

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

*[(A) The director may charge an annual subscription fee of forty-five dollars (\$45) for the "Daily Market News Summary"; and]*

*[(B)] (A) The director may charge an annual subscription fee of [eighteen dollars (\$18)] **twenty-five dollars (\$25)** for the "Weekly Market News Summary."*

*AUTHORITY: section 261.020, RSMo [1994] 2000. Original rule filed Feb. 25, 1982, effective June 11, 1982. Amended: Filed May 14, 1984, effective Aug. 11, 1984. Amended: Filed Jan. 12, 1988, effective April 15, 1988. Amended: Filed May 14, 1991, effective Sept. 30, 1991. Amended: Filed March 1, 1995, effective July 30, 1995. Amended: Filed Oct. 31, 2003.*

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

*PRIVATE COST: This proposed amendment will cost private entities five thousand two hundred fifty dollars (\$5,250) in the aggregate.*

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

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 10—Market Development  
Chapter 2—Subscription Fees**

**PROPOSED AMENDMENT**

**2 CSR 10-2.010 Subscription Fees for the ["Daily Market News Summary" and the] "Weekly Market News Summary."** The director is amending the title and section (1).

*PURPOSE: This amendment changes the subscription fee charged for the "Weekly Market News Summary" from eighteen dollars (\$18) to twenty-five dollars (\$25) and deletes the section relating to the "Daily Market News Summary."*

(1) The following fees are established by the director of the Department of Agriculture for the referenced bulletins and publications:

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	2CSR 10-2.010 Subscription Fees for the "Daily Market News Summary" and the
Type of Rulemaking:	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the 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:
750 Subscribers	Agricultural entities	\$5,250.00

**II. WORKSHEET**

**IV. ASSUMPTIONS**

The Department of Agriculture discontinued publishing the "Daily Market News Summary" on July 1, 1998 due to the high cost of postage and printing. Publication of the "Weekly Market News Summary" has continued and is currently available for an annual subscription fee of \$18. The number of Weekly Market Summary subscribers has continued to decline from year to year, while printing and postage costs have increased:

Fiscal Year	FY 2002	FY 2003	FY 2004	FY 2005
Subscription Fees (\$18/year)	\$19,370	\$18,468	\$16,200*	\$18,750**
Number of Subscribers	1,076	1,026	900*	750*
Printing and Postage Costs	\$21,219	\$21,850	\$20,592*	\$17,160*

\* Estimated

\*\*Estimated based on a \$25/year subscription fee

On July 1, 2003, subscriptions to an electronic version of the Weekly Market Summary were made available on the Internet free of charge. We anticipate a large number of subscribers to switch from the printed version to the electronic version.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.455 Turkeys: Seasons, Methods Limits.** The commission proposes to amend sections (1), (2) and (4).

*PURPOSE: This amendment replaces the word "marking" with "recording" which is more commonly understood, clarifies age requirements for youth, and adds a safety sticker requirement.*

(1) Turkeys may be pursued, taken, killed, possessed or transported only as permitted in this rule.

(B) Fall Firearms Season. Fall season annually will begin on the second Monday in October and be fourteen (14) days in length. A person possessing the prescribed turkey hunting permit may take two (2) turkeys of either sex during the season; provided, only one (1) turkey may be taken per day; except that a person at least six (6) [and under sixteen (16)] but not older than fifteen (15) years of age who possesses a Youth Deer and Turkey Hunting Permit may take one (1) turkey of either sex during the season. Turkeys may be taken only by shotgun with shot no larger than No. 4 or longbow; without the use of dogs, bait, recorded calls or live decoys; from one-half (1/2) hour before sunrise to sunset in all counties except: Dunklin, McDonald, Mississippi, New Madrid, Newton, Pemiscot and Scott. Possession of shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys. A person, while in the act of pursuing or hunting turkey on a fall firearms permit, shall not have both a firearm and longbow on his/her person.

(2) Turkeys may be possessed or transported only by the taker thereof and only when tagged immediately with the transportation portion of the permit. Detachment of the transportation portion of the permit prior to taking a turkey renders the permit void. During the spring and fall firearms seasons, the taker shall submit these turkeys with head and plumage intact, along with the prescribed hunting permit, for inspection and [marking] recording at an established checking station in the county where taken or an adjoining county between the hours of 7:00 a.m. and 3:00 p.m. CDT on the day taken during the spring season and not later than 8:00 p.m. CDT on the day taken during the fall season. During archery season, the taker shall submit these turkeys with head and plumage intact, along with the prescribed archery permit, for inspection and [marking] recording at an established archery checking station within twenty-four (24) hours of the take.

(4) Each permit holder hunting with a shotgun shall first affix an approved safety sticker to the receiver of his/her gun[,] where it will be in his/her line of sight when shooting, [the safety sticker part of the transportation tag,] and maintain the sticker on the gun when hunting.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 29, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W.*

*Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 8—Wildlife Code: Trapping: Seasons, Methods**

**PROPOSED AMENDMENT**

**3 CSR 10-8.505 Trapping.** The commission proposes to amend provisions of this rule.

*PURPOSE: This amendment corrects a reference number.*

Any person, to exercise the privilege of trapping, shall obtain and have on his/her person the prescribed permit or temporary permit authorization number(s), unless exempt under provisions of 3 CSR 10-5.205. The temporary permit authorization number(s) and picture identification must be carried at all times while trapping until the actual permit(s) is received. No person shall accept payment for furbearers taken by another. Furbearers may not be held alive under trapping permits, except as provided in 3 CSR 10-8.515[(14)](7).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. Amended: Filed Aug. 1, 1980, effective Jan. 1, 1981. Amended: Filed June 29, 1981, effective Oct. 11, 1981. Amended: Filed Aug. 3, 1984, effective Jan. 1, 1985. Amended: Filed May 10, 1990, effective Jan. 1, 1991. Amended: Filed Sept. 29, 1994, effective July 1, 1995. Amended: Filed Aug. 11, 1999, effective March 1, 2000. Amended: Filed Oct. 29, 2003.*

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

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

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

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 1—Organization and Description of Board**

**PROPOSED AMENDMENT**

**4 CSR 10-1.010 General Organization.** The board is proposing to amend sections (4)–(6) and section (8).

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

(4) The board is directed by [sections 326.110 and 326.170] Chapter 326, RSMo to adopt rules for the application and enforcement of Chapter 326, RSMo.

