

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 267—Office of Tattooing, Body Piercing and  
Branding**  
**Chapter 5—Standards of Practice**

**PROPOSED RULE**

**4 CSR 267-5.030 Cleaning and Sterilization**

*PURPOSE:* This rule outlines the proper cleaning and sterilization of equipment used by a tattooist, body piercer or brander.

(1) Cleaning.

(A) Reusable equipment used in a tattooing, body piercing and branding procedure shall be cleaned immediately following each use to remove blood and/or body tissue residue prior to sterilization.

(B) Reusable bars, tubes, branding irons, other branding instruments and body piercing equipment shall be placed in a covered container until they are sterilized.

(C) All containers holding contaminated tubes, branding irons, other branding equipment, reusable body piercing equipment and container lids shall be cleaned and disinfected with an approved disinfectant as defined in 4 CSR 267-1.010.

(D) Gloved personnel shall clean bars, tubes, branding irons, other branding equipment, and reusable body piercing equipment prior to sterilization as follows:

1. Manually preclean the items with care taken to ensure removal of residue; thoroughly rinse the items with warm water and then drain the water; clean the items by soaking them in a protein-dissolving detergent-enzyme cleaner used according to the manufacturer's instructions; and clean the items further in an ultrasonic cleaning device that operates at forty to sixty (40–60) hertz and is used according to the manufacturer's instructions; and

2. Rinsing and drying the items.

(E) Prior to autoclaving, all tubes shall be packaged either individually or in quantities appropriate for individual procedures. Packages shall be identifiable and dated.

(2) Sterilization.

(A) Equipment requiring sterilization shall be pressure-sterilized at the establishment in an autoclave and in accordance with manufacturer's instructions. Practitioners shall have procedures in place to ensure autoclaves have been properly disinfected and spore-tested as required in subsection (2)(C) of this rule.

(B) Each batch of sterilized equipment shall be monitored for sterilization by use of heat-sensitive indicators capable of indicating approximate time and temperature achieved.

(C) Autoclaves shall be spore-tested at least weekly. Spore kill test effectiveness shall be conducted by an independent laboratory. If a positive spore test is received, the practitioner shall immediately cease using the autoclave device and notify the office within forty-eight (48) hours.

(D) Sterilized equipment shall be wrapped and stored in a manner that ensures it will remain sterile until used.

(E) Each tattoo, body piercing and branding establishment shall maintain sterilization records including spore tests for at least two (2) years from the date of the last entry, which shall include the following information:

1. Date of sterilization;
2. Name of person operating the equipment; and
3. Result of heat-sensitive indicator.

(F) Sterilized equipment shall be resterilized if the package is opened, damaged or becomes wet.

(G) All methods of sterilization other than steam autoclaving are prohibited.

*PUBLIC COST:* This proposed rule will cost the Office of Tattooing, Body Piercing and Branding an estimated one thousand five hundred seventy-nine dollars (\$1,579) annually for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*PRIVATE COST:* This proposed rule will cost private entities an estimated six thousand two hundred fifty dollars (\$6,250) in FY2003, an estimated sixty-four thousand five hundred dollars (\$64,500) in FY2004 and three thousand dollars (\$3,000) in FY2005 and each fiscal year thereafter for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102 or by facsimile at (573) 526-3489. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

*AUTHORITY:* section 324.522, RSMo Supp. 2001. Original rule filed Aug. 15, 2002.

Department of Economic Development  
Division of Professional Registration  
Office of Tattooing, Body Piercing and Branding  
Public Entity Fiscal Note

I. Rule Number

Title: 4 - Department of Economic Development  
Division: 267 - Office of Tattooing, Body Piercing and Branding  
Chapter: 5 - Standards of Practice  
Type of Rulemaking: Proposed Rule  
Rule Number and Name: 4 CSR 267-5.030 Cleaning and Sterilization

Prepared July 26, 2002 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Tattooing, Body Piercing and Branding	\$1,579

III. WORKSHEET

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries and correspondence.
- 2) Expense and equipment costs are incurred for board expenses incurred for mailing correspondence.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

Table 1 - Estimated Cost of Compliance by Category of Allocation

Category of Allocation	Licensure - 0%	Enforcement - 2%
Personal Service	\$0	\$1,194
Expense and Equipment	\$0	\$311
Transfers	\$0	\$74
TOTAL	\$0	\$1,579

IV. ASSUMPTIONS

In developing this fiscal note, the total public entity costs of the Office of Tattooing, Body Piercing and Branding were determined by using allotment figures for personal service, expense and equipment, and transfers based on actual costs incurred for a board of similar size. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 20% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 80% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

Table 2 - Allocation of Personal Service Dollars

Allotment	Percentage & Category	Dollar Amount
\$74,649	20% - Licensure	\$14,930
\$74,649	80% - Enforcement	\$59,719

Table 3 - Allocation of Expense and Equipment Dollars

Allotment	Percentage & Category	Dollar Amount
\$19,445	20% - Licensure	\$3,889
\$19,445	80% - Enforcement	\$15,556

Table 4 - Allocation of Transfer Dollars

Allotment	Percentage & Category	Dollar Amount
\$4,597	20% - Licensure	\$919
\$4,597	80% - Enforcement	\$3,677

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 5% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Department of Economic Development  
Division of Professional Registration  
Office of Tattooing, Body Piercing and Branding  
Private Entity Fiscal Note**

**I. Rule Number**

**Title:** 4 - Department of Economic Development  
**Division:** 267 - Office of Tattooing, Body Piercing and Branding  
**Chapter:** 5 - Standards of Practice  
**Type of Rulemaking:** Proposed Rule  
**Rule Number and Name:** 4 CSR 267-5.030 Cleaning and Sterilization  
 Prepared July 26, 2002 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

**FY2003**

Estimate 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:	Estimated cost of compliance with the rule by affected entities:
25	Spore Testing (\$250 annually)	6,250.00
	<b>Estimated Cost of Compliance in FY2003</b>	<b>56,250.00</b>

**FY2004**

Estimate 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:	Estimated cost of compliance with the rule by affected entities:
258	Spore Testing (\$250 annually)	64,500.00
	<b>Estimated Cost of Compliance in FY2004</b>	<b>564,500.00</b>

**FY2005 and Each Fiscal Year Thereafter**

Estimate 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:	Estimated cost of compliance with the rule by affected entities:
12	Spore Testing (\$250 annually)	3,000.00
	<b>Estimated Cost of Compliance in FY2005 and Each Fiscal Year Thereafter for the Life of the Rule</b>	<b>53,000.00</b>

**III. WORKSHEET**

See table above

**IV. ASSUMPTION**

1. The cost of the spore testing was obtained from the Kansas City School of Dentistry.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 267—Office of Tattooing, Body Piercing  
and Branding  
Chapter 5—Standards of Practice**

**PROPOSED RULE**

**4 CSR 267-5.040 Preparation and Care of Site**

*PURPOSE:* This rule outlines the requirements for skin care before and after a tattoo, body piercing or branding procedure is completed on each patron.

(1) Before beginning any procedure regulated pursuant to sections 324.520 to 324.524, RSMo, the tattooist, body piercer or brander shall clean the skin area for the tattooing, body piercing or branding and then prepare the area with an antiseptic. The solution shall be applied with cotton, gauze or single-use toweling.

(2) After the procedure is complete, the practitioner shall provide the patron with verbal and written instructions for the care of the tattoo, pierce or brand.

(3) The practitioner shall wear non-porous, disposable gloves at all times when contact with a patron's skin is required.

*AUTHORITY:* section 324.522, RSMo Supp. 2001. Original rule filed Aug. 15, 2002.

*PUBLIC COST:* This proposed rule will cost the Office of Tattooing, Body Piercing and Branding an estimated one thousand five hundred seventy-nine dollars (\$1,579) annually for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*PRIVATE COST:* This proposed rule will not cost private entities more than 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 Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102 or by facsimile at (573) 526-3489. 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.

**Department of Economic Development  
Division of Professional Registration  
Office of Tattooing, Body Piercing and Branding  
Public Entity Fiscal Note**

**I. Rule Number**

**Title:** 4 - Department of Economic Development  
**Division:** 267 - Office of Tattooing, Body Piercing and Branding  
**Chapter:** 5 - Standards of Practice  
**Type of Rulemaking:** Proposed Rule  
**Rule Number and Name:** 4 CSR 267-5.040 Preparation and Care of Site

Prepared July 26, 2002 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Tattooing, Body Piercing and Branding	\$1,579

**III. WORKSHEET**

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries and correspondence.
- 2) Expense and equipment costs are incurred for board expenses incurred for mailing correspondence.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

**Table 1 - Estimated Cost of Compliance by Category of Allocation**

Category of Allocation	Licensure - 0%	Enforcement - 2%
Personal Service	\$0	\$1,194
Expense and Equipment	\$0	\$311
Transfers	\$0	\$74
<b>TOTAL</b>	<b>\$0</b>	<b>\$1,579</b>

**IV. ASSUMPTIONS**

In developing this fiscal note, the total public entity costs of the Office of Tattooing, Body Piercing and Branding were determined by using allotment figures for personal service, expense and equipment, and transfers based on actual costs incurred for a board of similar size. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 20% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 80% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

**Table 2 - Allocation of Personal Service Dollars**

Allotment	Percentage & Category	Dollar Amount
\$74,649	20% - Licensure	\$14,930
\$74,649	80% - Enforcement	\$59,719

**Table 3 - Allocation of Expense and Equipment Dollars**

Allotment	Percentage & Category	Dollar Amount
\$19,445	20% - Licensure	\$3,889
\$19,445	80% - Enforcement	\$15,556

**Table 4 - Allocation of Transfer Dollars**

Allotment	Percentage & Category	Dollar Amount
\$4,597	20% - Licensure	\$919
\$4,597	80% - Enforcement	\$3,677

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 5% of the time will be spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 267—Office of Tattooing, Body Piercing and  
Branding  
Chapter 6—Complaints and Investigations**

**PROPOSED RULE**

**4 CSR 267-6.010 Enforcement**

*PURPOSE: This rule outlines the authority of the office/division personnel to inspect establishments.*

(1) Access. An authorized employee or agent of the division, upon proper identification, shall be permitted to enter any tattoo, body piercing and/or branding establishment at any reasonable time to determine if the establishment and its practitioners are in compliance with Missouri statutes and regulations. The division's employee or agent shall be permitted to examine the records of the establishment, to obtain information about supplies purchased, received or used, sterilization records and information regarding patrons who received tattoos, body piercings or branding. Any records requested by the division's employee or agent may be copied at the establishment operator's expense.

(2) Enforcement Policy. Order to correct violations. If upon inspection of a tattoo, body piercing or branding establishment, the division's employee or agent finds that a tattoo, body piercing or branding establishment is not properly equipped or operated as required pursuant to sections 324.520 to 324.524, RSMo and the regulations promulgated thereunder, the division's employee or agent shall notify the operator in writing. The notice shall include an order that directs the operator to make specified changes that will bring the establishment into compliance with the standards established by statute and regulations and stipulate the time period within which compliance is required. If the order to correct violations is not carried out by the expiration of the time period stipulated, or any reasonable extension of the time granted for compliance, the failure to comply shall be cause for discipline.

*AUTHORITY: section 324.522, RSMo Supp. 2001. Original rule filed Aug. 15, 2002.*

*PUBLIC COST: This proposed rule will cost the Office of Tattooing, Body Piercing and Branding an estimated twenty-three thousand six hundred eighty-six dollars (\$23,686) annually for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.*

*PRIVATE COST: This proposed rule will not cost private entities more than 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 Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102 or by facsimile at (573) 526-3489. 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.*

**Department of Economic Development  
Division of Professional Registration  
Office of Tattooing, Body Piercing and Branding  
Public Entity Fiscal Note**

**I. Rule Number**

**Title:** 4 - Department of Economic Development  
**Division:** 267 - Office of Tattooing, Body Piercing and Branding  
**Chapter:** 6 - Complaints and Investigations  
**Type of Rulemaking:** Proposed Rule  
**Rule Number and Name:** 4 CSR,267-6.010 Enforcement

Prepared July 26, 2002 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Tattooing, Body Piercing and Branding	\$23,686

**III. WORKSHEET**

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries and correspondence.
- 2) Expense and equipment costs are incurred for board expenses incurred for mailing correspondence.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

**Table 1 - Estimated Cost of Compliance by Category of Allocation**

Category of Allocation	Licensure - 0%	Enforcement - 30%
Personal Service	\$0	\$17,916
Expense and Equipment	\$0	\$4,667
Transfers	\$0	\$1,103
<b>TOTAL</b>	<b>\$0</b>	<b>\$23,686</b>

**IV. ASSUMPTIONS**

In developing this fiscal note, the total public entity costs of the Office of Tattooing, Body Piercing and Branding were determined by using allotment figures for personal service, expense and equipment, and transfers based on actual costs incurred for a board of similar size. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 20% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 80% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

**Table 2 - Allocation of Personal Service Dollars**

Allotment	Percentage & Category	Dollar Amount
\$74,649	20% - Licensure	\$14,930
\$74,649	80% - Enforcement	\$59,719

**Table 3 - Allocation of Expense and Equipment Dollars**

Allotment	Percentage & Category	Dollar Amount
\$19,445	20% - Licensure	\$3,889
\$19,445	80% - Enforcement	\$15,556

**Table 4 - Allocation of Transfer Dollars**

Allotment	Percentage & Category	Dollar Amount
\$4,597	20% - Licensure	\$919
\$4,597	80% - Enforcement	\$3,677

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 40% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 267—Office of Tattooing, Body Piercing and  
Branding  
Chapter 5—Complaints and Investigations**

**PROPOSED RULE**

**4 CSR 267-6.020 Public Complaint Handling and Disposition**

*PURPOSE:* This rule establishes a procedure for the receipt, handling and disposition of public complaints pursuant to section 620.010.15(6), RSMo.

(1) The Division of Professional Registration shall receive and process each complaint made against any licensed practitioner and/or establishment in which the complaint alleges certain acts or practices may constitute one (1) or more violations of the provisions in sections 324.520 to 324.524, RSMo, or the regulations promulgated thereunder. Any division staff member may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Written complaints shall be submitted to the Division of Professional Registration. Complaints may be based upon personal knowledge or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address, if available. Verbal or telephone communication will not be considered or processed as a complaint, however, the person making such communication will be asked to supplement the communication with a written complaint.

(4) Each complaint received under this rule will be logged and maintained by the division. The log will contain a record of each complainant's name, if available; the name and address of the subject(s) of the complaint, if available; the date each complaint is received by the office; a brief statement concerning the alleged acts or practices; a notation including whether the complaint was dismissed or disciplinary action pursued; and the ultimate disposition of the complaint. This log shall be a closed record of the office.

(5) Each complaint received under this rule shall be acknowledged in writing within thirty (30) days. The complainant and licensee or establishment shall be notified of the ultimate disposition of the complaint.

(6) Failure of a licensee to respond in writing, within thirty (30) days from the date of the division's written request or inquiry, mailed to the licensee's address currently registered with the office, shall be sufficient grounds for taking disciplinary action against that licensee.

(7) This rule shall not be deemed to limit the division's authority to file a complaint with the Administrative Hearing Commission charging the licensee or establishment with any actionable conduct or violation, whether or not such a complaint exceeds the scope of the acts charged in a preliminary complaint filed with the division.

(8) The division interprets this rule to exist for the benefit of those members of the public who submit complaints. This rule is not deemed to protect, or inure to the benefit of those licensees, or other persons against whom the division has instituted or may institute administrative or judicial proceedings concerning possible violations of the provisions of sections 324.520 to 324.524, RSMo.

*AUTHORITY:* section 324.522, RSMo Supp. 2001. Original rule filed Aug. 15, 2002.

*PUBLIC COST:* This proposed rule will cost the Office of Tattooing, Body Piercing and Branding an estimated fifteen thousand seven hun-

*dred ninety dollars (\$15,790) annually for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.*

*PRIVATE COST:* This proposed rule will not cost private entities more than 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 Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102 or by facsimile at (573) 526-3489. 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.



