement program for the emergency service which includes, but is not limited to, the collection and analysis of data to assist in identification of health service problems, and a mechanism for implementation and monitoring appropriate actions. The quality improvement program shall include the periodic evaluation of at least the following: length of time each patient is in the emergency room, appropriateness of transfers, physician response time, provision for written instructions, timeliness of diagnostic studies, appropriateness of treatment rendered, and mortality.

9. Written policies shall be adopted to assure that notification procedures are implemented concerning the significant exposure of prehospital emergency personnel to communicable diseases as required in 19 CSR 30-40.047.

10. The emergency service medical record shall contain patient identification, time and method of arrival, history, physical findings, treatment and disposition and shall be authenticated by the physician. These records, including an ambulance report when applicable, shall be filed under supervision of the medical records department.

11. There shall be a mechanism for the review and evaluation on a regular basis of the quality and appropriateness of emergency services.

12. A hospital shall have a written plan that details the hospital's criteria and process for diversion. The plan must be reviewed and approved by the Missouri Department of Health prior to being implemented by the hospital. A hospital may continue to operate under a plan in existence prior to the effective date of this section while awaiting approval of its plan by the department.

A. The diversion plan shall:

(I) Identify the individuals by title who are authorized by the hospital to implement the diversion plan;

(II) Define the process by which the decision to divert will be made;

(III) Specify that the hospital will not implement the diversion plan until the authorized individual has reviewed and documented the hospital's ability to obtain additional staff, open existing beds that may have been closed or take any other actions that might prevent a diversion from occurring;

(IV) Include that all ambulance services within a defined service area will be notified of the intent to implement the diversion plan prior to the actual implementation. In areas served by a real time, electronic reporting system, notification

through such system shall meet the requirements of this provision so long as such system is available to all emergency medical service (EMS) agencies and hospitals in the defined service area;

(V) Include procedures for assessment and stabilization of patients in the event of a resource diversion. These procedures must also include the evaluation of services and resources of the facility that can still be provided to patients even with the implementation of the diversion plan;

(VI) Include procedures for implementation of a resource diversion in the event that specialized services are overburdened or temporarily unavailable; and

(VII) Include that all other acute care hospitals within a defined service area will be notified of the intent to implement the diversion plan prior to the actual implementation. For defined service areas with more than two (2) hospitals, if more than one-third (1/3) of the hospitals implement their diversion plans, no hospital will be considered on diversion. For a defined service area with two (2) hospitals, if both hospitals implement their diversion plans, neither will be considered on diversion. Participation in a real time, electronic reporting system shall meet the notification requirements of this section.

B. There shall be an active multidisciplinary committee responsible for reviewing incidents of diversion to assure appropriate implementation of the plan, to identify process improvement strategies and to develop and implement plans to reduce the number of times the hospital is on diversion and/or the length of time the hospital is on diversion. The committee shall meet on a monthly basis if the diversion plan has been implemented in the preceding month. The committee shall include, but not be limited to the chief executive officer (CEO) or his/her designee, a physician representative of emergency services, a nursing supervisor of emergency services and a representative of the quality assurance department. The committee shall take and maintain minutes of each of these review meetings. Minutes of these review meetings must be made available to the Missouri Department of Health upon request.

C. The hospital shall assure compliance with screening, treatment and transfer requirements as required by the Emergency Medical Treatment and Active Labor Act (EMTALA).

D. A hospital or its designee shall report to the department, by phone or electronically, prior to actual implementation of the diversion plan. This implementation report shall contain the time the plan will be implemented. The hospital or its designee shall report to the department, by phone or electronically, within eight (8) hours of the termination of the diversion. This termination report shall contain the time the diversion plan was implemented, the reason for the diversion, the name of the individual who made the determination to implement the diversion plan, the time the diversion status was terminated, and the name of the individual who made the determination to terminate the diversion. In addition to these reports, a log containing the identical diversion information as in the reports must be reviewed and signed, weekly, by the person who is authorized by the hospital to implement the diversion and must be available for review by representatives of the department. In areas served by real time, electronic reporting system, reporting through such system shall meet the requirements of this provision so long as such system generates reports as required by the department.

E. Each hospital shall implement a triage system within its emergency department. The triage methodology shall continue to apply during periods when the hospital diversion plan is implemented.

F. Any hospital that has a written approved policy, which states that the hospital will not go on diversion or resource diversion, except as defined in the hospital's disaster

plan in the event of a disaster, is exempt from the requirements of 19 CSR 30-20.021(3)(C)12.