(5) The board has superintending control over the practice of accounting in Missouri and its primary duties consist of—

(A) Examination[, *certification*] and licensing of applicants;

(B) Registration and licensing of certified public [*accountant firms and professional corporations*] **accounting firms**;

(C) [*Annual registration of each office established in the state for the practice of public accounting by a certified public accountant or public accountant, partnership or corporation of certified public accountants and partnership or corporation of public accountants*] **The establishment and collection of fees, penalties, and all monies payable to the State Board of Accountancy Fund and the Missouri State Board of Accountancy Investigation Fund**;

(D) Review and investigation of complaints; [*and*]

(E) Disciplinary action including [*suspending or revoking*] **sanctioning** of certificates, licenses, and permits of certified public accountants [*or*] **and certified public [*accountants*] *accounting firms* who [*are guilty of violating*] **have been found to have violated** the provisions of Chapter 326, RSMo.; and**

(F) **Protecting the public while maintaining the integrity of the profession.**

(6) The board shall hold regular meetings as determined by the board. The annual meeting of the board shall be held between May 1 and July 31 of each year. [*Three (3)*] **Four (4)** voting members of the board shall constitute a quorum at any meeting. Information as to the dates and place of meetings can be obtained by contacting the Executive Director, P.O. Box 613, Jefferson City, MO 65102-0613, (573) 751-0012 or [www.ded.state.mo.us/pr/account](http://www.ded.state.mo.us/pr/account).

(8) Any person may contact the Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613, (573) 751-0012 or [www.ded.state.mo.us/pr/account](http://www.ded.state.mo.us/pr/account) for information and application forms or to register a complaint involving the public accounting profession as provided in 4 CSR 10-1.030.

*AUTHORITY: sections [326.110, RSMo 1994] 326.256, 326.259.4, 326.262, 326.268.1 and 326.319, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Dec. 7, 1982, effective March 11, 1983. Amended: Filed Aug. 3, 1988, effective Nov. 24, 1988. Amended: Filed Nov. 13, 1992, effective June 7, 1993. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed Feb. 1, 1996, effective July 30, 1996. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 10—Missouri State Board of Accountancy Chapter 1—Organization and Description of Board

#### PROPOSED AMENDMENT

**4 CSR 10-1.030 Public Complaint Handling and Disposition Procedure.** The board is proposing to amend sections (1), (3), (4) and (6) and delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended to implement provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*

(1) The Missouri State Board of Accountancy shall receive and process each complaint alleging certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 326, RSMo by any licensee, **certificate holder**, permit holder, [*reg-istrant of the board*] or unlicensed individual or entity. Any individual, except a member of the board, may make and file a complaint with the board. A member of the board may file a complaint if [*s/he*] **he or she** excuses him/herself from further board deliberations or activity concerning the matters alleged within the complaint. The executive director or any staff member of the board may file a complaint in the same manner as any other person.

(3) Oral or telephone communications will not be considered or processed as complaints, but the person making the communications will be provided with a complaint form and requested to complete it and return it to the board. Any member of the administrative staff of the board may make and file a complaint based upon information and belief, in reliance upon oral or telephone communications received by the board[, *unless those communications are believed by the staff member to be false*].

(4) Each complaint received under this rule shall be logged in a [*book*] **database** maintained by the board for that purpose. [*Complaints shall be logged in consecutive order as received. The log book*] **The complaint database** shall contain a record of each complainant's name and address; the name and address of the subject of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any victim of the alleged acts or practices; a notation as to whether or not the complaint resulted in its dismissal by the board or settlement in lieu of filing of formal charges with the Administrative Hearing Commission or in the filing of a formal complaint with the Administrative Hearing Commission seeking disciplinary action; and the ultimate disposition of the complaint. This [*log book*] **database** shall be a closed record of the board **pursuant to section 326.295, RSMo.**

(6) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record of the board and shall not be available for inspection by the public. [*However, upon receipt of a signed authorization on a form provided by the board from the person who is the subject of the complaint and payment of the fee established under 4 CSR 10-2.160, the board shall provide that person, or that person's*] **The board shall provide the subject of the complaint, or the subject of the complaint's** authorized representative, **upon a receipt of a signed authorization**, with a copy of the complaint and any attachments to the complaint unless otherwise privileged. During the investigative stage, the board or its executive staff shall keep the complaint and the fact of its existence confidential to the extent practicable.

*AUTHORITY: sections [326.110, RSMo Supp. 1993] 326.262, 326.295, and 620.010.15(6), RSMo Supp. 2003. Original rule filed Nov. 10, 1981, effective April 11, 1982. Amended: Filed Jan. 23, 1986, effective June 28, 1986. Amended: Filed Aug. 13, 1987, effective Nov. 23, 1987. Amended: Filed April 3, 1990, effective Sept. 28,*

1990. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed Nov. 3, 2003.

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

**PRIVATE COST:** The 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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 1—Organization and Description of Board

#### PROPOSED RESCISSION

**4 CSR 10-1.040 Board Policy on Release of Public Information.** This rule set forth the board's written policy in compliance with sections 610.010–610.030, RSMo regarding the release of information on any meeting, record or vote of the board.

**PURPOSE:** This rule is being rescinded to allow the office to adopt an administrative policy.

**AUTHORITY:** section 326.110, RSMo 1994. Original rule filed Oct. 22, 1987, effective March 25, 1988. Amended: Filed Feb. 25, 1993, effective Aug. 9, 1993. Amended: Filed Feb. 1, 1996, effective July 30, 1996. Rescinded: Filed Nov. 3, 2003.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RESCISSION

**4 CSR 10-2.005 Definitions.** This rule defined terms used in the rules of the Missouri State Board of Accountancy. The board is also proposing to delete the annotation that immediately follows this rule in the *Code of State Regulations*.

**PURPOSE:** This rule is being rescinded and readopted to implement the Missouri Uniform Accountancy Act, which was passed in House

Bill 567 of the 91st General Assembly. The board is also rescinding the annotation that immediately follows the rule in the *Code of State Regulations*.