**Department of Economic Development  
Division of Professional Registration  
Office of Tattooing, Body Piercing and Branding  
Public Entity Fiscal Note**

**I. Rule Number**

**Title:** 4 - Department of Economic Development  
**Division:** 267 - Office of Tattooing, Body Piercing and Branding  
**Chapter:** 6 - Complaints and Investigations  
**Type of Rulemaking:** Proposed Rule  
**Rule Number and Name:** 4 CSR 267-6.020 Public Complaint Handling and Disposition

Prepared July 26, 2002 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Tattooing, Body Piercing and Branding	\$15,790

**III. WORKSHEET**

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries and correspondence.
- 2) Expense and equipment costs are incurred for board expenses incurred for mailing correspondence.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

**Table 1 - Estimated Cost of Compliance by Category of Allocation**

Category of Allocation	Licensure - 0%	Enforcement - 20%
Personal Service	\$0	\$11,944
Expense and Equipment	\$0	\$3,111
Transfers	\$0	\$735
<b>TOTAL</b>	<b>\$0</b>	<b>\$15,790</b>

**IV. ASSUMPTIONS**

In developing this fiscal note, the total public entity costs of the Office of Tattooing, Body Piercing and Branding were determined by using allotment figures for personal service, expense and equipment, and transfers based on actual costs incurred for a board of similar size. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 20% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 80% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

**Table 2 - Allocation of Personal Service Dollars**

Allotment	Percentage & Category	Dollar Amount
\$74,649	20% - Licensure	\$14,930
\$74,649	80% - Enforcement	\$59,719

**Table 3 - Allocation of Expense and Equipment Dollars**

Allotment	Percentage & Category	Dollar Amount
\$19,445	20% - Licensure	\$3,889
\$19,445	80% - Enforcement	\$15,556

**Table 4 - Allocation of Transfer Dollars**

Allotment	Percentage & Category	Dollar Amount
\$4,597	20% - Licensure	\$919
\$4,597	80% - Enforcement	\$3,677

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 40% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 267—Office of Tattooing, Body Piercing and  
Branding  
Chapter 6—Discipline**

**PROPOSED RULE**

**4 CSR 267-6.030 Initiation of Disciplinary Proceedings**

*PURPOSE: This rule sets forth the basis upon which the division may refuse to issue or renew or may otherwise discipline the holder of any certificate of registration or authority, permit or license required pursuant to sections 324.520 to 324.524, RSMo, and these rules.*

(1) The division may refuse to issue, renew or cause a complaint to be filed with the Administrative Hearing Commission as provided by Chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required pursuant to sections 324.520 to 324.524, RSMo, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(A) Use or illegal possession of any controlled substance, as defined in Chapter 195, RSMo; use of an alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession that is licensed or regulated under Missouri law;

(B) Final adjudication and finding of guilt, or the entrance of a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession that is licensed or regulated pursuant to sections 324.520 to 324.524, RSMo and the regulations promulgated thereunder, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(C) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license;

(D) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(E) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession that is licensed or regulated hereunder;

(F) Violation of, or assisting or enabling any person to violate, any provision of sections 324.520 to 324.524, RSMo, or of any lawful rule or regulation adopted thereunder;

(G) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(H) Disciplinary action brought against the holder of a license or other right to practice any profession regulated pursuant to sections 324.520 to 324.524, RSMo, granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(I) Final adjudication by a court of competent jurisdiction that a person is insane or incompetent;

(J) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated pursuant to sections 324.520 to 324.524, RSMo, who is not licensed and is currently ineligible to practice;

(K) Causing the division to issue a certificate of registration or authority, permit or license based upon a material mistake of fact;

(L) Failure to display a valid license;

(M) Violation of any professional trust or confidence;

(N) Use of any advertisement or solicitation that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(O) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

(2) After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of Chapter 621, RSMo. Upon a finding by the Administrative Hearing Commission that the grounds, provided in section (1), for disciplinary action are met, the division may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five (5) years, or may suspend, for a period not to exceed three (3) years, or revoke the license, certificate, or permit.

*AUTHORITY: section 324.522, RSMo Supp. 2001. Original rule filed Aug. 15, 2002.*

*PUBLIC COST: This proposed rule will cost the Office of Tattooing, Body Piercing and Branding an estimated eleven thousand eight hundred forty-three dollars (\$11,843) annually for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.*

*PRIVATE COST: This proposed rule will not cost private entities more than 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 Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102 or by facsimile at (573) 526-3489. 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.*

**Department of Economic Development  
Division of Professional Registration  
Office of Tattooing, Body Piercing and Branding  
Public Entity Fiscal Note**

**I. Rule Number**

**Title:** 4 - Department of Economic Development  
**Division:** 267 - Office of Tattooing, Body Piercing and Branding  
**Chapter:** 6 - Complaints and Investigations  
**Type of Rulemaking:** Proposed Rule  
**Rule Number and Name:** 4 CSR 267-6.030 Initiation of Disciplinary Proceedings

Prepared July 26, 2002 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Tattooing, Body Piercing and Branding	\$11,843

**III. WORKSHEET**

The costs for this rule are detailed in the table below and are based on the following assumptions:

- 1) Personal service costs are incurred for staff time to handle inquiries and correspondence.
- 2) Expense and equipment costs are incurred for board expenses incurred for mailing correspondence.
- 3) Transfers are costs incurred for board and staff support provided by the Division of Professional Registration (also includes data processing, cash receiving room and MIS) and costs incurred for services provided by agencies such as the Office of the Attorney General, Secretary of State and State Auditor.

**Table 1 - Estimated Cost of Compliance by Category of Allocation**

Category of Allocation	Licensure - 0%	Enforcement - 15%
Personal Service	\$0	\$8,958
Expense and Equipment	\$0	\$2,333
Transfers	\$0	\$552
<b>TOTAL</b>	<b>\$0</b>	<b>\$11,843</b>

**IV. ASSUMPTIONS**

In developing this fiscal note, the total public entity costs of the Office of Tattooing, Body Piercing and Branding were determined by using allotment figures for personal service, expense and equipment, and transfers based on actual costs incurred for a board of similar size. These annual costs will recur each year for the life of the rule; may vary with inflation; and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

For the purpose of calculating the fiscal impact of the administrative rules, two major categories of board activity were identified: licensure and enforcement. The board estimates 20% of personal service, expense & equipment and transfer costs will be dedicated to the licensure effort and an estimated 80% of personal service, expense & equipment and transfer costs will be dedicated to the enforcement effort. Transfer costs also include rent and utilities. (See Table 2, 3 & 4)

**Table 2 - Allocation of Personal Service Dollars**

Allotment	Percentage & Category	Dollar Amount
\$74,649	20% - Licensure	\$14,930
\$74,649	80% - Enforcement	\$59,719

**Table 3 - Allocation of Expense and Equipment Dollars**

Allotment	Percentage & Category	Dollar Amount
\$19,445	20% - Licensure	\$3,889
\$19,445	80% - Enforcement	\$15,556

**Table 4 - Allocation of Transfer Dollars**

Allotment	Percentage & Category	Dollar Amount
\$4,597	20% - Licensure	\$919
\$4,597	80% - Enforcement	\$3,677

In allocating costs, this proposed rule was reviewed to determine if the rule contained attributes of licensure and/or enforcement. It is estimated that 0% of the total time involving the administration of the proposed rule will be spent on licensure efforts and 40% of the time will spent on enforcement efforts. These percentages have been applied to personal service, expense & equipment and transfer dollars. (See Table 1)

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION**  
**Division 80—Teacher Quality and Urban Education**  
**Chapter 800—[Teacher Certification and Professional  
Conduct and Investigations] Educator Licensure**

**PROPOSED AMENDMENT**

**5 CSR 80-800.200 Application for Certificate of License to Teach.** The State Board of Education is proposing to amend sections (1)–(5), (9), and (10) and add a new section (6).

*PURPOSE: This amendment updates certification requirements in the Compendium of Missouri Certification Requirements, changes language for consistency among the rules, and makes new legislative changes for out-of-state teachers with five (5) years experience in the same teaching area.*

(1) An applicant for a Missouri certificate of license to teach who possesses good moral character and has successfully completed a state-approved teacher preparation program or earned a Doctor of Philosophy degree may be granted an initial Missouri certificate of license to teach in their major area of study subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements (compendium)* which is incorporated by reference and made a part of this rule.

(2) Applications for a Missouri certificate of license to teach shall be submitted on the forms provided by the State Board of Education (**the board**) and may be obtained by writing the *[Teacher Certification] Educator Licensure* Section of the Department of Elementary and Secondary Education (**DESE**) at P./O./ Box 480, Jefferson City, MO 65102 or downloading from the Internet.

(3) An application is not considered officially filed with the board until it has been determined by the board or *[department] DESE* staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigation (FBI) and any other applicable forms. All information should be received by the board within ninety (90) days of the date of the application.

(B) For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to *[the department] DESE*.

(4) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to *[the department] DESE*, including information regarding any disciplinary action.

(5) An applicant for a Missouri certificate of license to teach who has successfully completed a state-approved teacher preparation program and does not possess five (5) years teaching experience in the same school district in the curriculum area and approximate grade levels in another state, must comply with the following additional criteria:

(D) The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s) as defined in the rules promulgated by the board. The official score report shall be submitted to *[the Department of Elementary and Secondary Education /DESE/]*.

(6) An applicant for a Missouri certificate of license to teach who possesses a valid certificate of license to teach from another state; possesses good moral character; and has five (5) years teaching experience in the same school district in the curriculum area and approximate grade levels in another state may be granted a

Missouri certificate of license to teach upon completion of the following:

(A) Five (5) years teaching in Missouri public schools; and  
(B) Submission of two (2) full sets of fingerprints on cards provided by the board.

1. The applicant is responsible for the payment of any fees required by the Missouri Highway Patrol and/or FBI.

2. For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to DESE.

*[[6]] (7)* In addition to the above criteria, an applicant for a Missouri certificate of license to teach who has successfully obtained certification by the National Board for Professional Teaching Standards (NBPTS) and possesses good moral character may be granted a Missouri certificate of license to teach in their area of NBPTS certification most closely aligned with the current areas of certification approved by the board. The certificate of license to teach will be a professional classification II (PC II) or a continuous professional classification (CPC), if the applicant possesses a master's degree.

*[[7]] (8)* An applicant for an initial Missouri certificate of license to teach who has earned a Doctor of Philosophy degree (Ph.D.) from an institution of higher education accredited by a regional accreditation agency including but not limited to North Central Association of Colleges and Schools must comply with the following additional criteria:

(A) The applicant must have completed and provide documentation of a valid Ph.D. degree being conferred in their major area of post-graduate study; and

(B) The applicant may only be granted a professional classification I (PC I) level and/or a PC II level certificate of license to teach pursuant to the rules promulgated by the board. A CPC level certificate of license to teach will not be issued.

*[[8]] (9)* Additional certificates of license to teach may be granted as follows:

(A) The applicant may take the appropriate content knowledge or specialty area exit assessment(s) for certification and must achieve a score equal to or in excess of the qualifying score on the content knowledge or specialty area exit assessment(s) as defined in the rules promulgated by the board; or

(B) If the board has not designated a content knowledge or specialty area exit assessment(s) for a particular certification area or grade level or the applicant chooses not to take the appropriate content knowledge or specialty area exit assessment(s), the applicant must meet the certification standards for the area of certification as set forth in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium*.

*[[9]] (10)* Following review by *[the department] DESE*, the applicant shall be informed in writing of the decision regarding the application for a certificate of license to teach.

*[[10]] (11)* The holder of a certificate of license to teach shall ensure that DESE has their current legal name and address.

(A) A holder of a certificate of license to teach whose name is changed by marriage or court order shall notify *[the department] DESE* within ninety (90) days of the name change and provide a copy of the appropriate documents verifying the name change.

(B) A holder of a certificate of license to teach whose address has changed shall inform *[the department] DESE* in writing of the change within ninety (90) days of the effective date of the change.

*AUTHORITY: sections 168.011, 168.021, 168.405 and 168.409, RSMo 2000 and 161.092, 168.071, 168.081 and 168.400, RSMo Supp. 2002. Original rule filed April 26, 2000, effective Nov. 30,*

2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 80—Teacher Quality and Urban Education  
Chapter 800—[Teacher Certification and Professional  
Conduct and Investigations] Educator Licensure**

**PROPOSED AMENDMENT**

**5 CSR 80-800.220 Application for Certificate of License to Teach for Administrators.** The State Board of Education is proposing to amend sections (1), (2), (3), (6), (7), (14), subsections (12)(C), (13)(B), (13)(C), (15)(C), (23)(A) and (23)(B).

**PURPOSE:** This amendment updates certification requirements in the *Compendium of Missouri Certification Requirements and changes language for consistency among the rules.*

(1) An applicant for an administrator may be granted an administrator certificate of license to teach in the following areas subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements (compendium)* which is incorporated by reference and made a part of this rule and criteria established in the rules promulgated by the **State Board of Education** (the board), to an individual who possesses good moral character:

(2) Applications for an administrator Missouri certificate of license to teach shall be submitted on the forms provided by the *[State Board of Education] board* and may be obtained by writing the *[Teacher Certification] Educator Licensure* Section of the Department of Elementary and Secondary Education (**DESE**) at *Pl./Ol./* Box 480, Jefferson City, MO 65102 or by downloading from the Internet.

(3) An application is not considered officially filed with the board until it has been determined by the board or *[department] DESE* staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigation (FBI) and any other applicable forms. All information should be received by the board within ninety (90) days of the date of the application.

(B) For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to *[the department] DESE*.

(6) The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s) as defined in the rules promulgated by the board. The official score report shall be submitted

to *[the Department of Elementary and Secondary Education] (DESE)]*.

(7) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to *[the department] DESE*, including information regarding any disciplinary action.

(12) The applicant for an administrator certificate of license to teach as a vocational director must comply with the following additional criteria:

(C) The applicant must possess two (2) years of full-time teaching experience at the *[level]* grade seven (7)—adult **level**, as approved by *[the department] DESE* or two (2) years of full-time experience at grade seven (7) through adult level other than teaching.

(13) An applicant for a Missouri administrator certificate of license to teach who possesses a valid administrator certificate of license to teach from another state and possesses good moral character may be granted a Missouri administrator certificate of license to teach.

(B) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to *[the department] DESE*, including information regarding any disciplinary action.

(C) The applicant shall submit two (2) full sets of fingerprints on cards provided by the board.

1. The applicant is responsible for the payment of any fees required by the Missouri Highway Patrol and/or FBI.

2. For the purpose of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to *[the department] DESE*.

(14) Following review by *[the department] DESE*, the applicant shall be informed in writing of the decision regarding the application for a certificate of license to teach.

(15) An administrator certificate of license to teach may be issued for a principal for a period of five (5) years and may be renewed once for an additional five (5) years. The requirements for renewal are as follows:

(C) Submission of a letter from the designated certification official at a state-approved college or university that the individual has completed the fifteen (15) hours toward/s/ their educational specialist or doctoral degree with a major emphasis in educational administration.

(23) The holder of an administrator certificate of license to teach shall ensure that DESE has their current legal name and address.

(A) A holder of an administrator certificate of license to teach whose name is changed by marriage or court order shall notify *[the department] DESE* within ninety (90) days of the name change and provide a copy of the appropriate documents verifying the name change.

(B) A holder of an administrator certificate of license to teach whose address has changed shall inform *[the department] DESE* in writing of the change within ninety (90) days of the effective date of the change.

**AUTHORITY:** sections 161.092, 168.071, 168.081 and 168.400, *RSMo Supp. 2002 and 168.011, 168.021, 168.405 and 168.409, RSMo 2000. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.

## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

### Division 80—Teacher Quality and Urban Education Chapter 800—[Teacher Certification and Professional Conduct and Investigations] Educator Licensure

#### PROPOSED AMENDMENT

**5 CSR 80-800.230 Application for a Student Services Certificate of License to Teach.** The State Board of Education is proposing to amend sections (1)–(4), (14), subsections (5)(D), (6)(C), (8)(C), (25)(A), (25)(B) and adds new sections (13), (16) and (27).

*PURPOSE:* This amendment updates certification requirements in the *Compendium of Missouri Certification Requirements*, changes language for consistency among the rules, makes new legislation changes for out-of-state teachers with five (5) years experience in the same teaching area and adds the requirements for a new certificate of license to teach as a speech-language pathologist.