AUTHORITY: sections [192.005.2, RSMo 1994] 192.006 and 197.080 [and 260.225, RSMo Supp. 1997] RSMo 2000. This rule was previously filed as 13 CSR 50-20.021 and 19 CSR 10-20.021. Original rule filed June 2, 1982, effective Nov. 11, 1982. Amended: Filed April 9, 1985, effective Sept. 28, 1985. Amended: Filed June 2, 1987, effective Sept. 11, 1987. Amended: Filed Nov. 16, 1987, effective March 26, 1988. Amended: Filed June 14, 1988, effective Oct. 13, 1988. Amended: Filed Aug. 16, 1988, effective Dec. 29, 1988. Amended: Nov. 21, 1995, effective July 30, 1996. Amended: Filed Oct. 6, 1998, effective April 30, 1999. Amended: Filed June 28, 2001.

PUBLIC COST: The public entity cost for this proposed amendment is estimated at twenty-four thousand two hundred fifty dollars (\$24,250) annually in the aggregate.

PRIVATE COST: The private entity cost for this proposed amendment is estimated at two hundred twenty-four thousand two hundred fifty dollars (\$224,250) annually in the aggregate. It is anticipated that the total aggregate cost will recur each year for the life of the amendment. A detailed fiscal note, which estimates the cost of compliance with this amendment, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Health. Lois Kollmeyer, Director, Division of Health Standards and Licensure, PO Box 570, 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 ENTITY COST

I. RULE NUMBER

Title: Title 19 – Department of Health
Division: 30 – Division of Health Standards and Licensure
Chapter: 20 – Hospitals
Type of Rule Making: Proposed Amendment
Rule Number and Name: 19CSR 30-20.021 – Organization and Management of Hospitals

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Public Hospitals	\$24,250

III. WORKSHEET

Cost of Plan: \$17,500
Cost of Notification: 1,500
Cost Review: 5,250
Total Cost: \$24,250

IV. ASSUMPTIONS

In order to estimate the total cost of this rule, we must first analyze the three separate steps the rule requires hospitals to perform in order to achieve compliance. The first step would be to estimate the cost of developing a plan for diversion or redirection of emergency medical services once the hospital capacity has been reached. The second step is to estimate the cost of notification of other hospitals once a hospital chooses to be on diversion. The third step is to estimate the cost to the hospital for performing a review on each instance of diversion and developing plans to reduce the instances of diversion.

Step One

There are currently 143 licensed hospitals (108 private, 35 public). This rule allows for any of these facilities to divert patients, therefore, all hospitals were included in this calculation. The average cost of developing such a plan would be \$500. Total cost is \$71,500 (\$54,000 private costs, \$17,500 public costs).

FISCAL NOTE
PUBLIC ENTITY COST

IV. ASSUMPTIONS (continued)

Step Two

It has been estimated, using existing data sources, that diversions occur at a rate of 200 a month, which results in an annual rate of 2400. Since almost all of the diversions occur in the metro areas, it could be assumed that for each instance of diversion, at least three facility notifications would need to be made. The cost of notifying each hospital is estimated to be \$5 per instance. This would result in a total cost of \$36,000. Since there are very few public hospitals in the metro areas, I believe the costs to the public hospitals will be less than \$500 so the entire cost is shown as a private cost.

The cost to notify DOH is \$15 since it requires a hospital to notify when they go on diversion as well as notify DOH when the hospital returns to normal operational status. The total cost would be \$36,000 (2400 X \$15). Most of these diversions are documented to be in the metro areas, however, it is our belief that diversions may occur throughout the state. There are 35 public hospitals statewide, and if these 35 hospitals had a total 100 annually, the annual cost would be \$1500. Private costs \$34,500.

Step Three

The cost of review of each diversion incident, by a hospital committee (CEO, medical director, nurse manager, QA manager) on a monthly basis would be \$105,000. There are 32 hospitals in the St. Louis and Kansas City area, and if we estimate three other outstate hospitals would divert each month, our total would be 35 hospitals on diversion each month. The cost of review is estimated at \$250. (35 hospitals X \$250 X 12) The total cost of the review would be \$105,000. We have estimated that 5% of the diversion will occur in public hospitals, therefore, the cost will be split. Private - \$99,750 and Public - \$5,250.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Title 19 – Department of Health
Division: 30 – Division of Health Standards and Licensure
Chapter: 20 – Hospitals
Type of Rule Making: Proposed Amendment
Rule Number and Name: 19CSR 30-20.021 – Organization and Management of Hospitals

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
108	Privately owned hospitals	\$224,250

III. WORKSHEET

Cost of Plan: \$54,000 Private
Cost of Notification: \$70,500 Private (36,000 + 34,500)
Cost of Review: \$99,750 Private
Total Cost: \$224,250 Private

In order to estimate the total cost of this rule, we must first analyze the three separate steps the rule requires hospitals to perform in order to achieve compliance. The first step would be to estimate the cost of developing a plan for diversion or redirection of emergency medical services once the hospital capacity has been reached. The second step is to estimate the cost of notification of other hospitals once a hospital chooses to be on diversion. The third step is to estimate the cost to the hospital for performing a review on each instance of diversion and developing plans to reduce the instances of diversion.

Step One

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PRIVATE ENTITY COST
FISCAL NOTE

IV. ASSUMPTIONS (continued)

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Step Two

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