**AUTHORITY:** section 326.110, RSMo 1994. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Nov. 10, 1981, effective April 11, 1982. Amended: Filed Sept. 3, 1986, effective Jan. 30, 1987. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed June 4, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 25, 1991, effective March 9, 1992. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed Aug. 25, 1995, effective March 30, 1996. Rescinded: Filed Nov. 3, 2003.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RULE

#### 4 CSR 10-2.005 Definitions

**PURPOSE:** This rule defines terms used in the rules of the Missouri State Board of Accountancy.

**PUBLISHER'S NOTE:** The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Commission fee or referral fee shall include, but not be limited to:

(A) Any fee, profit or other thing of value required or received for the rendering or selling of goods or services; or

(B) Any fee, profit or other thing of value required or received for referring a client to the products or services of others; or

(C) Any fee, profit or other thing of value paid to obtain a client. This rule does not apply to payments made where the payments are part of the employees' compensation or for the purchase of all, or a material part, of an accounting practice, or to retirement payments to persons formerly engaged in the practice of public accountancy.

(2) Contingent fee means compensation for the performance of professional services where the compensation or the amount is contingent upon the findings or result of those services.

- (3) CPA means a certified public accountant.
- (4) Enterprise means any person(s) or entity, whether organized for profit or not, for which a licensee provides services.

(5) Financial statement is a presentation of financial data, including accompanying notes, if any, intended to communicate an entity's economic resources and/or obligations at a point in time or the changes therein for a period of time, in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Incidental financial data to support recommendations to a client or in documents for which the reporting is governed by Statements on Standards for Attestation Engagements, which is incorporated by reference in this rule, and tax returns and supporting schedules do not, for this purpose, constitute financial statements. The statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such opinion. Statement on Standards of Attestation Engagement are documents included in the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, which is incorporated by reference in this rule. A printed copy or copy on CD-Rom, of the Rules of Professional Conduct may also be obtained from the American Institute of Certified Public Accountants, PO Box 2209, Jersey City, NJ 07303-2209 or <http://www.aicpa.org>.

- (6) Practice of public accounting means:

(A) Performing or offering to perform for an enterprise, client or potential client one (1) or more services involving the use of accounting or auditing skills or one (1) or more management advisory or consulting services or the preparation of tax returns or the furnishing of advice on tax matters by a person or firm using the title "CPA" in signs, advertising, directory listings, business cards, letterheads, or other public representations, except that this shall not contradict section 326.292, RSMo;

(B) Signing or affixing one's own name, any trade or assumed name used by him or her, or a professional firm in his or her or its professional firm name, with any wording indicating he or she or the professional firm has expert knowledge in the accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract including, but not limited to, statutes, ordinances, rules, grants, loans and appropriations, except that this shall not contradict section 326.292, RSMo;

(C) Offering to the public or to prospective clients to perform or actually performing on behalf of clients any professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records, except that this shall not contradict section 326.292, RSMo; or

(D) Maintaining an office for the transaction of business as a CPA firm.

(7) Professional services means any services including all services performed by a member while holding himself or herself out as a CPA.

(8) Resident of this state is an individual considered to be for the purposes of Chapter 326, RSMo, a resident of this state, provided:

(A) The individual maintains a permanent place of residence in Missouri and actually resides in Missouri;

(B) The individual is a full-time student at an accredited college or university in this state;

(C) The individual who is a graduate from a Missouri college or university, and at the time of graduation had a Missouri address, shall be considered a resident of this state for six (6) months from the date of graduation;

(D) The individual is regularly employed full-time in this state; or

(E) The individual is a permanent resident of Missouri and is serving on active duty in the armed services, or the individual is a permanent resident of Missouri and is the spouse of an individual serving on active duty in the armed services. To satisfy the requirements of this rule, employment in Missouri need not be in public accounting.

(9) A resident manager of an office is a CPA holding an active license to practice, issued under section 326.280, RSMo and currently practicing public accounting, who has direct supervision of the office and who, in addition, oversees the planning, administration, direction and review of the services being performed by that office.

(10) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY: sections 326.256 and 326.262, RSMo Supp. 2003. Original rule filed July 3, 1975, effective Aug. 25, 1975, for intervening history, please consult the Code of State Regulations. Rescinded and readopted: Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RESCISSION

**4 CSR 10-2.010 Eligibility Requirements for a Certificate as a Certified Public Accountant.** This rule clarified the requirements of the statutes an applicant shall meet before being granted a certificate as a certified public accountant. This rule also explained some of the statutory requirements set out in section 326.280, RSMo.

*PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo Supp. 1997. This version of rule filed Sept. 11, 1974, effective Sept. 21, 1974. Amended: Filed Jan. 13, 1975, effective Jan. 23, 1975. Rescinded and readopted: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Dec. 15, 1983, effective April 12, 1984. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed March 17, 1994, effective Sept. 30, 1994. Amended: Filed June 10, 1998, effective Dec. 30, 1998. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.021 Temporary Certificates and Temporary Permits.** This rule clarified the requirements of section 326.280, RSMo relating to the issuance of temporary certificates and temporary permits to certified public accountants from another state moving to Missouri to practice public accounting in Missouri.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.110 and 326.170, RSMo 1994. Original rule filed Sept. 10, 1978, effective Jan. 13, 1979. Amended: Filed Jan. 23, 1986, effective June 28, 1986. Amended: Filed Sept. 20, 1994, effective April 30, 1995. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.030 Reciprocity.** This rule clarified the requirements of the statutes as they pertain to the issuance of the certificate of certified public accountant to applicants from other states.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* section 326.110, RSMo 1994. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. Rescinded and readopted: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.041 Eligibility Requirements for the [C.P.A.] CPA Examination.** The board is proposing to amend sections (1)–(7).