(1) An applicant for a student services certificate of license to teach may be granted in the following areas subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements (compendium)* which is incorporated by reference and made a part of this rule and the criteria established in the rules promulgated by the **State Board of Education (the board)**, to an individual who possesses good moral character:

- (B) School Psychological Services Personnel:
  1. School psychological examiner, grades K–12; and/or
  2. School psychologist, grades K–12; *and/or*
- (C) Vocational Services Personnel:
  1. Vocational adult education supervisor;
  2. Post-secondary vocational counselor (excluding K–12);
  3. Placement coordinator; and/or
  4. Vocational evaluator<sup>1</sup>; **and/or**
- (D) **Speech-Language Services Personnel:**
  1. **Speech-language pathologist, grades K–12.**

(2) Applications for a student services Missouri certificate of license to teach shall be submitted on the forms provided by the *[State Board of Education] board* and may be obtained by writing the *[Teacher Certification] Educator Licensure* Section of the Department of Elementary and Secondary Education (**DESE**) at P./O./ Box 480, Jefferson City, MO 65102 or by downloading from the Internet.

(3) An application is not considered officially filed with the board until it has been determined by the board or *[department] DESE* staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigation (FBI) and any other applicable forms. All information should be received by the board within ninety (90) days of the date of the application.

(B) For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to *[the department] DESE*.

(4) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to *[the department] DESE*, including information regarding any disciplinary action.

(5) The applicant for a student services certificate of license to teach as a school counselor or advanced school counselor must comply with the following additional criteria:

(D) *[Beginning September 1, 2001, t]*The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s), not to include the principles of learning and teaching, as defined in the rules promulgated by the board. An official score report shall be submitted to *[the Department of Elementary and Secondary Education (]DESE[)]*.

(6) The applicant for a student services certificate of license to teach as an advanced school counselor must comply with the following additional criteria:

(C) *[Beginning September 1, 2001, t]*The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s), not to include the principles of learning and teaching, as defined in the rules promulgated by the board. The official score report shall be submitted to DESE.

(8) The applicant for a student services certificate of license to teach as a school psychologist must comply with the following additional criteria:

(C) *[Beginning September 1, 2001, t]*The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s), not to include the principles of learning and teaching, as defined in the rules promulgated by the board. An official score report shall be submitted to DESE.

**(13) The applicant for a student services certificate of license to teach as a speech-language pathologist must comply with the following additional criteria:**

**(A) The applicant must possess a master's or higher degree from a state-approved program for speech-language pathologists;**

**(B) The applicant must possess a valid unencumbered, undisciplined Missouri license as a speech-language pathologist from the State Board of Registration for the Healing Arts; and**

**(C) The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s), not to include the principals of learning and teaching, as defined in the rules promulgated by the board. An official score report shall be submitted to DESE.**

*[[13]] (14)* Additional certificates of license to teach may be granted pursuant to rules promulgated by the board.

*[[14]] (15)* An applicant for a Missouri student services certificate of license to teach who possesses a valid certificate of license to teach from another state closely aligned to a current certification area approved by the board; *and* possesses good moral character **but does not possess five (5) years teaching experience in the same school district in the curriculum area and approximate grade levels in another state** may be granted a Missouri certificate of license to teach.

(A) The applicant must achieve a score equal to or in excess of the qualifying score on the exit assessment(s), not to include the principles of learning and teaching, as defined in the rules promulgated by the board. The official score report shall be submitted to DESE.

(B) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a

certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to *[the department]* DESE, including information regarding any disciplinary action.

(C) The applicant shall submit two (2) full sets of fingerprints on cards provided by the board.

1. The applicant is responsible for the payment of any fees required by the Missouri Highway Patrol and/or FBI.

2. For the purpose of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to *[the department]* DESE.

**(16) An applicant for a Missouri student services certificate of license to teach who possesses a valid certificate of license to teach from another state, possesses good moral character and has five (5) years teaching experience in the same school district in the curriculum area and approximate grade levels in another state may be granted a Missouri student services certificate of license to teach upon completion of the following:**

(A) Five (5) years teaching experience in Missouri public schools; and

(B) Submission of two (2) full sets of fingerprints on cards provided by the board.

1. The applicant is responsible for the payment of any fees required by the Missouri Highway Patrol and/or FBI.

2. For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to DESE.

*[[15]]* (17) Following review by DESE, the applicant shall be informed in writing of the decision regarding the application for a certificate of license to teach.

*[[16]]* (18) A student services certificate of license to teach may be issued for a school counselor, school psychological examiner and/or school psychologist for a period of five (5) years and may be renewed an unlimited number of times. The requirements for renewal are as follows:

(A) Written request for renewal of the certificate of license to teach;

(B) Verification of two (2) years experience as a school counselor, school psychological examiner, or school psychologist in a school setting;

(C) Documentation of attendance at three (3) professional workshops totaling fifteen (15) clock hours approved by DESE; and

(D) Submission of an official transcript showing six (6) semester hours appropriate to school counselors, school psychological examiners, or school psychologists from a state-approved college or university; or documentation verifying ninety (90) clock hours of professional workshops/in-services appropriate for school counselors, school psychological examiners, or school psychologists.

*[[17]]* (19) A student services certificate of license to teach may be issued for an advanced school counselor for a period of ten (10) years and may be renewed an unlimited number of times. The requirements for renewal are as follows:

(A) Written request for renewal of the certificate of license to teach;

(B) Verification of two (2) years experience as a school counselor in school setting;

(C) Documentation of attendance at three (3) professional workshops totaling fifteen (15) clock hours approved by DESE; and

(D) Submission of an official transcript showing six (6) semester hours appropriate to counselors from a state-approved college or university appropriate to school counselors or documentation verifying ninety (90) clock hours of professional workshops/in-services appropriate for school counselors.

*[[18]]* (20) If a school counselor, advanced school counselor, school psychological examiner, and/or school psychologist seeks to renew their student services certificate of license to teach, however, the individual has not been employed in a school setting, the individual must submit the following:

(A) Written request for renewal of the certificate of license to teach; and

(B) Submission of an official transcript showing eight (8) semester hours appropriate to school counselors, school psychological examiners, or school psychologists from a state-approved college or university.

*[[19]]* (21) A student services certificate of license to teach may be issued for a vocational adult education supervisor, for a period of five (5) years and may be renewed once by meeting the following criteria:

(A) Completion of a planned program of graduate credit focused upon general and vocational administration from a state-approved college or university to prepare vocational adult education supervisors. The planned program shall include a minimum of fifteen (15) hours of approved graduate credit, which meet the competencies identified for the certificate of license to teach;

(B) Confirmed attendance at three (3) vocational education conferences;

(C) Participation in workshops and/or seminars on general or vocational education administration, instructional leadership activities, or curriculum development totaling at least fifteen (15) clock hours; and

(D) Participation in one (1) accreditation-evaluation of schools by the North Central Association or DESE evaluation teams.

*[[20]]* (22) A ten (10)-year student services certificate of license to teach as a vocational adult education supervisor may be issued to the individual meeting the criteria for the five (5)-year certificate and the following additional criteria:

(A) Confirmed attendance at eight (8) vocational education conferences;

(B) Participation in workshops and/or seminars on general or vocational education administration, instructional leadership activities, or curriculum development totaling at least fifteen (15) clock hours; and

(C) Participation in one (1) accreditation-evaluation of schools by the North Central Association or DESE evaluation teams.

*[[21]]* (23) The ten (10)-year student services certificate of license to teach as a vocational adult education supervisor may be renewed an unlimited number of times by the individual meeting the following criteria:

(A) Possession of five (5) years experience in school supervision during the previous ten (10) years;

(B) Confirmed attendance at eight (8) vocational education conferences;

(C) Participation in workshops and/or seminars on general or vocational education administration, instructional leadership activities, or curriculum development totaling at least fifteen (15) clock hours;

(D) Participation in one (1) accreditation-evaluation of schools by the North Central Association or DESE evaluation teams; and

(E) Completion of two (2) graduate semester hours related to adult vocational education.

*[[22]]* (24) A nonrenewable student services certificate of license to teach may be issued for a post-secondary vocational counselor for a period of five (5) years. A ten (10)-year student services certificate of license to teach as a post-secondary vocational counselor may be issued and renewed an unlimited number of times by the individual meeting the criteria for the five (5)-year certificate and the following additional criteria:

(A) Possession of two (2) years out of the previous five (5) years experience in counseling at the post-secondary level;

(B) Successful completion of a course in vocational education (if not taken as part of the individual's master's or higher level program);

(C) Confirmed attendance at eight (8) vocational education conferences; and

(D) Completion of one (1) of the following requirements:

1. Attendance at eight (8) professional workshops/seminars totaling fifteen (15) clock hours, appropriate for post-secondary counselors servicing individuals enrolled in vocational education; or

2. Completion of six (6) hours of graduate credit appropriate for post-secondary counselors.

*[[23]] (25)* A nonrenewable student services certificate of license to teach may be issued for a placement coordinator for a period of five (5) years. A ten (10)-year student services certificate of license to teach as a placement coordinator may be issued and renewed an unlimited number of times by the individual meeting the criteria for the five (5)-year certificate and the following additional criteria:

(A) Possession of a Missouri certificate of license to teach as a counselor or in a vocational-technical area;

(B) Possession of two (2) years out of the previous five (5) years experience as a placement coordinator;

(C) Successful completion of a course in vocational education (if not taken as part of the individual's master's or higher level program); and

(D) Confirmed attendance at eight (8) vocational education conferences.

*[[24]] (26)* A nonrenewable student services certificate of license to teach may be issued for a vocational evaluator for a period of five (5) years. A ten (10)-year student services certificate of license to teach as a vocational evaluator may be issued and renewed an unlimited number of times by the individual meeting the criteria for the five (5)-year certificate and the following additional criteria:

(A) Completion of two (2) years full-time employment as a vocational evaluator;

(B) Completion of the following course work:

1. Standardized testing;

2. Occupational information or job analysis; and

3. Two (2) courses with a primary focus in at least one (1) of the following content areas:

A. Philosophy and process of vocational evaluation and assessment;

B. Individualized vocational evaluation planning;

C. Vocational evaluation report development and communication;

D. Work samples and systems;

E. Situational and community-based assessment;

F. Behavioral observation;

G. Functional aspects of disability;

H. Vocational interviewing;

I. Assessment of learning;

J. Functional skills assessment; and/or

K. Modifications and accommodations.

**(27) A student services certificate of license to teach may be issued for a speech-language pathologist for a period of five (5) years and may be renewed an unlimited number of times by the individual meeting the following criteria:**

**(A) Written request for renewal; and**

**(B) Verification of a valid, unencumbered and undisciplined Missouri license as a speech-language pathologist from the Missouri Board of Registration for the Healing Arts.**

*[[25]] (28)* The holder of a student services certificate of license to teach shall ensure that DESE has their current legal name and address.

(A) A holder of a student services certificate of license to teach whose name is changed by marriage or court order shall notify *[the department]* DESE within ninety (90) days of the name change and provide a copy of the appropriate documents verifying the name change.

(B) A holder of a student services certificate of license to teach whose address has changed shall inform *[the department]* DESE in writing of the change within ninety (90) days of the effective date of the change.

*AUTHORITY: sections 161.092, 168.071, 168.081 and 168.400, RSMo Supp. 2002 and 168.011 and 168.021, RSMo 2000. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 80—Teacher Quality and Urban Education  
Chapter 800—[Teacher Certification and Professional  
Conduct and Investigations] Educator Licensure**

**PROPOSED AMENDMENT**

**5 CSR 80-800.260 Temporary Authorization Certificate of License to Teach.** The State Board of Education is proposing to amend sections (2)–(7), (9), (10) and adding new sections (7), (8), (10) and (11).

*PURPOSE: This amendment updates certification requirements in the Compendium of Missouri Certification Requirements, changes language for consistency among the rules, makes legislation changes for a temporary authorization administrator's certificate of license to teach and adds a temporary authorization speech implementor's certificate of license to teach.*

(2) Applications for a Missouri temporary authorization certificate shall be submitted on the forms provided by the State Board of Education (**the board**) and may be obtained by writing the *[Teacher Certification] Educator Licensure* Section at the Department of Elementary and Secondary Education (**DESE**) at PO Box 480, Jefferson City, MO 65102 or downloading from the Internet.

(3) An application is not considered officially filed with the board until it has been determined by the board or *[department]* DESE staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigation (FBI) and



any other applicable forms. All information should be received by the board within ninety (90) days of the date of the application.

(B) For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to *[the department]* DESE.

(4) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to *[the department]* DESE, including information regarding any disciplinary action.

(5) The employing Missouri public school district or accredited nonpublic school must develop a mentoring program to provide adequate support to the holder of the temporary authorization certificate to ensure proper transition into the classroom or administrative environment.

(6) The applicant for a temporary authorization certificate (**excluding a temporary authorization administrator's or speech implementor's certificate**) must comply with the following criteria:

(C) Submission of a joint application verifying contracted employment with a Missouri public school district or accredited non-/public school;

(D) If this is the applicant's initial certificate of license to teach, documentation of a plan of an academic program of study from a state-approved teacher preparation program must be submitted. If the applicant holds an initial Missouri professional or life certificate of license to teach and is seeking an additional certificate of license to teach, a transcript analysis from *[the Department of Elementary and Secondary Education (DESE)]* based on the requirements set forth in the *Compendium of Missouri Certification Requirements (compendium)* which is incorporated by reference and made a part of this rule must be submitted; and

(E) The temporary authorization certificate will not include the areas of elementary education, grades one through six (1-6); early childhood, grades birth through three (B-3); and early childhood special education, grades birth through three (B-3) *;* and *administration*. Applicants for the areas of driver's education, English for speakers of other languages, gifted, and special reading must hold a certificate of license to teach or must also submit an academic program of study for a certificate of license to teach in a stand-alone area, as these areas cannot stand alone.

(7) The applicant for a temporary authorization administrator's certificate for a building-level administrator must comply with the following criteria:

(A) Possession of a valid Missouri certificate of license to teach;

(B) Completion of five (5) years teaching experience at the appropriate grade levels for which the temporary authorization administrator's certificate is sought in a public school or an accredited nonpublic school, or a combination of such schools;

(C) Possession of a master's degree or currently enrolled in a state-approved master's degree program for the preparation of an administrator; and

(D) Submission of a joint application verifying contracted employment with a Missouri public school district or accredited nonpublic school.

(8) The applicant for a temporary authorization speech implementor's certificate must comply with the following criteria:

(A) Possession of a baccalaureate degree in communication disorders from an accredited college or university; and

(B) Submission, annually by the school district recommending the applicant for certification and approval by the Division of Special Education to use the speech implementor service delivery model.

*[[7]]* (9) The temporary authorization certificate (**excluding a temporary authorization administrator's or speech implementor's certificate**) is valid for up to one (1) school year. It may be renewed annually by joint application from the certificate holder and the employing Missouri public school district or accredited nonpublic school upon demonstration of the following:

*[[A]]* Completion of nine (9)-semester hours of course work towards the professional teaching certificate of license to teach in the area of assignment. The appropriate hours will be determined by the state-approved teacher education institution if this is the applicant's initial certificate of license to teach or by DESE if it is an additional certificate of license to teach;

*[[B]]* (A) Continued contracted employment with a Missouri public school district or accredited nonpublic school;

*[[C]]* (B) Documentation of successful Performance Based Teacher Evaluation by the sponsoring Missouri public school district or accredited nonpublic school; *[and]*

*[[D]]* (C) Documentation of participation in a mentoring program by the sponsoring Missouri public school district or accredited nonpublic school.; and

(D) One of the following:

1. Completion of nine (9) semester hours of course work toward the professional certificate of license to teach in the area of assignment. The appropriate hours will be determined by the state-approved teacher education institution if this is the applicant's initial certificate of license to teach or by DESE if it is an additional certificate of license to teach; or

2. Completion of six (6) semester hours of course work toward the professional certificate of license to teach in the area of assignment and successful completion of the Missouri New Teacher Institute. The appropriate hours will be determined by the state-approved teacher education institution if this is the applicant's initial certificate of license to teach or by DESE if it is an additional certificate of license to teach.

(10) The temporary authorization administrator's certificate is valid for up to one (1) school year and may only be renewed annually for four (4) subsequent years. It may be renewed by joint application from the certificate holder and the employing Missouri public school district upon demonstration of the following:

(A) Continued contracted employment as a building-level administrator with a Missouri public school district or accredited nonpublic school;

(B) Documentation of participation in a mentoring program by the sponsoring Missouri public school district or accredited nonpublic school; and

(C) Completion of nine (9) semester hours of course work toward the administrator's certificate of license to teach. The appropriate hours will be determined by the state-approved program for the preparation of an administrator's certificate of license to teach.

(11) The temporary authorization speech implementor's certificate is valid for up to one (1) school year and may be renewed annually by joint application from the certificate holder and the employing Missouri public school district or accredited nonpublic school upon demonstration of the following:

(A) Continued contracted employment with a Missouri public school district or accredited nonpublic school;

(B) Approval from the Division of Special Education to use the speech implementor model;

(C) Documentation of successful Performance Based Teacher Evaluation by the sponsoring Missouri public school district or accredited nonpublic school;

(D) Verification of training provided by the supervising speech therapist and/or speech-language pathologist or specialist for the activities that the speech implementor is assigned; and

(E) Completion of nine (9) semester hours of course work toward the completion of a teacher preparation program.

[(8)] (12) The applicant shall be informed in writing of the decision regarding the application for a temporary authorization certificate.

[(9)] (13) The holder of a temporary authorization certificate shall ensure that DESE has their current legal name and address.

(A) A holder of a temporary authorization certificate whose name is changed by marriage or court order shall notify [the department] DESE within ninety (90) days of the name change and provide a copy of the appropriate documents verifying the name change.

(B) A holder of a temporary authorization certificate whose address has changed shall inform [the department] DESE in writing of the change within ninety (90) days of the effective date of the change.

[(10)] (14) All Missouri public school districts are required to disclose the certification status of teachers holding temporary authorization certificate of license to teach by public notice in a form established by the [State Board of Education] board and consistent with applicable state laws and regulations.

*AUTHORITY: sections 161.092, 168.071, 168.081 and 168.083, RSMo Supp. 2002 and 168.011, 168.021, RSMo 2000. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.*

## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

### Division 80—Teacher Quality and Urban Education

#### Chapter 800—[Teacher Certification and Professional Conduct and Investigations] Educator Licensure

#### PROPOSED AMENDMENT

**5 CSR 80-800.270 Application for a Vocational-Technical Certificate of License to Teach.** The State Board of Education is proposing to amend sections (2), (3), and (5)–(11).

*PURPOSE: This amendment updates certification requirements in the Compendium of Missouri Certification Requirements and changes language for consistency among the rules.*

(2) Applications for a Missouri certificate of license to teach shall be submitted on the forms provided by the State Board of Education (the board) and may be obtained by writing and should be submitted to the coordinator for Vocational Technical Education, or for Junior

Reserve Officer Training Corps (ROTC) certificates to the [Teacher Certification] Educator Licensure Section, Missouri Department of Elementary and Secondary Education (DESE) at [P.O.] Box 480, Jefferson City, MO 65102 or downloading from the Internet.

(3) An application is not considered officially filed with the board until it has been determined by the board or [department] DESE staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigation (FBI) and any other applicable forms. All information should be received by the board within ninety (90) days of the date of the application.

(B) For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to [the department] DESE.

(5) The applicant must comply with the specific requirements for the various vocational-technical certificates of license to teach as set forth in the *Compendium of Missouri Certification Requirements (compendium)* which is incorporated by reference and made a part of this rule.

(6) If the applicant seeks a vocational-technical certificate of license to teach from [the department] DESE in an area which Missouri currently issues a professional license or certification, the applicant must possess a valid, unencumbered, undisciplined professional license or certificate from the professional licensing entity within Missouri.

(7) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to [the department] DESE, including information regarding any disciplinary action.

(8) Following review by [the department] DESE, the applicant shall be informed in writing of the decision regarding the application for a vocational-technical certificate of license to teach.

(9) The holder of a vocational-technical certificate of license to teach shall ensure that [the Department of Elementary and Secondary Education] DESE has their current legal name and address.

(A) A holder of a vocational-technical certificate of license to teach whose name is changed by marriage or court order shall notify [the department] DESE within ninety (90) days of the name change and provide a copy of the appropriate documents verifying the name change.

(B) A holder of a vocational-technical certificate of license to teach whose address has changed shall inform [the department] DESE in writing of the change within ninety (90) days of the effective date of the change.

(10) The following vocational-technical certificates of license to teach may be issued and renewed as set forth in the [Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] **compendium**:

(11) When an individual's vocational-technical certificate of license to teach has expired for thirty (30) days, the individual must meet current requirements as set forth in the [Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] **compendium**.

*AUTHORITY: sections 168.071, 168.081 and 161.092, RSMo Supp. 2002, 168.011 and 168.021, RSMo 2000. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.

## **Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**

### **Division 80—Teacher Quality and Urban Education Chapter 800—[Teacher Certification and Professional Conduct and Investigations] Educator Licensure**

#### **PROPOSED AMENDMENT**

**5 CSR 80-800.280 Application for an Adult Education and Literacy Certificate of License to Teach.** The State Board of Education is proposing to amend sections (2), (3), (4), (7) and (11) and subsections (8)(C) and (10)(B).

*PURPOSE:* This amendment updates language for consistency among the certification rules.

(2) Applications for a Missouri certificate of license to teach shall be submitted on the forms provided by the State Board of Education (**the board**) and may be obtained by writing and should be submitted to the Director for Adult Education, Missouri Department of Elementary and Secondary Education (**DESE**) at P/.J.O./ Box 480, Jefferson City, MO 65102.

(3) An application is not considered officially filed with the board until it has been determined by the board or [department] DESE staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigation (FBI) and any other applicable forms. All information should be received by the board within ninety (90) days of the date of the application.

(B) For the purposes of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to the adult education section of [the department] DESE.

(4) The applicant shall request that each state or United States territory regulatory entity in which a professional license including a certificate of license to teach is held or has ever been held to submit verification of certification or licensure directly to the adult education section of [the department] DESE, including information regarding any disciplinary action.

(7) Following review by [the department] DESE, the applicant shall be informed in writing of the decision regarding the application for an AEL certificate of license to teach.

(8) An AEL-I certificate of license to teach may be issued for a period of three (3) years and may be renewed an unlimited number of times. The requirements for renewal are as follows:

(C) Successful completion of one (1) in-service per year, approved by the adult education section of [the department] DESE.

(10) An AEL-II certificate of license to teach may be renewed an unlimited number of times by individuals meeting the following requirements:

(B) Successful completion of one (1) in-service per year, approved by the adult education section of [the department] DESE.

(11) The holder of an AEL certificate of license to teach shall ensure that [the Department of Elementary and Secondary Education] DESE has their current legal name and address.

(A) A holder of an AEL certificate of license to teach whose name is changed by marriage or court order shall notify the adult education section of [the department] DESE within ninety (90) days of the name change and provide a copy of the appropriate documents verifying the name change.

(B) A holder of an AEL certificate of license to teach whose address has changed shall inform the adult education section of [the department] DESE in writing of the change within ninety (90) days of the effective date of the change.

*AUTHORITY:* sections 161.092, 168.071 and 168.081, RSMo Supp. 2002, and 168.011 and 168.021, RSMo 2000. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.

## **Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**

### **Division 80—Teacher Quality and Urban Education Chapter 800—[Teacher Certification and Professional Conduct and Investigations] Educator Licensure**

#### **PROPOSED AMENDMENT**

**5 CSR 80-800.300 Discipline and Denial of Certificates of License to Teach.** The State Board of Education is proposing to amend the purpose and sections (1)–(7) and add new sections (2) and (3).

*PURPOSE:* This amendment makes legislative changes pursuant to Senate Bill 722 to the professional conduct and investigations procedures.

*PURPOSE:* The State Board of Education is authorized to grant certificates of license to teach in any of the public schools of the state, [under the provisions of section 168.021.1, RSMo and to] establish requirements and qualifications for those certificates and cause those certificates to be revoked, suspended, invalidated or deleted in a manner provided in section 168.071, RSMo. This rule establishes procedures for action by the State Board of Education.

(1) The State Board of Education (**the board**) may [suspend or revoke] discipline, refuse to issue, or renew a certificate of license to teach [upon satisfactory proof of a conviction of a felony or crime involving moral turpitude whether or not sentence

is imposed, upon charges being filed by the Department of Elementary and Secondary Education or the school district's local board of education, or upon charges being filed by the school district's local board of education for incompetency, cruelty, immorality, drunkenness, neglect of duty or the annulling of a written contract with the local board of education without the consent of the majority of members of the board which is a party to the contract. Charges may be filed by the attorney general if the school district has been identified as financially stressed pursuant to section 161.520, RSMo. All charges must be in writing.] for any one or combination of the following:

(A) An individual has pled guilty or been found guilty of a felony or crime involving moral turpitude whether or not sentence is imposed;

(B) Certification was obtained through the use of fraud, deception, misrepresentation or bribery;

(C) Evidence of the certificate holder's incompetence, immorality, or neglect of duty;

(D) The certificate holder has been subject to disciplinary action relating to certification in another state upon grounds for which discipline is authorized in Missouri; and/or

(E) A certificate holder annulled a written contract with the local board of education for reasons other than election to the general assembly, without the consent of the majority of the local board members.

**(2) School districts may file charges pursuant to section (1).**

(A) Charges must be in writing and signed by the chief administrative officer of the district or by the president of the board when so authorized by a majority of the board[, if appropriate,] in those instances where the charges are filed by or on behalf of the school district's local board of education.

(B) Charges filed by or on behalf of the school district's local board of education must be sworn by the party(ies) making the accusation, and filed with the Department of Elementary and Secondary Education (DESE).

(C) Charges may be filed by the attorney general's office on behalf of the school district for any one or combination of the causes in section (1) except annulment of a written contract.

**(3) DESE may file charges for any one or combination of the causes in section (1), other than annulment of a written contract.**

(A) Charges must be in writing and signed by legal counsel.

[[2]] (4) Upon receipt of charges made pursuant to section 168.071, RSMo and filed with DESE, DESE shall provide at least thirty (30) days notice to the parties and may conduct a hearing.

[[3]] (5) Except as provided in sections [[4]] (6) and [[5]] (7), the commissioner of education, or his/her designee(s) (hearing officer), shall conduct all hearings [resulting from conviction of a felony, a crime involving moral turpitude and/or other crime whether or not sentence is imposed,] on charges filed to [revoke or suspend] discipline a certificate(s) of license to teach as provided in section 168.071, RSMo. A transcript of the hearing along with findings of fact and conclusions of law will be forwarded to the members of the [State Board of Education] board. The [State Board of Education] board, at a regular meeting, will render a decision based upon the transcript of the hearing, exhibits and any other information presented at the meeting.

(A) Where the underlying conduct or action of the certificate holder is the basis of charges filed and such conduct or action is subject to pending criminal charges, the certificate holder may request in writing a delayed hearing on advice of his/her legal representation under the fifth amendment of the Constitution of the United States.

1. The request shall be submitted to the [commissioner of education, or his/her designee(s)] hearing officer, by the certificate holder or by legal counsel.

2. The request shall provide documentation of the pending criminal charge and contain a statement specifying what underlying conduct or actions are subject to the pending criminal charge.

(B) The [commissioner of education, or his/her designee(s)] hearing officer shall, based upon the [application] request, suspend the hearing process until [final disposition of] a trial is completed on the criminal charges [relating to the underlying conduct or actions relating to the charges filed].

(C) The hearing officer may accept into the hearing record sworn testimony of a minor child relating to misconduct received in any court or administrative hearing.

[[4]] (6) Upon documentation from a court of a plea of guilty or conviction of the following crime(s) whether or not sentence is imposed, an individual's certificate of license to teach shall be revoked, or in the case of an applicant, not issued:

- (A) Murder 1st Degree;
- (B) Murder 2nd Degree;
- (C) Arson 1st Degree;
- (D) Assault 1st Degree;
- (E) Forcible Rape;
- (F) Forcible Sodomy;
- (G) Kidnapping;
- (H) Robbery 1st Degree;
- (I) Rape;
- (J) Statutory Rape 1st Degree;
- (K) Statutory Rape 2nd Degree;
- (L) Sexual Assault;

[[M]] Forcible Sodomy;]

[[N]] (M) Statutory Sodomy 1st Degree;

[[O]] (N) Statutory Sodomy 2nd Degree;

[[P]] (O) Child Molestation 1st Degree;

[[Q]] (P) Child Molestation 2nd Degree;

[[R]] (Q) Deviate Sexual Assault;

[[S]] (R) Sexual Misconduct Involving a Child;

[[T]] (S) Sexual Misconduct 1st Degree;

[[U]] (T) Sexual Abuse;

[[V]] (U) Incest;

[[W]] (V) Abandonment of Child 1st Degree;

[[X]] (W) Abandonment of Child 2nd Degree;

[[Y]] (X) Endangering the Welfare of a Child 1st Degree;

[[Z]] (Y) Abuse of Child;

[[AA]] (Z) Child Used in a Sexual Performance;

[[BB]] (AA) Promoting Sexual Performance by a Child;

[[CC]] (BB) Trafficking in Children; and

[[DD]] (CC) Offenses Involving Child Pornography and Related Offenses[-];

- 1. Promoting obscenity [in] 1st degree;
- 2. Promoting obscenity [in] 2nd degree if penalty is enhanced to Class D Felony;
- 3. Promoting child pornography [in] 1st degree;
- 4. Promoting child pornography 2nd degree;
- 5. Possession of child pornography 1st degree;
- 6. Possession of child pornography 2nd degree;
- 7. Furnishing child pornography to a minor;
- [6.] 8. Furnishing pornographic materials to minors;
- [7.] 9. Coercing acceptance of obscene material; and
- 8. Sale or rental to persons under seventeen [17]].

[[5]] (7) An individual who has had their certificate(s) of license to teach revoked pursuant to section [[4]](6) may appeal, in writing, said revoked to the commissioner of education within [thirty (30)] ninety (90) days of notice of the revocation. Upon receiving the intent to appeal, a hearing will be held before a hearing officer [designated by the commissioner of education]. The individual will be

given not less than thirty (30) days notice of the hearing, the opportunity to be heard, and the opportunity for witnesses. A transcript of the hearing along with findings of fact and conclusions of law will be forwarded to the members of the *[State Board of Education] board*. The *[State Board of Education] board*, at a regular meeting, will render a decision based upon the transcript of the hearing, exhibits and any other information presented at the meeting. The *[State Board of Education's] board's* decision may be appealed to the circuit court as provided in section *[(7)] (9)*.

*[(A) Testimony from a minor child shall not be required. The hearing officer shall accept into the record the transcript of any testimony admitted at a court hearing of a child involved in an offense listed in section (4).]*

*[(6)] (8)* The *[State Board of Education] board* may suspend or revoke for a specified time, or indefinitely, a certificate of license to teach pursuant to the rules promulgated by the board. The board may also accept a voluntary surrender or informally settle a case through a consent agreement or agreed settlement.

*[(7)] (9)* Within thirty (30) days of the *[State Board of Education's] board's* final decision, an individual may *[appeal to the Circuit Court of Cole County. The appeal shall be de novo and heard with a jury, except in cases of charges of immorality involving a minor child where such case is heard by the court without a jury. Testimony of the minor child shall be taken from the hearing record presented to the State Board of Education.]* file a petition for judicial review pursuant to sections 536.100 to 536.140, RSMo.

*AUTHORITY: sections 161.092, 168.071 and 168.081, RSMo Supp. [1998] 2002, and 168.011 and 168.021, RSMo [1994] 2000. Emergency rule filed March 22, 1999, effective April 1, 1999, expired Sept. 27, 1999. Original rule filed March 22, 1999, effective Sept. 30, 1999. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.*

**Title 5—DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION  
Division 80—Teacher Quality and Urban Education  
Chapter 800—[Teacher Certification and Professional  
Conduct and Investigations] Educator Licensure**

**PROPOSED AMENDMENT**

**5 CSR 80-800.350 Certificate of License to Teach Content Areas.** The State Board of Education is proposing to amend section (2), add a new subsection (2)(M), and amending Appendix A.