*PURPOSE:* This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

(1) The applicant must comply with [sub]section [326.060] 326.280.1(1), (2) and (3), RSMo and either—

(A) If [s/he applies] **he or she applied** for the initial examination prior to June 30, 1999, hold a baccalaureate or higher degree conferred by an accredited college or university recognized by the board with a concentration or major in accounting or substantially the equivalent of a concentration in accounting as described in subsection (2)(A) or (B) of this rule; or

(B) If [s/he applies] **he or she applied** for the initial examination on or after June 30, 1999, have at least one hundred fifty (150) semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board with a concentration or major in accounting or substantially the equivalent of a concentration in accounting as described in subsection (2)(C) of this rule.

(2) The equivalent of a concentration in accounting shall be determined in the following manner:

(C) For candidates whose applications for the initial examination were postmarked on or after June 30, 1999, the concentration or major in accounting, or the equivalent of a concentration in accounting shall be sixty (60) semester hours or ninety (90) quarter hours of accounting and other related courses. At least twenty-seven (27) semester hours or forty (40) quarter hours shall be accounting courses with at least one (1) course in auditing and at least eighteen (18) semester hours or twenty-seven (27) quarter hours of accounting courses taken at the upper division level. [Principles of accounting (or i)Introductory accounting/] courses will not be credited toward the required number of hours of accounting courses, but may be credited toward the other related courses. For the purposes of this rule “upper division level” courses shall mean courses taken beyond the elementary level. The remaining thirty-three (33) semester hours or fifty (50) quarter hours shall be in accounting or other areas of

business administration such as business law, statistics, economics, finance, marketing, management, data processing and business communications. These courses shall be taken at an accredited college or university recognized by the board.

(3) An applicant for the examination whose initial application to Missouri is postmarked on or after June 30, 1999, who meets the qualifications in *[sub]section/s 326.060/ 326.280.1(1), (2) and (3), RSMo—*

(A) Who sat for the examination in another jurisdiction prior to June 30, 1999, or whose original application for the examination was postmarked to the other jurisdiction prior to June 30, 1999, if *[s/he] he or she* meets the standard in subsections (1)(A) and (2)(A) or (B) of this rule, then examination credit will be granted in accordance with the provisions of section *[326.060/ 326.280, RSMo and rule 4 CSR 10-2.140 just as though the candidate had been approved and had sat in Missouri and [s/he] he or she will be approved to sit as a Missouri candidate; or*

(B) Whose original application for the examination was postmarked to another jurisdiction on or after June 30, 1999 or, if the postmark date is not available, who first sat for the examination in the other jurisdiction after June 30, 1999, if *[s/he] he or she* meets the standard in subsections (1)(B) and (2)(C) of this rule, then examination credit will be granted in accordance with the provisions of section *[326.060/ 326.280, RSMo and rule 4 CSR 10-2.140 just as though the candidate had been approved and had sat in Missouri and [s/he] he or she will be approved to sit as a Missouri candidate.*

(4) Once an applicant has qualified under sections (1) and (2) of this rule and been approved by the board as a Missouri candidate for the examination, and as long as *[s/he] he or she* continues to meet the requirement of subsection *[326.060/ 326.280.1(3), RSMo and has not committed an act or acts which would be cause to deny an application under section [326.130/ 326.310, RSMo, [s/he] he or she will be considered qualified for subsequent examinations.*

(5) An applicant who satisfies the requirements of section *[326.060/ 326.280.1(1), (2) and (3), RSMo shall be eligible to take the examination if the applicant reasonably expects to satisfy the educational requirements of section [326.060/ 326.280.1(4), RSMo within sixty (60) days after the examination. No [certificate/ license shall be issued or credit for the examination issued unless the educational requirements [is/ are, in fact, met within the sixty (60)-day period.*

(6) Any university or college accredited by the Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools or Western Association of Schools and Colleges is recognized by the board and will satisfy the requirements of section *[326.060/ 326.280.1, RSMo and this rule. The board may recognize as accredited, any university or college accepted by two (2) or more states for the purpose of allowing a candidate to sit for the certified public accountancy examination.*

(7) *[To satisfy the requirements of this rule, employment in Missouri need not be in public accounting.] The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.*

*AUTHORITY: sections 326.262 and 326.280[.1(4)], RSMo Supp. [2001] 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 3, 2003.*

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

*PRIVATE COST: The 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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RESCISSION

**4 CSR 10-2.042 Definition of a Resident of This State.** This rule defined the phrase “a resident of this state” as used in section 326.280, RSMo and rules 4 CSR 10-2.010 and 4 CSR 10-2.041.

*PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo 1994. Original rule filed Sept. 12, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, P.O. Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED AMENDMENT

**4 CSR 10-2.051 Registration of [Firms, Partnerships, Limited Liability Companies and Professional Corporations as Certified Public Accountants and Public Accountants/ Certified Public Accounting Firms.** The board is proposing to amend the original purpose statement, delete sections (1)–(3) and add new sections (1)–(14) and delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*



*PURPOSE: This rule clarifies the requirements of section[s] 326.040 and 326.050] 326.289, RSMo for registration of [firms, partnerships, limited liability companies and professional corporations as certified public accountants and public accountants] certified public accounting firms.*

(1) Each certified public accounting firm shall provide the board with a completed initial firm permit application form provided by the board and pay all applicable fees as determined by the board.

[(1)](2) *[Applications for approval of the registration of a firm, partnership, limited liability company or professional corporation and a permit to practice as required in sections 326.040 and 326.050, RSMo shall be filed with the board prior to the date the firm, partnership, limited liability company or professional corporation begins the practice of public accounting in this state.] Applications for approval of the permit of a certified public accounting firm shall be filed with the board prior to the date the firm begins the practice of public accounting in this state.*

[(2)](3) *[If a partner, member or shareholder is admitted or a partner, member or shareholder withdraws and there is a resulting change in the name of the firm, partnership, limited liability company or professional corporation, it shall be considered by the board as a new firm, partnership, limited liability company or professional corporation which must file applications for registration and a permit to practice] If a partner, member or shareholder is admitted or a partner, member or shareholder withdraws and there is a resulting change in the name of the certified public accounting firm, it shall be considered by the board as a new firm, which must file an application for a permit to practice.*

[(3)](4) *[All out-of-state certified public accountant firms, partnerships, limited liability companies and professional corporations which regularly practice public accounting in this state must be registered with the board under section 326.040 or 326.050, RSMo and must obtain a permit to practice. All partners, members, shareholders and employees of these firms, partnerships, limited liability companies and professional corporations who regularly practice in this state, must obtain a permit to practice issued under section 326.210, RSMo.] All out-of-state certified public accounting firms that practice public accounting in this state must obtain a permit to practice. All partners, members, shareholders and employees of these firms, who practice in this state, must obtain a license or a provisional license to practice issued under Chapter 326, RSMo. There must be at least one (1) active individual Missouri certified public accountant (CPA) licensee or Missouri CPA provisional licensee in the firm for the firm's permit to be considered active.*

(5) Each office established, registered or maintained for the practice of public accounting by a CPA or certified public accounting firm, out of which a CPA practices or offers to practice public accounting shall be registered with the board annually. Application shall be on a form provided by the board and shall include the name and license number of the resident manager of each office.