*PURPOSE: This amendment deletes certain special education certificates of license to teach in 2006, adds a certificate for speech-language pathologist and makes changes for consistency among the certification rules.*

(2) Certificates of license to teach are issued and renewed by the State Board of Education (**board**) pursuant to the certification requirements found in the *Compendium of Missouri Certification Requirements (compendium)* which is incorporated by reference and made a part of this rule and the rules promulgated by the board in the specialized areas as follows:

(C) Middle school education, grades 5–9 with at least one (1) area of certification in the following areas:

1. Agricultural education;
2. Business education;
3. Family and consumer sciences;
4. Industrial technology;
5. Language arts;
6. Mathematics;
7. Science;
8. Social science; and/or
9. Speech/*[theater] theatre*;

(E) Special education in one (1) or more of the following areas:

1. Blind and partially sighted, grades K–12;
2. Deaf and hearing impaired, grades K–12;
3. Early childhood special education, birth–grade 3;
4. Mild/moderate behavioral disordered, grades K–12 (**to be discontinued on September 1, 2006**);
5. Mild/moderate cross-categorical, grades K–12;
6. Mild/moderate learning disabled, grades K–12 (**to be discontinued on September 1, 2006**);
7. Mild/moderate mentally handicapped, grades K–12 (**to be discontinued on September 1, 2006**);
8. Mild/moderate physical and/or other health impairments, grades K–12 (**to be discontinued on September 1, 2006**);
9. Severely developmentally disabled, grades K–12; and/or
10. Speech and language specialist, grades K–12;

(I) Student services certificates of license to teach may be issued in one (1) or more of the following areas:

1. School counselor, grades K–8, 7–12, and/or K–12;
2. Advanced school counselor, grades K–12;
3. School psychological examiner, grades K–12;
4. School psychologist, grades K–12;
5. Vocational adult education supervisor;
6. Post-secondary vocational counselor;
7. Placement coordinator; *[and/or]*
8. Vocational evaluator; **and/or**
9. **Speech-language pathologist, grades K–12;**

(L) Temporary authorization certificates of license to teach; *[and/or]*

(M) **Provisional certificates of license to teach; and/or**  
*[(M)](N)* Substitute certificates of license to teach.

Appendix A—Vocational-Technical Certificates

Agricultural Education

01.0000 Agricultural Education  
01.0101 Agricultural Business  
01.0201 Agricultural Mechanics  
01.0301 Agricultural Production  
01.0401 Agricultural Processing  
01.0501 Agricultural Services/Supplies  
01.0601 Horticulture  
03.0101 Agricultural Resources  
03.0401 Forestry

Business Education

52.0302 Accounting  
52.0407 Information Processing  
52.0407 Network Administration  
52.0408 General Office  
52.1202 Computer Programming  
80.000015 Business Education with Coop

Family and Consumer Sciences Education

20.0201 Child Care and Guidance Workers and Managers  
20.0301 *[Clothing,]* Apparel and Textile Workers and Managers  
20.0401 Institutional Food Workers and Administrators-Dietetic Technology  
20.0501 Home Furnishings and Equipment Installers and Consultants  
20.0601 Custodial, Housekeeping and Home Services Workers and Managers  
20.9999 Vocational Family and Consumer Sciences

Health Sciences

12.0301 \* Funeral Service and Mortuary Science  
51.0000 \* Health Occupations Coop  
51.0205 \* Sign Language Interpreter  
51.0601 \* Dental Assistant  
51.0602 \* Dental Hygienist  
51.0603 Dental Laboratory Technician  
51.0699 Dental Services, Other  
51.0703 Health Unit Coordinator/Ward Clerk  
51.0707 \* Medical Record Technology/Technician (Health Information Technology)  
51.0708 \* Medical Transcription  
51.0801 \* Medical Assistant  
51.0802 \* Medical Laboratory Assistant  
51.0803 \* Occupational Therapy Assistant  
51.0805 \* Pharmacy Technician/Assistant  
51.0806 \* Physical Therapy Assistant  
51.0808 Veterinarian Assistant/Animal Health Technician  
51.0899 Health and Medical Assistants, Other  
51.0904 \* Emergency Medical Technology/Technician  
51.0907 \* Medical Radiologic Technology/Technician  
51.0908 \* Respiratory Therapy Technician  
51.0909 \* Surgical/Operating Room Technology  
51.0910 \* Diagnostic Medical Sonography Technician  
51.1004 \* Medical Laboratory Technician  
51.1501 \* Alcohol/Drug Abuse Counseling  
51.1502 \* Psychiatric/Mental Health Services Technician  
51.1599 Medical Health Services, Other  
51.1601 \* Registered Nursing (RN Training)  
51.1613 \* Licensed Practical Nursing (LPN Training)  
51.1614 \* Nursing Assistant/Aide  
51.1615 \* Home Health Aide  
51.1699 \* Nursing, Other  
51.2601 \* Health Aide (Health Services Assistant)  
51.9999 Health Professions and Related Sciences, Other

Marketing & Cooperative Education

04.0000 Marketing Education  
Post-Secondary Marketing  
03.0000 Cooperative Occupational Education  
05.0000 Cooperative Industrial Education

## Trade and Industrial Education

10.0101	Educational/Instructional Media Technology/Technician
10.0104	Radio and Television Broadcasting Technology/Technician
12.0403 *	Cosmetologist
12.0499	Cosmetic Services, Other
12.0501	Baker/Pastry Chef
12.0503	Culinary Arts
12.0504	Food and Beverage/Restaurant Operations Manager
12.0599	Culinary Arts and Related Services, Other
15.0101	Architectural Engineering Technology/Technician
15.0201	Civil Engineering/Civil Technology/Technician
15.0301	Computer Engineering Technology/Technician
15.0303	Electrical, Electronic and Communications Engineering Technology/Technician
15.0304	Laser and Optical Technology/Technician
15.0399	Electrical and Electronic Engineering-Related Technologies/Technicians, Other
15.0401	Biomedical Engineering-Related Technology/Technician
15.0402	Computer Maintenance Technology/Technician
15.0403	Electromechanical Technology/Technician
15.0404	Instrumentation Technology/Technician
15.0405	Robotics Technology/Technician
15.0499	Electromechanical Instrumentation and Maintenance Technologies/Technicians, Other
15.0501	Heating, Air Conditioning and Refrigeration Technology/Technician
15.0506	Water Quality and Wastewater Treatment Technology/Technician
15.0599	Environmental Control Technologies/Technicians, Other
15.0601	Chemical Manufacturing Technology
15.0603	Industrial/Manufacturing Technology/Technician
15.0604	Manufacturing Technology
15.0699	Industrial Production Technologies/Technicians, Other
15.0701	Occupational Safety and Health Technology/Technician
15.0702	Quality Control Technology/Technician
15.0799	Quality Control and Safety Technologies/Technicians, Other
15.0801	Aeronautical Technology
15.0803	Automotive Engineering Technology/Technician
15.0805	Mechanical Engineering/Mechanical Technology/Technician
15.1001	Construction/Building Technology/Technician
20.0309	Drycleaner and Launderer (Commercial)
23.1101	English Technical and Business Writing
27.0301	Applied Mathematics, General
41.0301	Chemical Technology/Technical
43.0107	Law Enforcement/Police Science
43.0201	Fire Protection and Safety Technology/Technician
43.0203	Fire Science/Firefighting
46.0101	Mason and Tile Setter
46.0201	Carpenter
46.0301	Electrical and Power Transmission Installer, General
46.0302	Electrician
46.0303	Lineworker
46.0399	Electrical and Power Transmission Installer, Other
46.0401	Building/Property Maintenance and Manager
46.0403	Construction/Building Inspector
46.0408	Painter and Wall Coverer
46.0499	Construction and Building Finishers and Managers, Other
46.0501	Plumber and Pipefitter
46.9999	Construction Trades, Other
47.0101	Electrical and Electronics Equipment Installer and Repairer, General
47.0102	Business Machine Repairer
47.0103	Communications Systems Installer and Repairer
47.0104	Computer Installer and Repairer
47.0105	Industrial Electronics Installer and Repairer
47.0106	Major Appliance Installer and Repairer
47.0199	Electrical and Electronics Equipment Installer and Repairer, Other
47.0201	Heating, Air Conditioning and Refrigeration Mechanic and Repairer
47.0302	Heavy Equipment Maintenance and Repairer
47.0303	Industrial Machinery Maintenance and Repairer
47.0399	Industrial Equipment Maintenance and Repairer, Other
47.0501	Stationary Energy Sources Installer and Operator
47.0603	Auto/Automotive Body Repairer
47.0604	Auto/Automotive Mechanic/Technician

47.0605	Diesel Engine Mechanic and Repairer
47.0606	Small Engine Mechanic and Repairer
47.0607 *	Aircraft Mechanic/Technician, Airframe
47.0608 *	Aircraft Mechanic/Technician, Powerplant
47.0609 *	Aviation Systems and Avionics Maintenance Technologist/Technician
47.0611	Motorcycle Mechanic and Repairer
47.0699	Vehicle and Mobile Equipment Mechanics and Repairer, Other
48.0101	Drafting, General
48.0102	Architectural Drafting
48.0103	Civil/Structural Drafting
48.0104	Electrical/Electronics Drafting
48.0105	Mechanical Drafting
48.0199	Drafting, Other
48.0201	Graphic and Printing Equipment Operator, General
48.0205	Mechanical Typesetter and Composer
48.0206	Lithographer and Platemaker
48.0208	Printing Press Operator
48.0211	Computer Typography and Composition Equipment Operator
48.0212	Desktop Publishing Equipment Operator
48.0299	Graphic and Printing Equipment Operator, Other
48.0303	Upholsterer
48.0501	Machinist/Machine Technologist
48.0503	Machine Shop Assistant
48.0506	Sheet Metal Worker
48.0507	Tool and Die Maker/Technologist
48.0508	Welder/Welding Technologist
48.0599	Metal Fabrication
48.0701	Woodworkers, General
48.0702	Furniture Designer and Maker
48.0703	Cabinet Maker and Millworker
48.0799	Woodworkers, Other
49.0202	Construction Equipment Operator
49.0205	Truck, Bus and Other Commercial Vehicle Operator
49.0299	Vehicle and Equipment Operators, Other
49.0306	Marine Maintenance and Ship Repairer
50.0201	Crafts, Folk Art and Artisanry
50.0402	Graphic Design, Commercial Art and Illustration
50.0404	Industrial Design
50.0406	Commercial Photography
50.0605	Photography
06.2002	Trade and Industrial Internship

\* Requires Professional Licensing

*AUTHORITY: sections 168.011, 168.021 and 168.405, RSMo 2000 and 161.092, 168.071, 168.081 and 168.400, RSMo Supp. 2002. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.*



**Title 5—DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION**  
**Division 80—Teacher Quality and Urban Education**  
**Chapter 800—[Teacher Certification and Professional  
Conduct and Investigations] Educator Licensure**

**PROPOSED AMENDMENT**

**5 CSR 80-800.360 Certificate of License to Teach Classifications.** The State Board of Education is proposing to amend sections (1), (12)–(19) and subsection (3)(B).

*PURPOSE:* This amendment updates certification requirements in the *Compendium of Missouri Certification Requirements*, adds a provisional certificate of license to teach as a speech implementor and a five (5)-year provisional certificate of license to teach for out-of-state teachers with five (5) years experience in the same teaching area.

(1) Certificates of license to teach are issued and renewed by the State Board of Education (the board) pursuant to the certification requirements found in the *Compendium of Missouri Certification Requirements (compendium)*, which is incorporated by reference and made a part of this rule, and the rules promulgated by the board.

(3) If a certificate of license to teach is renewed, except for a substitute certificate of license to teach, the effective date of renewal will be the date of expiration of the certificate of license to teach, providing that the application for renewal and supporting materials are received by the Department of Elementary and Secondary Education (DESE) prior to or on the expiration date.

(B) If an individual's certificate of license to teach renewal is received after the certificate has expired for more than eleven (11) months or a shorter time if specified in the rules promulgated by the board, the individual must meet the current certification requirements as set forth in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* unless extenuating circumstances exist and the individual obtains the approval of the commissioner of education.

(12) Approved teaching experience, as described in the rules promulgated by the board, must be in Missouri public schools, schools approved or accredited by the state education agency in states other than Missouri, or in nonpublic schools accredited by an affiliate of the National Federation of Nonpublic School State Accrediting Associations, or one (1) of the six (6) regional accrediting associations for schools and colleges, or by the University of Missouri-Columbia, or other schools accredited by a DESE-approved accrediting agency which incorporates standards that include an entry-year mentor program, professional development plans for faculty, in-service training for faculty, and PBTEs. Teaching experience must be contracted and at least half-time. Substitute teaching or serving as a teacher's aide or assistant will not be counted as teaching experience.

(13) Provisional certificates of license to teach may be issued to an individual for two (2) years and may be extended upon a showing of good cause or issued for five (5) years. Provisional certificates of license to teach may be issued in the following situations:

(A) *[The] A two (2)-year provisional certificate of license to teach may be issued to an individual who has completed the academic requirements for a certificate of license to teach, but has not taken or passed the exit assessment(s) designated by the board;*

(B) *[The] A two (2)-year provisional certificate of license to teach may be issued to an individual who has been admitted into a state-approved post-baccalaureate or alternative professional education program at a Missouri institution of higher education and is actively engaged in coursework to satisfy the requirements of the program; [or]*

(C) *[The] A two (2)-year provisional certificate of license to teach may be issued to an individual who has completed a teacher preparation program and is generally within twelve (12) semester hours of completion of the certification requirements as set forth in the [Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule.] compendium;*

(D) *A two (2)-year provisional certificate of license to teach may be issued to an individual who has completed all requirements for a master's in speech-language pathology from a Missouri approved institution of higher education and has applied and been granted a provisional license from the Missouri Board of Registration for the Healing Arts; or*

(E) *A five (5)-year provisional certificate of license to teach may be issued to an individual who possesses a valid certificate of license to teach from another state and has five (5) years teaching experiences in the same school district in the curriculum area and appropriate grade levels in another state.*

(14) Administrator certificates of license to teach may be issued to an individual for five (5) or ten (10) years and may be renewed pursuant to the requirements found in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* and the rules promulgated by the board.

(15) Student services certificates of license to teach may be issued to an individual for five (5) or ten (10) years and may be renewed pursuant to the requirements found in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* and the rules promulgated by the board.

(16) Substitute certificates of license to teach may be issued to an individual for one (1) year pursuant to the requirements found in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* and the rules promulgated by the board.

(17) Vocational-technical certificates of license to teach may be issued to an individual for two (2) or five (5) years and may be renewed pursuant to the requirements found in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* and the rules promulgated by the board.

(18) Adult education and literacy certificates of license to teach may be issued to an individual for three (3) or ten (10) years and may be renewed pursuant to the requirements found in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* and the rules promulgated by the board.

(19) Temporary authorization certificates of license to teach may be issued to an individual for one (1) year and may be renewed pursuant to the requirements found in the *[Compendium of Missouri Certification Requirements which is incorporated by reference and made a part of this rule] compendium* and the rules promulgated by the board.

*AUTHORITY:* sections 168.011, 168.021, 168.405 and 168.409, RSMo 2000 and 161.092, 168.071, 168.081 and 168.400 RSMo Supp. 2002. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed March 27, 2001, effective Oct. 30, 2001. Amended: Filed Oct. 25, 2001, effective June 30, 2002. Amended: Filed Aug. 13, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.

**Title 5—DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION  
Division 80—Teacher Quality and Urban Education  
Chapter 800—[Teacher Certification and Professional  
Conduct and Investigations] Educator Licensure**

**PROPOSED AMENDMENT**

**5 CSR 80-800.370 Fees.** The State Board of Education is proposing to amend subsection (2)(A).

*PURPOSE:* This amendment is a result of recent legislation stating who is not required to pay an application fee.

(2) The following fees are established by the State Board of Education (the board) and are payable in the form of a cashier's check or money order to the Treasurer, State of Missouri:

(A) Application for a Certificate of License to Teach (Individuals who completed a teacher preparation program from a non-Missouri school and do not possess five (5) years teaching experience in the same school district in the curriculum area and approximate grade levels) \$25.00

*AUTHORITY:* sections 168.011, 168.021, 168.405[,] and 168.409, RSMo [1994] 2000 and 161.092, 168.071, 168.081 and 168.400, RSMo Supp. [1999] 2002. Original rule filed April 26, 2000, effective Nov. 30, 2000. Amended: Filed Aug. 13, 2002.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, ATTN: Dr. Charles Brown, 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.