(6) Notice shall be given to the board within thirty (30) days of any change of an office address, change of resident manager for an existing office, the address of any additional office opened for the practice of public accounting or of the closing of any office. No form is provided by the board for this notice, but the notice must be in writing and must be clearly headed with "Notice of

New Office," "Change of Address of Office," "Change of Resident Manager" or "Closing of Office" and in the case of a new office must contain the name and certificate number of the resident manager.

(7) Before a current permit to practice will be issued an applicant must pay all required fees and penalties that were not paid previously for all years the applicant was engaged in the practice of public accounting in Missouri. No permit shall be issued or reinstated until all required fees and penalties are paid by the applicant.

(8) Each certified public accounting firm shall attest that all employees, representatives and agents practicing public accounting in Missouri and all Missouri resident partners, members, managers and shareholders of certified public accounting firms who hold Missouri certificates issued under prior law or any individual who received an initial license after August 28, 2001 hold an active Missouri license to practice in a certified public accounting firm.

(9) The change of majority ownership, form of organization (i.e., professional corporation (PC), limited liability company (LLC), etc.), or name or title of the firm, shall require the issuance of a new permit to practice public accounting with the completion of an initial firm application form provided by the board and payment of all applicable fees as determined by the board.

(10) In the event a firm through which the practicing CPAs are provisionally licensed, and there is no physical location for the firm within the state of Missouri, the firm shall complete the form for such practice as provided by the board and payment of all applicable fees as determined by the board. The firm permit shall only be valid for such time that the firm has an active provisional licensee in the state of Missouri. If the firm opens or operates a firm location within the state of Missouri it will require the completion of an initial firm application and payment of all applicable fees as determined by the board.

(11) The name of the firm shall not be misleading nor shall it include words or phrases that are quantitative or qualitative such as: "biggest," "best," "finest," "cheapest," etc.

(12) The name of sole proprietorships or sole practitioners shall not include the words "and Associates," "Company," "and Company," or any designation that implies there is multiple or corporate ownership. Sole proprietorships and sole practitioners shall only use a business name that is in the singular form or represents itself in a neutral manner.

(13) Names of one (1) or more past partners, members or shareholders may be included in the firm name of a partnership, limited liability company, or professional corporation or its successor. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole proprietorship or a sole practitioner.

(14) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY: sections [326.110, RSMo 1994] 326.262 and 326.289, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed March 14, 1984, effective July 12, 1984. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed Nov. 3, 2003.*

*PUBLIC COST:* This proposed amendment will cost state agencies or political subdivisions an estimated four hundred sixty-seven dollars and seventy-three cents (\$467.73) annually for the life of the rule. It is anticipated that the total annual cost will recur 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 amendment will cost private entities an estimated eight thousand one hundred thirty-seven dollars (\$8,137) annually for the life of the rule. It is anticipated that the total annual cost will recur 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 amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 10 - Missouri State Board of Accountancy**

**Chapter 2 - General Rules**

**Proposed Rule - 4 CSR 10-2.051 Registration of Certified Public Accounting Firms**

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$467.73
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	
	<b>\$467.73</b>

**III. WORKSHEET**

Applications for registration and provisional licensure are processed by the Licensure Technician I who reviews the application, updates the information contained in the licensing computer system and mails the licenses. The Executive I reviews any questions or problems on renewals and provides guidance for resolution.

The board estimates of 90 applications for registration and 10 applications for provisional licensure will be received annually. The board estimates the Executive I will assist with 10 applications annually. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$18,732.00	\$25,119.61	\$12.08	\$0.20	15 minutes	\$3.02	\$301.92
Executive I	\$30,192.00	\$40,487.47	\$19.47	\$0.32	\$2.00	\$2.27	\$22.71

**Total Personal Service Costs**                    **\$324.63**

**Expense and Equipment Dollars for Initial Applications**

Application Printing	\$0.25	
Envelope for Mailing Application	\$0.16	
Postage for Mailing Application	\$0.32	
Printing Permit	\$0.35	
Envelope for Mailing Permit	\$0.16	
Postage for Mailing Permit	\$0.35	
<b>Total Expense and Equipment Cost per Application:</b>	<b>\$1.59</b>	
		<b>Total Expense and Equipment Costs</b> <b>\$143.10</b>

**IV. ASSUMPTION**

1. The above figures were based on FY03 actuals. The board anticipates the annual number of firms will remain constant for the life of the rule.
2. The board does not currently charge a fee for a Notice of Change of Address, Notice of a New Office, Notice of Change of Resident Manager, or Notice of Closing of an Office. A Notice of New Office and a change of shareholders requires an application to complete an initial application form and pay all applicable fees. Applicants applying for a new office have been calculated in the fiscal note for 4 CSR 10-2.072.
3. 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.

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

## PRIVATE ENTITY FISCAL NOTE

**I. RULE NUMBER**

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Amendment - 4 CSR 10-2.051 Registration of Certified Public Accounting Firms

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
90	Licenseses (registration of certified public accounting firms @ \$90)	\$8,100.00
10	Applicants (provisional license @ \$150)	\$1,500.00
100	Licenseses (postage @ \$.37)	\$37.00
	<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>	<b>\$8,137.00</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. 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 at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.061 Requirements for an Initial [Permit] License to Practice.** The board is amending the purpose, proposing to delete sections (1)–(10), add a new section (1), renumber the remaining sections accordingly and amend the newly renumbered section (6).

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*PURPOSE: This rule sets forth the type of work experience that is required for a certified public accountant to obtain or receive an initial [permit] license to practice in Missouri [and the supervision that must be provided to the applicant for that experience to be acceptable].*

*[(1) Except as provided in sections (2) and (3) of this rule, the two (2)-year public accounting experience requirement for a permit provided by section 326.210.1(1), RSMo shall consist solely of experience gained in the performance of activities generally performed by certified public accountants (C.P.A.s) including, but not limited to, financial audits, reviews, compilations, management audits, operational audits, compliance audits, management advisory or consulting services, tax advisory services, tax return preparation and financial planning services, under the level of supervision set forth in section (5) of this rule.*

*(2) The provisions of sections (1) and (3) of this rule notwithstanding, the board shall accept as fulfillment of the experience requirement provided for by section 326.210.1(1) RSMo—*

*(A) Two (2) years' experience gained by an applicant while employed full-time by the Missouri state auditor, Missouri state treasurer, Missouri secretary of state or any department created by Article IV of the Constitution of Missouri or any governmental unit transferred to a state department by a type III transfer under the Omnibus Reorganization Act of 1974 or an appropriation committee of the Missouri general assembly, provided that the elected state office holder, department director, transferred governmental unit head or appropriations staff director or the equivalent, as the case may be, holds a certificate and live permit from this or another state as a C.P.A. and provided the level of supervision required by section (5) of this rule and the applicant's experience is gained in an agency which complies with the requirements set forth in 4 CSR 10-2.112; and*

*(B) Two (2) years' experience gained by an applicant while employed full-time by a federal audit agency or in the office of an inspector general in an occupational code of 510, 511, 512 or the equivalent, provided the applicant's supervisor is a grade GM-15 or above and holds a certificate and permit from this or another state as a C.P.A. and provides the level of supervision required by section (5) of this rule and the applicant's experience is gained in an agency which complies with the requirements set forth in 4 CSR 10-2.112.*

*(3) Except as provided in subsections (2)(A) and (B) of this rule, the four (4)-year governmental accounting experience requirement for a permit provided by section 326.210.1(3), RSMo shall consist solely of experience gained in the performance of the activities generally performed in govern-*

*mental accounting, budgeting or auditing, including auditing of tax returns, as a state employee of Missouri, a political subdivision of this state or of the United States government, when the previously mentioned activities have been performed under the level of supervision set forth in section (5) of this rule and when the applicant's experience is gained in an office or unit which complies with the requirements set forth in 4 CSR 10-2.112.*

*(4) The four (4) years' experience requirement provided for by section 326.210.1(4), RSMo shall consist of experience gained in the performance of activities as an accountant for a corporation, partnership or other business entity. These activities shall include, but not be limited to, general accounting, internal audits, operational audits, tax advisory services and tax return preparation, which must have been performed as an employee in a department, division or unit of a nongovernmental business entity under the level of supervision as set forth in section (5) of this rule. The department, division or unit must have, as principal functions within the corporation, partnership or other business entity, those functions commonly associated with accountants, other financial or fiscal officers, or both, as described in this rule.*

*(5) Supervision as used in section 326.210, RSMo shall mean personal supervision provided by a C.P.A. holding a live permit to practice from this or another state who is involved in directing the efforts of the applicant. Elements of supervision shall include planning, administration, instruction of assistants, keeping informed of significant problems encountered and reviewing the work performed.*

*(6) The two (2)-year experience requirement for a permit provided by section 326.210.1(2), RSMo shall consist of experience gained in the full-time, legal practice of public accounting in another state as a C.P.A. while holding a live permit in the other state. The experience shall consist solely of the performance of activities generally performed by C.P.A.s including, but not limited to, financial audits, compliance audits, management advisory or consulting services, tax advisory services, tax return preparation and financial planning services.*

*(7) The two (2)-year public accounting experience requirement for a permit to practice may be fulfilled by a part-time employment with two thousand (2000) hours of part-time work considered to be equivalent to one (1) year of full-time employment. The board will not accept more than forty (40) hours of part-time work in any week. Each applicant who relies on experience gained through part-time work shall file with the board a schedule listing the number of hours worked each week. The schedule shall be signed by a C.P.A. who is the applicant's employer or supervisor.*

*(8) An internal revenue agent applying for a permit to practice may fulfill the experience requirement by obtaining one (1) year of public accounting experience as set forth in this rule, provided the applicant has at least four (4) years' experience as an employee of the federal government as an internal revenue agent in the Internal Revenue Service (IRS), of which at least two (2) years is certified by a district director of IRS as having been of field agent experience at the journeyman level, grade GS-512-11 or above, as specified in the United States Civil Service Commission's qualification standard as of December 1, 1975.*

(9) *Periods of experience qualifying under subsections 326.210.1(1), (2), (3) and (4), RSMo may be combined to meet the requirements of section 326.210.1, RSMo as long as the total time credited is equal to or greater than the higher of the required times in the subsections that apply to the definition of the type of experience. Experience under the provisions of section 326.210.1(3), RSMo relating to internal revenue agents shall not be combined with any other experience under this rule.*

(10) *The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction.*

**(1) Applicants for initial licensure shall meet the education requirements outlined in 4 CSR 10-2.041 and successfully complete the examination requirements as outlined in 4 CSR 10-2.150.**

*[[11]] (2) [On or after August 28, 2001 t]The board shall require as a condition for licensure, the verification of experience as provided for by section 326.280.1(6), RSMo. A licensee from this or another state shall verify on a form provided by the board:*

(A) The applicant has one (1) year of **accounting** experience consisting of full-time employment that is no less than one (1) year and no fewer than two thousand (2,000) hours or in the case of part-time employment, experience that extends over a period of no less than one (1) year and no more than three (3) years and includes no fewer than two thousand (2,000) hours of performance of services as described in 326.280.1(6), RSMo; and

(B) The applicant has acceptable experience, which may include employment in industry, government, academia or public practice. The board may look at such factors as the complexity and diversity of the work as set forth in the experience verification section of the initial application form.