**Title 5—DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED AMENDMENT**

**5 CSR 90-4.300 Order of Selection for Services.** The State Board of Education is proposing to add new sections (1), (4)–(7), amend section (2), and renumber sections (3) and (8)–(13).

*PURPOSE:* This amendment updates the Division of Vocational Rehabilitation's Order of Selection for Services.

(1) The following definitions apply to these regulations:

(A) **Individual with the Most Significant Disability.** An individual with a significant disability as defined in this rule, and the following:

1. Who is seriously limited in three (3) or more of the following functional areas:

- A. Self-care;
- B. Communication;
- C. Mobility;
- D. Self-direction;
- E. Work tolerance;
- F. Work skills; and/or
- G. Interpersonal skills;

(B) **Individual with a Significant Disability.** An individual with a disability, as defined in this rule and the following:

1. Who has a severe physical or mental impairment that seriously limits one (1) or more functional capacities (such as mobility; communication; self-care; self-direction; interpersonal skills; work tolerance; and/or work skills) in terms of an employment outcome;

2. Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

3. Who has one (1) or more physical or mental disabilities resulting from amputation; arthritis; autism; blindness; burn injury; cancer; cerebral palsy; cystic fibrosis; deafness; head injury; heart disease; hemiplegia; hemophilia; respiratory or pulmonary dysfunction; mental retardation; mental illness; multiple sclerosis; muscular dystrophy; musculo-skeletal disorders; neurological disorders (including stroke or epilepsy); spinal cord conditions (including paraplegia or quadriplegia); sickle cell anemia; specific learning disability; end-stage renal disease; or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation; or

(C) **Individual with a Disability.** Any individual as defined in this rule and the following:

- 1. Who has a physical or mental impairment;
- 2. Whose impairment constitutes or results in a substantial impediment to employment; and
- 3. Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation service.

[[1]] (2) In the event vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the state of Missouri, the Division of Vocational Rehabilitation (DVR) will implement [an] a statewide order of selection. In accordance to the following priority categories, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services. Services shall be provided based upon the eligible individual's placement in one (1) of the following category priorities:

(A) **Priority Category I**—An individual with the most significant disabilities as defined [through the federal act and/or applicable regulations] above;

[[B]] **Priority Category II**—An individual with a significant disability as defined in the federal act and/or applicable regulations and whose disability was sustained in the line of duty while performing as a public safety officer and the immediate cause of the disability was the result of one (1) of the following:

- 1. A criminal act;
- 2. An apparent criminal act; or

3. A hazardous condition resulting from the performance of duties in direct connection with the enforcement, execution and administration of law or fire prevention, fire-fighting or related public safety activities;

*[(C)] (B) Priority Category [III] II—An individual with a significant disability as defined [in the federal act and/or applicable regulations;] above; or*

*[(D) Priority Category IV—An individual with a disability as defined in the federal act and/or applicable regulations and who is receiving services from state-wide government agencies with whom DVR has a working written agreement detailing the responsibilities of each agency. Classification in this category is not made on the basis of type of disabling condition. However, public safety officers will receive services first within this priority category; or]*

*[(E)] (C) Priority Category [IV] III—An individual with a disability as defined [in the federal act and/or applicable regulations. Public safety officers will receive services first within this priority category] above.*

*[(2)] (3) An eligible individual will be placed in the appropriate priority category and receive written notification of the assigned priority category. The eligible individual's date of application will be used to determine the order of services within a priority category.*

**(4) An eligible individual will be notified of their right to appeal their category assignment.**

**(5) All funding arrangements for providing services, including any third-party arrangements and awards by DVR shall be consistent with the order of selection. If any funding arrangements are inconsistent with the order of selection, DVR shall renegotiate these funding arrangements so that they are consistent with the order of selection.**

**(6) Eligible individuals who are in a priority category that is not open, shall be provided accurate vocational rehabilitation information and guidance (including counseling and referral for job placement) using appropriate modes of communication to assist them in preparing for, securing, retaining, or regaining employment. These individuals will also be referred to other appropriate federal and state programs, including the statewide workforce investment career centers.**

**(7) Individuals being referred to appropriate programs, as mentioned above, shall be provided the following:**

**(A) A notice of the referral to the agency carrying out the program;**

**(B) Information identifying a specific point of contact within the agency to which the individual is being referred; and**

**(C) Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain or regain employment.**

*[(3)] (8) An eligible individual's placement in a priority category may be changed under justifiable circumstances.*

*[(4)] (9) Rationale for placement will appear in the individual's case file.*

*[(5)] (10) The order of selection shall in no way affect the provision or authorization of diagnostic and evaluation services needed to determine eligibility.*

*[(6)] (11) Services authorized or provided to any eligible individual shall not be disrupted as a result of an order of selection or the closing of a priority category.*

*[(7)] (12) Order of selection priority categories do not apply to post-employment services.*

*[(8)] (13) The order of selection shall in no way affect eligible individual's access to services provided through DVR's information and referral system.*

*AUTHORITY: sections 178.600, 178.610 and 178.620, RSMo [1994] 2000 and 161.092, RSMo Supp. 2002. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Aug. 13, 2002.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of 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 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

### PROPOSED AMENDMENT

**10 CSR 10-6.060 Construction Permits Required.** The commission proposes to amend subsections (7)(B), (8)(C), (8)(E), (12)(C) and (12)(D). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

*PURPOSE: The purpose of this amendment is to remove the offset and banking provisions from the rule and instead reference 10 CSR 10-6.410 Emissions Banking and Trading. The evidence supporting this proposed rulemaking, per section 536.016, RSMo, is new rule 10 CSR 10-6.410 Emissions Banking and Trading and section 643.220, RSMo. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.*

**(7) Nonattainment Area Permits.**

**(B)** A permit shall not be issued for the construction or major modification of an installation with the potential to emit the nonattainment pollutant in amounts equal to or greater than the *de minimis* levels; for an installation or modification with the potential to emit one hundred (100) tons or more of other nonattainment pollutants; or for a major modification of an installation with the potential to emit one hundred (100) tons or more of the nonattainment pollutant, unless the following requirements, in addition to section (6) are met:

1. By the time the source is to commence operation, sufficient offsetting emissions reductions have been obtained, such that, the total allowable emission from existing sources in the nonattainment area, from new or modified sources which are not major emitting facilities, and from existing sources prior to the application for that permit to construct or modify represent annual incremental reductions in emissions of the nonattainment pollutant as are required to

ensure attainment of the applicable national ambient air quality standard by the applicable date;

2. In the case of a new or modified installation which is located in a zone (within the nonattainment area) identified by the administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, emissions of that pollutant resulting from the proposed new or modified installation will not cause or contribute to emissions levels which exceed the allowance permitted for that pollutant for that zone from new or modified installations;

3. Offsets have been obtained in accordance with the offset and banking procedures in *[subsection (12)(C) and (D) of this rule]* **10 CSR 10-6.410**;

4. The administrator has not determined that the state implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified; and

5. Temporary installation and portable sources shall be exempt from this subsection provided that the source applies BACT for each pollutant emitted in a significant amount.

(8) Attainment and Unclassified Area Permits.

(C) Air Quality Impacts.

1. Preapplication modeling and monitoring.

A. Each application shall contain an analysis of ambient air quality or ambient concentrations in the significantly impacted area of the installation for each pollutant specified in 10 CSR 10-6.020(3)(A), Table 1, which the installation would emit in significant amounts. The analysis shall follow the guidelines of subsection (12)(F).

B. The analysis required under this paragraph shall include continuous air quality monitoring data for any pollutant, except VOC, emitted by the installation, for which an ambient air quality standard exists. The owner or operator of a proposed installation or major modification emitting VOC who satisfies all the conditions of 40 CFR part 51, Appendix S, section IV.A. may provide post-construction monitoring data for ozone in lieu of providing preconstruction data for ozone.

C. The continuous air monitoring data required in this paragraph shall relate to, and shall have been gathered over, a period of one (1) year and shall be representative of the year preceding receipt of the complete application, unless the permitting authority determines that a complete and adequate analysis may be accomplished in a shorter period (but not less than four (4) months). Continuous, as used in this subparagraph, refers to frequency of monitoring operation as required by 40 CFR part 58, Appendix B.

D. For pollutants emitted in a significant amount for which no ambient air quality standards exist, the analysis required under this paragraph shall contain whatever air quality monitoring data the permitting authority determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

2. Operation of monitoring stations. The owner or operator shall meet the requirements of 40 CFR part 58, Appendix B during the operation of monitoring stations for the purposes of paragraphs (8)(C)1. or 7. of this rule at the time the station is put into operation.

3. Modeling. The owner or operator of the installation to which this section applies shall provide modeling data, following the requirements of subsection (12)(F), to demonstrate that potential and secondary emission increases from the installation, in conjunction with all other applicable emissions increases or reductions in the baseline area since the baseline date, will not cause or contribute to ambient air concentrations in excess of any ambient air quality standard or any applicable maximum allowable increase over the baseline concentration in any area, in the amounts listed in subsection (11)(A), Table 1 of this rule. The permitting authority will track the consumption of allowable increment in accordance with subsection (12)(G) of this rule.

4. Emission reductions. The applicant must show that it has obtained emission reductions of a comparable air quality impact for the nonattainment pollutant if its planned emissions of the pollutant will affect a nonattainment area in excess of the air quality impact for that pollutant listed in subsection (11)(D), Table 4 of this rule. These reductions shall be obtained through binding agreement prior to the commencement of operations of the installation or major modification and shall be subject to the offset conditions set forth in *[subsection (12)(C), Appendix C of this rule]* **10 CSR 10-6.410**.

5. Impact on visibility. The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the installation or major modification and general commercial, residential, industrial and other growth associated with the installation or major modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

6. Projected air quality impacts. The owner or operator shall provide, following the requirements of subsection (12)(F), Appendix F of this rule, an analysis of the air quality impact projected for the area as a result of general commercial, residential and industrial growth, as well as growth associated with the installation or major modification.

7. Post-construction monitoring. After construction of the installation or major modification, the applicant shall conduct ambient monitoring as the permitting authority determines may be necessary to determine the effect emissions from the installation or major modification may have, or are having, on air quality in any area.

8. Exemptions.

A. The requirements of subsection (8)(C) shall not apply unless otherwise determined to be needed by the permitting authority, if—

(I) The increase in potential emissions of that pollutant from the installation would impact no Class I area and no area where an applicable increment is known to be violated; and

(II) The duration of the emissions of the pollutant will not exceed two (2) years.

B. The requirements of subsection (8)(C) as they relate to any maximum allowable increase for a Class II area shall not apply unless otherwise determined to be needed by the permitting authority, if—

(I) The application is for a major modification of an installation which was in existence on March 1, 1978;

(II) Any such increase would cause or contribute to no exceedance of any ambient air quality standard; and

(III) The new increase in allowable emissions of each air pollutant after the application of BACT would be less than fifty (50) tons per year.

C. The requirements of subsection (8)(C) shall not apply, if the ambient air quality effect is less than the air quality impact of subsection (11)(B), Table 2, or if the pollutant is not listed in subsection (11)(B), Table 2, unless otherwise determined to be needed by the permitting authority. The ambient air quality impact must be determined using either of the following methods:

(I) The screening technique set forth in Guidelines for Air Quality Maintenance and Planning Analysis Vol. III (Revised); Procedures for Evaluating Air Quality Impact of New Stationary Sources (United States EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711); or

(II) A more sophisticated modeling technique as indicated in subsection (12)(F).

(E) Offsets. Applicants must obtain emission reductions, obtained through binding agreement prior to commencing operations and subject to *[subsection (12)(C), Appendix C of this rule]* **10 CSR 10-6.410**, equal to and of a comparable air quality impact to the new or increased, emissions in the following circumstances when the:

1. Area has no increment available; or

2. Proposal will consume more increment than is available.

(12) Appendices.

(C) Appendix C, Offsets. [Offsets under subsection (7)(B) are subject to the following conditions:] **Offset provisions may be found in 10 CSR 10-6.410.**

1. The applicant provides documentation satisfactory to the permitting authority showing:

A. That the offsets have occurred or will occur prior to commencement of operation of the new or modified source;

B. That the level of emission of the offset pollutant at the offsetting source prior to and after the offset is applied;

C. That the owner or operator of the source from which offsets are obtained has made a binding agreement to limit emissions of the offset pollutant at that source to the levels identified after the offset is applied; and

D. That the emissions from the offsetting source, prior to being reduced, had or have a comparable air quality impact equal and comparable to that attributed to the proposed increase;

2. It shall be a violation of this rule for any person to operate a source from which offsets were obtained so as to emit the offset pollutant at levels greater than identified in the agreement referred to in subparagraph (12)(C)1.C.;

3. The permitting authority may not approve use of offsets where that use would interfere with the nonattainment control strategy contained in the Missouri State Implementation Plan;

4. Offset credit may not be taken for emission reductions required by federal, state or local emission control rules, ordinances, or enforceable permits, state or federal court order, or order of a federal, state or local air pollution control agency;

5. Except for previously banked emission reduction credits, no offset credit may be taken for emission reductions occurring prior to the base year used to project attainment of the pollutant standard in the state implementation plan;

6. No offset credit may be taken for emission reductions previously used in determining net emission increases or used to create alternate emission limits; and

7. Emission reductions that will be achieved by shutting down an existing installation or by permanently curtailing production or operating hours may be credited, provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Installation shutdowns and curtailments in production or operating hours that have occurred prior to the date the application is filed generally may not be used for emissions offset credit. As used here, shutdown means rendering an installation inoperable by physically removing, dismantling or otherwise disabling the installation, so that it could not be reactivated without obtaining a new permit in accordance with this rule. However, when an applicant can establish that it shut down or curtailed production less than one (1) year prior to the date of permit application, and the proposed installation or major modification is a replacement for the shutdown or curtailment, credit for that shutdown or curtailment may be applied to offset emissions from the new source. ]

(D) Appendix D, Banking. [Banking credit for emission reductions to use as offsets or to implement an alternate emission limit, at some future time, shall be allowed under the following circumstances:] **Banking provisions may be found in 10 CSR 10-6.410.**

1. The person requesting banking is the owner or operator of—

A. A new or modified installation who obtains a permit by applying offsets which exceed the requirements of subsection (7)(B);

B. An existing installation in a nonattainment area who voluntarily reduces emissions of the nonattainment pollutant after the base year used in the state implementation plan; or

C. An existing installation in an attainment or unclassified area who voluntarily reduces emissions after August 7, 1977, or the transferee of the owner or operator;

2. The person requesting banking submits documentation satisfactory to the permitting authority showing:

A. The location of the installation and source operation from which the reductions are obtained;

B. The magnitude of the emission reductions, and the rates and levels of emission of the pollutant prior to and after the emission reductions;

C. That the reductions are based on actual emissions;

D. That the reductions are not required by any emission control regulations or ordinances, federal or state court order, or order of a federal, state or local air pollution control agency;

E. The owner or operator of the installation from which the reductions were obtained has made an enforceable binding agreement to limit emission of the pollutant at the installation to the identified levels after the emission reductions occur, and if the reductions were obtained from an installation not owned or operated by the person requesting banking, the notarized consent of the installation owner or operator to the reductions and to banking those reductions; and

F. That the reductions are from installations and source operations existing on the state's emission inventory;

3. The person requesting banking must also submit the information necessary for evaluating the air quality impact of the emission reductions, including, when appropriate, stack parameters, temperature and velocity of plume, particle size, the existence of hazardous pollutants, and daily and seasonal emission rates;

4. For source operations in the nonattainment areas for which reasonable available control technology (RACT) would be required, but as yet has not been defined, actual emission levels will be reduced to represent post-RACT levels. The control technology assumed for these calculations will be mutually agreed upon by the applicant and the permitting authority. Only emission reductions beyond the post-RACT emissions levels will be creditable;

5. Credit cannot be banked by the owner for emission reduction achieved by the shutdown of an installation. Shutdown as used here means rendering an installation inoperable by physically removing, dismantling or otherwise disabling the installation, so that it could not be reactivated without obtaining a new permit in accordance with this rule. Emission reductions credit from an installation shutdown, unless used by the owner or operator of the installation to replace the installation within a year of shutdown, will be placed in special accounts by the permitting authority to attain and maintain the air quality standards and provide growth increment for the area;

6. Credit for emission reductions beyond those that were required by RACT or paragraph (8)(D)4. at a shutdown installation and that are in excess of those needed to offset a replacement installation can be banked by the owner and can be transferred or used for offset or alternate emission limits;

7. Credit can be banked for emission reductions from permanent curtailment of production or operating hours only for the purpose of offsets or implementing alternate emission limits at some future time. Credit cannot be granted for process curtailments in nonattainment areas if the proposed decrease will be negated by countervailing emission increases occurring at other installations in the same area in response to the applicant's process curtailments;

8. It shall be a violation of this rule for any person to operate a source operation from which banked credit for emission reductions was obtained so as to emit the pollutant at levels greater than identified in the agreement referred to in subparagraph (12)(D)2.E., unless the person who banked credit for the reductions, or their transferee, first files a notice with the permitting authority stating that credit for the reductions or a part of the credit is being withdrawn from the bank, and credit has not previously been withdrawn.

9. Banked credits for emission reductions may be withdrawn only by notice from the person who banked the emission reduction credits or his/her transferee. No transfer of banked reduction credits shall be recognized by the permitting authority until a notice of transfer is filed with the permitting authority clearly identifying the transferee, and containing a notarized statement of the transferor that they consent to the transfer and relinquish all claims to the banked credits for emission reductions that are being transferred;

10. An applicant for a permit must withdraw from its bank, as needed, those credits for emission reductions which were created within its own property and apply them to offset its own emission increases in accordance with subsection (12)(C). If growth increment is available, banked credit for emission reductions shall be used at a ratio of one to one (1:1). If no growth increment exists, credit for emission reductions shall be used at a ratio of one-point-one-five to one (1.15:1);

11. A notice of withdrawal of banked credit for emission reductions shall identify the installation and source operation to which the withdrawn credit will be applied;

12. The permitting authority shall establish and maintain a tracking system of banked credit for emission reductions, in order to preserve banked credit for the owner and ensure that offsets are not obtained from banked emission reduction credit in violation of the requirements of this rule; and

13. The amount of banked emission reduction credits shall be discounted without compensation to the holder in the applicable source category when new rules requiring emission reductions are adopted by the commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new rule. A portion of banked credits, equivalent to the anticipated required reductions may be temporarily frozen by the permitting authority in anticipation of a new rule being adopted by the commission. This paragraph, however, will not apply to emission reductions, discounted at the time of banking in accordance with paragraph (12)(D)4., unless the new rule provides for the replacement RACT with BACT or another more stringent level of control.]

**AUTHORITY:** section 643.050, RSMo 2000. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 2, 2002.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m., October 24, 2002. The public hearing will be held at the Traveler's Inn Christian Bed and Breakfast, Ballroom, 301 W. Washington, Kirksville, Missouri. Opportunity to be heard at the

hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 31, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**PROPOSED AMENDMENT**

**10 CSR 10-6.120 Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations.** The commission proposes to amend subsections (2)(A) and (2)(C). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

**PURPOSE:** The Doe Run Company requested this rulemaking to accompany installation operational changes being established in the Prevention of Significant Deterioration Permit that is under development. This amendment will lower the total daily throughput limit for the blast furnace and raise the total daily throughput limit for the rotary melt and reverberatory furnaces with no net lead emission increase. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the letter from Doe Run Company dated August 23, 2001 requesting this change. This evidence is available for viewing at the Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

(2) Provisions Pertaining to Limitations of Lead Emissions from Specific Installations.

(A) Doe Run Primary Lead Smelter-Refinery at Glover, Missouri.

1. This installation shall limit lead emissions into the atmosphere to the allowable amount as shown in Table IA.

**Table IA**

Stack Name(s)/	Emissions Limitation (lbs per 24 hours)
Main Ventilation	184.2
Baghouse	125.4
Blast Furnace	82.3

2. Fugitive lead emissions from lead production processes.

A. This installation shall limit production of lead from processes that emit lead to the ambient air to the allowable amount as shown in Table IB and Table IC.

**Table IB**

Process Name	Throughput (tons per calendar quarter)
Sinter Plant—Material across Sinter Machine	202,000
Blast Furnace—Lead Bearing Material	75,000

Process Name	Throughput (tons per day)
Sinter Plant—Material across Sinter Machine	3120

B. Record /K/keeping. The operator shall keep records of daily process throughput corresponding with the processes in Table IB in subparagraph (2)(A)2.A. These records shall be maintained on-site for at least three (3) years and made available upon request of the director.

(C) Doe Run Lead Smelter-Refinery near Buick, Missouri. The following applies to Doe Run's 1998 and ongoing lead producing operations at this installation.

1. Lead emissions from stacks. This installation shall limit lead emissions into the atmosphere to the allowable amount as shown in Table III.

Stack Name	Emissions Limitation (lbs per 24 hours)
Main Stack	540.0

2. Fugitive lead emissions from lead production processes. This installation shall limit production from processes that emit lead to the ambient air to the allowable amount as shown in Table IV.

Process Name	Throughput (tons per day)
Blast Furnace	[1000] 786 Charge
Reverb Furnace	[360] 500 Charge
Rotary Melt	[240] 300 Charge
Refinery	648 Lead Cast

3. Record keeping. The operator shall keep records of daily process throughput corresponding with the processes in Table IV in /sub/paragraph (2)(C)2. of this rule. These records shall be maintained on-site for at least three (3) years and made available upon the request of the director.

**AUTHORITY:** sections 643.050 and 643.055, RSMo [Supp. 1999] 2000. Original rule filed Aug. 4, 1988, effective Dec. 29, 1988. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 6, 2002.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m., October 24, 2002. The public hearing will be held at the Traveler's Inn Christian Bed & Breakfast, Ballroom, 301 W. Washington, Kirksville, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 31, 2002. Written comments shall be sent to Chief, Planning Section, Missouri

Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**PROPOSED RULE**

**10 CSR 10-6.410 Emissions Banking and Trading.** If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

**PURPOSE:** This rule provides a mechanism for companies to acquire offsets for economic development in accordance with section 643.220, RSMo. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is section 643.220, RSMo.

(1) Applicability.

(A) The generation or use of emission reduction credits (ERCs) in conjunction with this rule is available to installations that meet the following requirements:

1. Emit more than ten (10) tons per year for a criteria pollutant or its precursors as reported on their Emissions Inventory Questionnaire;

2. Have an operating permit as specified in 10 CSR 10-6.065 Operating Permits; and

3. Are located within any of the following areas:

A. An area that has been designated as a nonattainment area for a criteria pollutant;

B. An area that has been designated as a maintenance area for a criteria pollutant; or

C. A United States Environmental Protection Agency (U.S. EPA) approved attainment or maintenance demonstration or New Source Review preconstruction permit modeling domain, unless it is a violation of federal law.

(B) The buying, selling or trading of ERCs in conjunction with this rule is available to all persons.

(2) Definitions.

(A) Account holder—Any person that chooses to participate in the program by generating, buying, selling or trading ERCs.

(B) Activity level—The amount of activity at a source measured in terms of production, use, raw materials input, vehicle miles traveled, or other similar units that have a direct correlation with the economic output of the source and is not affected by changes in the emissions rate (i.e., mass per unit of activity).

(C) Actual emissions—The actual rate of emissions of a pollutant from a source. Actual emissions as of a particular date shall equal the average rate, in mass per unit of time or mass per unit of activity, at which the unit actually emitted the pollutant during a two (2)-year period which precedes the particular date and which is representative of normal source operation at a particular time. A different time period may be used if that is more representative of normal source operation.

(D) Alternate authorized account representative—The alternate person who is authorized by the owners or operators of the unit to represent and legally bind each owner and operator in matters pertaining to the Emissions Banking and Trading Program in place of the authorized account representative.

(E) Authorized account representative—The person who is authorized by the owners or operators of the unit to represent and legally bind each owner and operator in matters pertaining to the Emissions Banking and Trading Program.

(F) Emission reduction credit (ERC)—A certified emission reduction that is created by eliminating future emissions and expressed in tons per year. One (1) ERC is equal to one (1) ton per year. An ERC must be real, properly quantified, permanent and surplus.

(G) Emissions unit—Any part of a source or activity at a source that emits or would have the potential to emit criteria pollutants or their precursors.

(H) Generating activity—Any process modification that results in a permanent reduction in emissions.

(I) Generator source—Any source that generates an ERC.

(J) Maintenance area—Any area with a maintenance plan approved under section 175 of the Act.

(K) Maintenance plan—A revision to the applicable Missouri State Implementation Plan (SIP), meeting the requirements of section 175A of the Act.

(L) Modeling domain—A geographic area covered by an air quality model used to support an attainment or maintenance demonstration.

(M) National Ambient Air Quality Standards (NAAQS)—The standards defined by 10 CSR 10-6.010 Ambient Air Quality Standards.

(N) New Source Review (NSR)—The permitting requirements found in state rule 10 CSR 10-6.060 Construction Permits Required.

(O) Normal source operation—The average actual activity rate of a source necessary for determining the actual emissions rate for the two (2) years prior to the date necessary for determining actual emissions, unless some other time period is more representative of the operation of the source or otherwise approved by the staff director.

(P) Protocol—A replicable and workable method to estimate the mass of emissions reductions, or the amount of ERCs needed for compliance.

(Q) Quantifiable—The quantity of emission reductions can be measured or estimated by accurate and replicable techniques. These techniques shall be at least as accurate and replicable as the techniques accepted by the U.S. EPA, where accepted techniques exist.

(R) Shutdown—Rendering an installation or unit inoperable by physically removing, dismantling or otherwise disabling the installation or unit so that it could not be reactivated without obtaining a new permit in accordance with 10 CSR 10-6.060.

(S) Stationary source—Any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act. Building, structure, facility or installation includes all pollutant emitting activities that are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control).

(T) U.S. EPA—The United States Environmental Protection Agency.

(U) User source—Any source that seeks to use ERCs to comply with an applicable emission reduction requirement.

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

### (3) General Provisions.

#### (A) General Rules for Generation and Use.

1. To become an account holder, a person must complete an account application, as specified in subsection (4)(A) of this rule, and be assigned a unique account identification number by the Missouri Department of Natural Resources' Air Pollution Control Program.

2. Each account holder must designate an authorized account representative and an alternate authorized account representative on the account application.

3. Except as provided under paragraph (3)(B)3. of this rule, any source may generate an ERC by reducing emissions, in the amount

determined under paragraph (3)(B)1. ERC generators must ensure that ERCs, are real, properly quantified, permanent and surplus.

4. The emissions from the offsetting source, prior to being reduced, had an air quality impact equal or comparable to that attributed to the proposed increase. There shall be no resulting adverse impact on air quality.

5. The director of the Missouri Department of Natural Resources' Air Pollution Control Program may not approve use of offsets where that use would interfere with the nonattainment control strategy contained in the Missouri State Implementation Plan. The trading or use of ERCs in a modeling domain may be based on modeling performed on a concentration basis.

6. Governmental approvals. No ERC can be transferred without prior notification of intent to transfer to the director of the Missouri Department of Natural Resources' Air Pollution Control Program. No ERC can be retired without prior notification of intent to use. ERCs that are used for NSR offsets shall have prior director approval.

7. Market participation. Any account holder may transfer, buy, sell, trade, or otherwise convey ERCs to another account holder in any manner in accordance with this rule.

8. Limited authorization to emit. An ERC created under this rule is a limited authorization to emit a criteria pollutant or its precursor in accordance with the provisions of this rule. An ERC does not constitute a property right. Nothing in this rule shall be construed to limit the authority of the Missouri Air Conservation Commission to terminate or limit such authorization.

9. Serial numbers. Each ERC will be assigned a unique identification number.

#### 10. Shutdowns.

A. ERCs may be generated when a unit is shutdown or retired if the new replacement equipment is directly replacing the retired unit and the permit is applied for within one (1) year of the shutdown or retirement of the existing unit.

B. ERCs may be generated for entire installation shutdowns, if the installation is located in a nonattainment area and defined as a major source for the nonattainment pollutant. These ERCs shall be reduced by twenty-five percent (25%) and rounded to the nearest ton at the time of deposit into the generator's account.

#### 11. Environmental contribution.

A. On December 31 of each year, the banked ERCs that were deposited in previous calendar years shall be reduced by three percent (3%).

B. The department shall deduct three percent (3%) of these ERCs from each account holders' banked ERCs. The remaining account balances shall be rounded down to the nearest ERC.

C. If the account holder wishes for specific serial numbered ERCs to be deducted for environmental contribution, a letter specifying the serial numbers must be received by the director of the Missouri Department of Natural Resources' Air Pollution Control Program by December 1 of each year.

D. On December 31 of each year, ERCs that have been reserved by an approved Notice of Intent to Use shall not be subject to the three percent (3%) environmental contribution.

E. In the event that ERCs are not taxed on December 31 due to being reserved and the ERCs are subsequently reinstated, a three percent (3%) environmental contribution shall be deducted at that time for each year that the ERCs were reserved and would have been subject to the environmental contribution.

12. ERCs shall be used on a first-in, first-out basis, unless specific serial numbers are included in the Notice of Intent to Use, Notice of Withdrawal, Notice of Intent to Transfer or at the time of environmental contribution as specified in subparagraph (3)(A)11.C. of this rule. If serial numbers are not specified, the oldest ERCs in an account shall be reserved and/or retired first.

#### (B) ERC Generation.

##### 1. Computation of ERCs.

A. The number of ERCs shall be the difference between—



(I) The amount of actual emissions that would have been emitted during the generation period based on actual activity levels during that period and normal source operation; and

(II) The amount of actual emissions during the generation period based on actual activity levels during that period.

B. Protocols. The amount of ERCs must be calculated using quantification protocols that meet the requirements of paragraph (3)(B)7. of this rule.

2. Limitations on generation. An ERC shall not be created by emissions reductions of activities or source categories identified in this subsection:

A. Permanent shutdowns or curtailments, unless it meets the requirements of paragraph (3)(A)10. of this rule;

B. Modification or discontinuation of any activity that is otherwise in violation of any federal, state or local requirements;

C. Emission reductions required to comply with any state, federal or local action including but not limited to:

(I) State, federal, or local consent agreements;

(II) Any provision of a State Implementation Plan; or

(III) Requirements for attainment of a National Ambient Air Quality Standard;

D. Emission reductions of hazardous air pollutants from application of a standard promulgated under section 112 of the Clean Air Act;

E. Reductions credited or used under any other emissions trading program;

F. Emission reductions occurring at a source which received an alternative emission limitation to meet a state reasonable available control technology (RACT) requirement, except to the extent that the emissions are reduced below the level that would have been required had the alternative emission limitation not been issued; or

G. Emission reductions previously used in determining net emission increases or used to create alternate emission limits.

### 3. Notice and Certification of Generation.

A. The owner or operator of a generator source shall provide a Notice and Certification of Generation to the Missouri Department of Natural Resources no later than ninety (90) days after the ERC generation activity was completed.

B. Required information. The Notice and Certification of Generation shall include the information specified in subsection (4)(B) of this rule.

C. The department shall review the Notice of Generation and notify the authorized account representative of approval or denial of the Notice of Generation within thirty (30) days of receipt of the notice.

D. The Notice and Certification of Generation should be accompanied by an operating permit modification application.

E. Certification under penalty of law. Any Notice and Certification of Generation submitted pursuant to this subsection shall contain certification under penalty of law by a responsible official of the generator source of truth, accuracy and completeness. This certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

### 4. ERC use.

A. Time of acquisition. ERCs may not be used until they are acquired by the user source.

B. Sufficiency. The user source must hold sufficient ERCs to cover its offset obligation.

C. Offset calculation. The amount of ERCs needed to offset emissions shall be the anticipated actual emissions multiplied by the offset ratio.

D. To be tradeable between air emission sources, emission reduction credits shall be based on air emission reductions that occur after August 28, 2001, or shall be credits that exist in the current air emissions bank.

E. Notice of Intent to Use ERCs.

(I) ERCs may be used only if the authorized account representative of the user source submits to the staff director of the Missouri Department of Natural Resources' Air Pollution Control Program a Notice of Intent to Use.