*[[12]] (3) In accordance with 326.289.4(3), RSMo any individual licensee who was initially licensed on or after August 28, 2001, and who is responsible for supervising attest services or signs or authorizes someone to sign attestation reports on behalf of a firm, shall have an additional year of experience, which includes attest services, consisting of full-time employment that is no less than one (1) year and no fewer than two thousand (2,000) hours or in the case of part-time employment, experience that extends over a period of no less than one (1) year and no more than three (3) years and includes no fewer than two thousand (2,000) hours of performance of services. The experience shall be under the supervision of a licensee from this or another state. The experience shall consist of either:*

(A) Practicing public accounting in a *[registered]* **certified public** accounting firm; or

(B) Practicing as an auditor, employed by a local, state, or federal government entity, devoted principally to the comprehensive application of generally accepted accounting principles or generally accepted government auditing standards to diversified field examinations.

*[[13]] (4) In accordance with 326.289.4(3), RSMo any licensee who was initially licensed on or after August 28, 2001, and who is responsible for supervising, or signs or authorizes someone to sign review or compilation reports shall have a year of experience consisting of full-time employment that is no less than one (1) year and no fewer than two thousand (2,000) hours or in the case of part-time employment, experience that extends over a period of no less than one (1) year and no more than three (3) years and includes no fewer than two thousand (2,000) hours of performance of services as described in 326.280.1(6), RSMo. Acceptable experience shall*

include employment in industry, government, academia or public practice.

*[[14] Evidence of Applicant's Experience.]*

*[[A]](5) Any licensee who has **direct access and knowledge of an applicant's experience and who has** been requested by an applicant to submit to the board evidence of the applicant's experience and has refused to do so shall, upon request by the board, explain the basis for such refusal in a **written supplemental submission**.*

*[[B]] The board may require any licensee who has *[furnished evidence of an]* **verified the** applicant's experience to substantiate the information in a **written supplemental submission**.*

*[[C]] Any applicant may be required to appear before the board to supplement or verify evidence of experience.*

*[[D]] The board may inspect **applicant-provided** documentation relating to *[an]* **the** applicant's claimed experience.*

**(6) Satisfactory completion of a written examination in professional ethics acceptable to the board shall be required for issuance of a Missouri license as a certified public accountant (CPA).**

(A) **Verification that the applicant has received a score of ninety percent (90%) on the examination of the correspondence course on professional ethics for CPAs of the American Institute of Certified Public Accountants shall satisfy this requirement.**

(B) **Applicants applying for a license as a CPA under section 326.280, RSMo can satisfy this requirement by submitting verification that they have passed a written examination on professional ethics approved by the Missouri State Board of Accountancy where they hold a valid license.**

**(7) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY: sections 326.262 and 326.280, [1]6) and 326.289.4] RSMo Supp. [2002] 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.062 Evidence of Work Experience Required for an Initial Permit to Practice.** This rule set forth the evidence of experience required from applicants for an initial permit to practice.

*PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: sections 326.110, RSMo Supp. 1996 and 326.170, RSMo 1994. Original rule filed Sept. 3, 1986, effective Feb. 28, 1987. Amended: Filed July 19, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 16, 1996, effective June 30, 1997. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 10—Missouri State Board of Accountancy**  
**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.070 Renewal of [Permits] Licenses.** The board is proposing to amend the purpose, section (1), delete section (2), renumber the remaining sections accordingly, amend the newly renumbered sections (2)–(6), add new language in section (7) and delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*

*PURPOSE: This rule clarifies requirements of the statutes pertaining to the renewal of the [permit] license to practice public accounting by certified public accountants and public accountants in this state.*

(1) *[Individuals. Permits] Licenses* shall be issued for a licensing period of *[one (1)] two (2)* years beginning on October 1 and expiring on September 30 and shall be renewed *[annually] biennially*.

*[(2) Partnerships, Limited Liability Companies and Professional Corporations. Permits shall be issued for a licensing period of one (1) year beginning on November 1 and expiring on October 31 and shall be renewed annually.]*

*[(3)] (2)* Each certified public accountant (CPA) *[or public accountant]* shall provide the board with the following information at the time of application for renewal of *[his/her] his or her* individual *[permit] license* to practice:

(A) *[r]*Residence address;

(B) *[b]*Business connection or employer;

(C) *[b]*Business address;

(D) **Verification that the individual has met the Continuing Professional Education (CPE) requirements as described in Chapter 4;**

(E) *[d]*Details regarding any conviction of any criminal offense other than a traffic violation;

(F) *[d]*Details regarding any suspension, revocation or cancellation of the certificate or permit to practice by any jurisdiction; details regarding any suspension, revocation or restriction of *[his/her] his or her* right to practice by the Internal Revenue Service, Securities Exchange Commission or any other federal or state agency;

(G) *[d]*Details regarding any judgments rendered against the licensee for professional malpractice; and

(H) *[d]*Details regarding any willful violation of the rules and standards of professional conduct governing the practice of public accounting.

(I) Each licensee shall notify the board in writing within thirty (30) days of any change occurring during the renewal period.

*[(4)] (3) [All employees, representatives and agents practicing public accounting in Missouri and all Missouri resident partners, members, managers and shareholders of firms, partnerships, limited liability companies, and professional corporations who hold Missouri certificates are required to have live permits to practice.] All employees, representatives and agents practicing public accounting in Missouri and all Missouri resident partners, members, managers and shareholders of certified public accounting firms who hold Missouri certificates issued under prior law or any individual who received an initial license after August 28, 2001 is required to have an active Missouri license to practice in a certified public accounting firm.*

*[(5)](4) [Permit] License* renewal applications will be mailed to each licensee at the last known address at least thirty (30) days before the *[permit] license* expiration date. Failure to receive this notice does not relieve the licensee of the obligation *[annually] biennially* to renew the *[permit] license* to practice.

*[(6)](5)* An applicant who has allowed *[his/her permit] his or her license* to expire because *[s/he] he or she* was not employed in public accounting in Missouri and who is reentering the practice of public accounting in Missouri shall apply for a *[permit] license* to practice within sixty (60) days of the date *[s/he] he or she* reenters public accounting. If an application for a *[permit] license* to practice is not received by the board within sixty (60) days after the date the applicant reenters the practice of public accounting in Missouri, the applicant is required to pay the *[permit] license* fee plus a delinquent fee *[ for each month or portion of a month for which a permit is required]*.