(II) Required information. The Notice of Intent to Use ERCs shall include the information specified in subsection (4)(C) of this rule.

(III) The department shall review the Notice of Intent to Use and notify the facility of approval or denial within thirty (30) days of receipt of the notice.

(IV) The Missouri Department of Natural Resources' Air Pollution Control Program shall reserve the specified ERCs when the permit application is deemed complete by the Initial Review Unit.

(V) Upon issuance of the construction permit, the appropriate number of reserved ERCs shall be permanently retired.

### F. Notice of Withdrawal.

(I) An account holder may at any time withdraw ERCs from the program.

(II) Required information. The Notice of Withdrawal shall include the information specified in subsection (4)(D) of this rule.

(III) The department shall review the Notice of Withdrawal and notify the facility of approval or denial within thirty (30) days. Upon approval, the specified ERCs shall be removed from the facility's account.

### G. Notice of Transfer.

(I) Account holders seeking an account transfer must submit a Notice of Transfer.

(II) Required information. The Notice of Transfer shall include the information specified in subsection (4)(E) of this rule.

(III) The department shall review the Notice of Transfer and notify the facilities of approval or denial within thirty (30) days. Upon approval, the specified ERCs shall be transferred to the specified account.

### 5. Use limitations. ERCs may not be used—

A. Before acquisition by the user of the ERCs;

B. For netting or to avoid the applicability of NSR requirements;

C. For NSR offsets unless the requirements of paragraph (3)(B)8. of this rule are met;

D. To meet Clean Air Act requirements for new source performance standards (NSPS) under section 111; lowest achievable emission rate (LAER) standards; best available control technology (BACT) standards; hazardous air pollutant (HAP) standards under section 112; reasonable available control technology (RACT);

E. To meet the requirements for one class of criteria pollutants or precursor by using ERCs generated in a different class of pollutants or precursors (e.g., NO<sub>x</sub> reductions may not be exchanged for volatile organic compound (VOC) increases, or vice-versa); or

F. To meet requirements contained in Title IV of the Federal Clean Air Act.

### 6. Geographic scope of trading.

A. ERCs may be used in a nonattainment or maintenance area only if generated in the same nonattainment or maintenance area.

B. ERCs generated inside a modeling domain may be used in the same modeling domain.

C. Interstate trading. *(Reserved)*

7. Protocol development and approval. To quantify the amount of ERCs generated and the amount needed for compliance, all sources shall use the following hierarchy as a guide to determine the most desirable emission data to report to the department. If data is not available for an emission estimation method or an emission estimation method is impractical for a source, then the subsequent emission estimation method shall be used in its place:

A. Continuous Emission Monitoring System (CEMS) as specified in 10 CSR 10-6.110;

B. Stack tests as specified in 10 CSR 10-6.110;

C. Material/mass balance;

D. AP-42 (Environmental Protection Agency (EPA) *Compilation of Air Pollution Emission Factors*) or FIRE (Factor Information and Retrieval System);

E. Other U.S. EPA documents as specified in 10 CSR 10-6.110;

F. Sound engineering calculations;

G. Facilities shall obtain department approval of emission estimation methods other than those listed in subparagraphs (3)(B)7.A.-F. of this rule before using any such method to estimate emissions in the submission of data.

8. ERC use for NSR. All ERCs used to meet NSR offset requirements shall comply with the requirements of state rule 10 CSR 10-6.060, Construction Permits Required.

9. Compliance burden.

A. The ERC user source is responsible for assuring that the generation and use of ERCs comply with this rule.

B. The ERC user source (not the enforcing authority) bears the burden of proving that ERCs used are valid and sufficient and that the ERC use meets all applicable requirements of this rule. The ERC user source is responsible for compliance with its underlying obligations. In the event of enforcement against the user source for non-compliance, it shall not be a defense for the purpose of determining civil liability that the user source relied in good faith upon the generator source's representations.

C. In the event of an invalid ERC, the generator source shall receive a Notice of Violation and the ERC user must find additional ERCs to comply with offset requirements.

10. Sources that emit less than ten (10) tons per year. (*Reserved*)

(C) Offsets. Offsets referred to in 10 CSR 10-6.060 subsection (7)(B) are subject to the following conditions:

1. Except for previously banked emission reduction credits, no offset credit may be taken for emission reductions occurring prior to the base year used to project attainment of the pollutant standard in the state implementation plan; and

2. No offset credit may be taken for emission reductions previously used in determining net emission increases or used to create alternate emission limits.

(D) Banking. Banking credit for emission reductions to use as offsets, at some future time, shall be allowed under the following circumstances:

1. The person requesting banking is the owner or operator of:

A. A new or modified installation who obtains a permit by applying offsets which exceed the requirements of 10 CSR 10-6.060; or

B. An existing installation in a nonattainment area who voluntarily reduces emissions of the nonattainment pollutant after the base year used in the state implementation plan;

2. For source operations in the nonattainment areas for which reasonable available control technology (RACT) would be required, but as yet has not been defined, actual emission levels shall be reduced to represent post-RACT levels. The control technology assumed for these calculations shall be mutually agreed upon by the applicant and the director of the Missouri Department of Natural Resources Air Pollution Control Program. Only emission reductions beyond the post-RACT emissions levels will be creditable;

3. Credit for emission reductions beyond those that were required by RACT or paragraph (3)(D)2. of this rule at a shutdown installation and that are in excess of those needed to offset a replacement installation can be banked by the owner and can be transferred or used for offset or alternate emission limits;

4. It shall be a violation of this rule for any person to operate a source operation from which banked credit for emission reductions was obtained so as to emit the pollutant at levels greater than identified in the offset calculation referred to in subparagraph (3)(B)4.C. of this rule, unless the person who banked credit for the reductions, or their transferee, first files a notice with the director of the Missouri Department of Natural Resources' Air Pollution Control Program stating that credit for the reductions or a part of the credit

is being withdrawn from the bank, and credit has not previously been withdrawn; and

5. The amount of banked emission reduction credits shall be discounted without compensation to the holder in the applicable source category when new rules requiring emission reductions are adopted by the commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new rule. A portion of banked credits, equivalent to the anticipated required reductions may be temporarily frozen by the director of the Missouri Department of Natural Resources' Air Pollution Control Program in anticipation of a new rule being adopted by the commission. This paragraph, however, shall not apply to emission reductions, discounted at the time of banking in accordance with paragraph (3)(D)2. of this rule, unless the new rule provides for the replacement RACT with BACT or another more stringent level of control.

(4) Reporting and Record Keeping.

(A) The Account Application shall include the following information, submitted on a form supplied by the Missouri Department of Natural Resources:

1. The name and address of account holder;

2. Authorized account representative and alternate authorized account representative; and

3. County plant identification number (if applicable).

(B) The Notice and Certification of Generation shall include the following information, submitted on a form supplied by the Missouri Department of Natural Resources:

1. Account identification number;

2. Date generating activity was completed;

3. A brief description of the generation activity;

4. The amount of ERCs generated;

5. Affected emission units;

6. The protocols that were used to calculate and document the ERCs;

7. Information on all the generator source's applicable emission rates;

8. A statement that the reductions were calculated in accordance with paragraph (3)(B)1. of this rule;

9. A statement that the ERCs were not generated in whole or in part from actions prohibited pursuant to paragraph (3)(B)2. of this rule;

10. For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants, as defined below, emitted to the air as the result of the generation of the ERC.

A. A pollutant shall be reported under this paragraph, only if it is listed both in 40 CFR 372.65 and section 112(b) of the Clean Air Act, and a chemical which the source is reporting or expects to report under 40 CFR part 372 for the calendar year in which the ERC was generated.

B. The requirements in 40 CFR 373.30(b) shall be followed for the notice.

C. The exemptions listed in 40 CFR 372.38 for determining the amount of release to be reported under 40 CFR 372.30 shall also be exemptions for determining the amount emitted under this subsection.

D. The notice shall include:

(I) The name and Chemical Abstracts Service (CAS) number (if applicable) of the chemical reported;

(II) If the chemical identity is claimed trade secret under 40 CFR 372, a generic name for the chemical as reported under 40 CFR 372.85(b)(11);

(III) A mixture component identity if the chemical identity is not known; and

(IV) An estimate of total air emissions, in pounds, for the relevant time period of ERC generation. Releases of less than one thousand (1,000) pounds may be indicated in ranges; and

11. Signature of authorized account representative and/or the signature and seal of a professional engineer registered in the state of Missouri.

(C) The Notice of Intent to Use ERCs shall include the following information submitted on a form supplied by the Missouri Department of Natural Resources:

1. The name of the facility;
2. The emissions unit and the applicable pollutant;
3. Account identification number;
4. The date(s) on which the ERCs were acquired;
5. The amount of ERCs used and the associated serial numbers;
6. The applicable state and federal requirements that the ERCs were used to comply with;

7. The emissions quantification protocols that were used to calculate the amount of ERCs required to demonstrate compliance and documentation for the compliance calculation under paragraph (3)(B)7. of this rule;

8. A statement that due diligence was made to verify that the ERCs were not previously used and not generated as a result of actions prohibited under this regulation or other provisions of law;

9. A statement that the ERCs were not used in a manner prohibited under this regulation or other provisions of law;

10. For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants emitted to the air as the result of the use of the ERC to meet otherwise applicable requirements. The estimated amount shall include emissions increases and any emission reductions used for ERCs instead of non-ERC compliance with otherwise applicable requirements. The same procedures shall be followed as the similar requirement under the Notice and Certification of Generation; and

11. Signature of authorized account representative and the signature and seal of a professional engineer registered in the state of Missouri.

(D) Notice of Withdrawal shall include the following information submitted on a form supplied by the Missouri Department of Natural Resources:

1. The name of the facility;
2. The emissions unit and the applicable pollutant;
3. Account identification number;
4. The serial numbers of the ERCs to be withdrawn;
5. The reason for the withdrawal;
6. A copy of the Notice and Certification of Generation submitted by the generator source to the state; and

7. Signature of authorized account representative and/or the signature and seal of a professional engineer registered in the state of Missouri.

(E) The Notice of Transfer shall include the following information submitted on a form supplied by the Missouri Department of Natural Resources:

1. The name of the account holder that is trading the ERCs;
2. The name of the account holder that is receiving the ERCs;
3. Account identification number;
4. The amount of ERCs to be transferred and the associated serial numbers and applicable pollutants;

5. A statement that due diligence was made to verify that the ERCs were not previously used and not generated as a result of actions prohibited under this regulation or other provisions of law; and

6. Signature of authorized account representatives from both accounts signifying that both account holders agree to the requested transfer.

(F) The generator source shall document the protocol and specific data by which an ERC is quantified. Generator sources shall transfer all such documentation to any transferee at the time that ownership of an ERC is transferred. The user source shall document the protocol and specific data by which the amount of ERCs needed for compliance was determined. The user source shall maintain all rele-

vant documentation for a minimum of five (5) years after an ERC is used for compliance. Records shall be kept with at least the same frequency as required for the underlying requirement.

(5) Test Methods. *(Not Applicable)*

*AUTHORITY: section 643.050, RSMo 2000 and 643.220, RSMo Supp. 2001. Original rule filed Aug. 2, 2002.*

*PUBLIC COST: This proposed rule will cost one hundred and forty-eight thousand one hundred seventy-four dollars (\$148,174) for the first full fiscal year. Aggregate cost of the rule is \$2,160,818. Note attached fiscal note for assumptions that apply.*

*PRIVATE COST: This proposed rule will cost \$3,745,018 in the aggregate. Note attached fiscal note for assumptions that apply.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., October 24, 2002. The public hearing will be held at the Traveler's Inn Christian Bed and Breakfast, Ballroom, 301 W. Washington, Kirksville, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 31, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 10 – Department of Natural Resources

Division: 10 – Air Conservation Commission

Chapter: 6 – Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 10-6.410 - Emissions Banking and Trading

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$2,160,818

**III. WORKSHEET**

**A. Personnel**

	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
<b>2 Full Time Employees</b>	\$22,047	\$90,394	\$92,653	\$94,970	\$97,344
<b>Fringe Benefits</b>	\$7,349	\$30,128	\$30,881	\$31,653	\$32,444
<b>Expense and Equipment</b>	\$6,744	\$27,652	\$28,344	\$29,052	\$29,779
<b>Total Per Year</b>	\$36,140	\$148,174	\$151,878	\$155,675	\$159,567

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>2 Full Time Employees</b>	\$99,778	\$102,272	\$104,829	\$107,450	\$110,136	\$84,667
<b>Fringe Benefits</b>	\$33,255	\$34,087	\$34,939	\$35,812	\$36,708	\$28,219
<b>Expense and Equipment</b>	\$30,523	\$31,286	\$32,068	\$32,870	\$33,692	\$25,901
<b>Total Per Year</b>	\$163,556	\$167,645	\$171,836	\$176,132	\$180,536	\$138,787

<b>Total Cost for Life of Rule</b>	\$1,649,926
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**B. Tracking System and Registry**

	FY2003	FY2004	FY2005	FY2006	FY2007
<b>Tracking system &amp; Registry</b>	\$500,000	\$1,000	\$1,025	\$1,051	\$1,077

	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013
<b>Tracking System &amp; Registry</b>	\$1,104	\$1,131	\$1,160	\$1,189	\$1,218	\$937

<b>Total Cost for Life of Rule</b>	\$510,892
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**IV. ASSUMPTIONS**

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. Assumed a 2.5% increase in expenses per year.
3. Assumed the two full time employees to be one and a half (1-1/2) Environmental Engineer I/II's and one-half (1/2) Accounting Analyst I/II.
4. Assumed the tracking of the accounts and emission reduction credits registry will be performed using computer software and an internet website.
5. Assumed the total capital cost of the tracking system and registry will be in the first fiscal year of the rule (FY 2003). The capital costs are assumed to be \$500,000.
6. Assumed a yearly maintenance cost for the tracking system and registry for the life of the rule.
7. FY 2003 costs are for the last 3 months of the fiscal year.
8. Salaries are based on the Basic Compensation Pay Grid.
9. Fringe Benefits and Equipment and Expenses are based on coding sheets provided by the Office of Administration.

FY 2013 costs are for the first 9 months of the fiscal year.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 10 – Department of Natural Resources

Division: 10 – Air Conservation Commission

Chapter: 6 – Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Rule

Rule Number and Name: 10 CSR 10-6.410 – Emissions Banking and Trading

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
100	Facilities that emit more than ten (10) tons per year for a criteria pollutant, or its precursors, and are located in a nonattainment area, maintenance area or air quality modeling domain.	\$3,745,018

**III. WORKSHEET**

	FY2003	FY2004	FY2005	FY2006	FY2007
Professional Engineer Salary (per hour)	\$75.00	\$76.87	\$78.80	\$80.77	\$82.79
Preparation Time (hours)	40	40	40	40	40
Cost per Private Entity	\$3,000	\$3,075	\$3,152	\$3,231	\$3,311
100 Private Entities	\$300,000	\$307,500	\$315,188	\$323,067	\$331,144

	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013
Professional Engineer Salary (per hour)	\$84.86	\$86.98	\$89.15	\$91.38	\$93.66	\$96.00
Preparation Time (hours)	40	40	40	40	40	40
Cost per Private Entity	\$3,394	\$3,479	\$3,566	\$3,655	\$3,747	\$3,840
100 Private Entities	\$339,422	\$347,908	\$356,606	\$365,521	\$374,659	\$384,003

<b>Total cost for life of rule</b>	<b>\$3,745,018</b>
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**IV. ASSUMPTIONS**

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. Assume that 100 private entities will voluntarily participate in this program.
3. Assume that preparation of the necessary forms required to participate in the program will take 40 hours per year by a Professional Engineer registered in the State of Missouri.
4. Assume that a Professional Engineer registered in the State of Missouri earns \$75 per hour in FY2003. Assume this hourly rate increases by 2.5% per year.
5. It is estimated that the cost of air pollution control equipment installed by the private entity will be offset by the profit made by selling or trading the emission reduction credits to other entities. However, since the cost of ERC's is unknown at this time, these cost savings are not included in the fiscal note.
6. For FY2003 and FY2013 the rule will be effective for only the last three months and the first nine months, respectively. However, it is assumed that the same number of private entities (100) will participate in the program during these periods as would participate during a full year.
7. Values in the table are rounded.