*[(7)](6)* Before a current *[permit] license* to practice will be issued, an applicant must pay all required fees and penalties, which *[s/he] he or she* has not paid previously, for all years the applicant was engaged in the practice of public accounting in Missouri *[subsequent to October 13, 1967]*. No *[permit] license* shall be issued or reinstated until *[the application is approved by the board and]* all required fees and penalties are paid by the applicant.

(7) **The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY: sections [326.110, RSMo Supp. 1993] 326.262, 326.286 and 620.010.15(2), RSMo [1986] Supp. 2003. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. Rescinded and readopted: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Feb. 9, 1982, effective May 13, 1982. Amended: Filed March 14, 1984, effective July 12, 1984. Amended: Filed April 18, 1989, effective*

July 27, 1989. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed Nov. 3, 2003.

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

**PRIVATE COST:** *The 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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RULE

#### 4 CSR 10-2.072 Renewal of a Certified Public Accounting Firm Permit

**PURPOSE:** *This rule establishes requirements pertaining to the issuance and renewal of the permit to practice public accounting by certified public accounting firms.*

(1) Each office established, registered or maintained for the practice of public accounting by a certified public accountant (CPA) or certified public accounting firm, out of which a CPA practices or offers to practice public accounting shall obtain a permit with the board annually. Renewal shall be on a form provided by the board and shall include the name and license number of the resident manager of each office.

(2) Firm permits shall be issued for a period of one (1) year beginning on November 1 and expiring on October 31 and shall be renewed annually.

(3) Permit renewal applications will be mailed to each applicant at the last known address, provided to the board, at least thirty (30) days before the permit expiration date. Failure to receive this notice does not relieve the firm of the annual obligation to renew the permit to practice. Failure to renew timely may cause the board to assess additional penalties as provided in 4 CSR 10-2.160.

(4) Each certified public accounting firm shall provide the board annually with a completed renewal application form provided by the board and pay all applicable fees as determined by the board.

(5) As a part of the annual renewal of each office established and maintained for the practice of public accounting or out of which a CPA practices or offers to practice public accounting, the sole practitioner or partner, president or managing officer of a certified public accounting firm, shall affirm that:

(A) All of his or her employees, its resident partners or its members and managers, shareholders in Missouri, or any combination of these, who are Missouri CPAs have applied for a current license to practice public accounting; and

(B) All of his or her employees, its resident partners, its members and managers or shareholders in Missouri, or any combination of these, who hold a CPA license issued by another state have applied

for a Missouri CPA license by reciprocity or by provisional licensure through substantial equivalency.

(6) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

**AUTHORITY:** *sections 326.262 and 326.289, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.*

**PUBLIC COST:** *This proposed rule will cost state agencies or political subdivisions an estimated one thousand four hundred eighty-nine dollars and twenty-three cents (\$1,489.23) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life, 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 one hundred eight thousand four hundred forty-four dollars (\$108,444) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life, 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 Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*



**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 10 - Missouri State Board of Accountancy**

**Chapter 2 - General Rules**

**Proposed Rule - 4 CSR 10-2.072 Renewal of a Certified Public Accounting Firm Permit**

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$1,489.23
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	
	<b>\$1,489.23</b>

**III. WORKSHEET**

Renewal applications are received and processed by the division's central processing unit. The board transfers approximately \$1,374 from their fund to the division annually for the processing of renewals for public accounting firms. Applications needing clarification are forwarded to the board for review by the Licensure Technician I who reviews the application, prepares correspondence, addresses the issue via a telephone call, updates the information in the licensing computer system and mails the licenses. The Executive I reviews any questions or problems on renewals and provides guidance for resolution.

The board estimates of 1,200 renewal applications will be received annually and 90 of those applications will be forwarded to the board office annually for processing. Of those 90 applications processed in the office, the Executive I will assist with approximately 15 applications. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$18,732.00	\$25,119.61	\$12.08	\$0.20	5 minutes	\$1.01	\$90.90
Executive I	\$30,192.00	\$40,487.47	\$19.47	\$0.32	5 minutes	\$1.62	\$24.33

**Total Costs**      **\$1,489.23**

**IV. ASSUMPTION**

1. The above figures were based on FY03 actuals. The board anticipate the number of firms renewing will remain constant for the life of the rule.
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.

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

## PRIVATE ENTITY FISCAL NOTE

**I. RULE NUMBER**

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Rule - 4 CSR 10-2.072 Renewal of a Certified Public Accounting Firm Permit

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1200	Licenseses (annual renewal @ \$90)	\$108,000.00
1200	Licenseses (postage @ \$.37)	\$444.00
	<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>	<b>\$108,444.00</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. 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 at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.075 Reinstatement of [Permits] License to Practice.**  
The board is proposing to amend the original purpose statement, delete section (1), add a new sections (2) and (5), amends section (2), (3), and (4) and delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*

*PURPOSE: This rule establishes requirements for reinstatement of a [permit] license to practice. [It specifies that if more than two years have elapsed since the expiration of the applicant's original permit, s/he must have completed one hundred twenty hours of continuing education courses in the three years prior to application. The rule is intended to assure that licensees have kept up to date with changes in the profession.]*

*[(1) The holder of a certificate issued under section 326.060, RSMo whose permit has expired and who has not renewed his/her permit within two (2) years after the expiration date may apply for reinstatement of his/her permit.]*

*[(2)] (1) The board shall not reinstate the [permit] license of any [certificate holder if more than two (2) years have elapsed since the expiration of his/her permit] licensee unless—*

*(A) That person submits evidence to the board that [s/he] he or she has completed one hundred twenty (120) hours of continuing professional education during the three (3) years previous to making application for reinstatement of the [permit] license with not less than twenty (20) hours in the year immediately preceding the date of application for reinstatement; or*

*(B) That person agrees to a regular program to obtain the required one hundred twenty (120) hours of continuing professional education within one (1) year of applying for reinstatement.*

**(2) In the event of application for reinstatement of a license to practice, wherein the license had been previously suspended or revoked by the board, the board may modify the earlier discipline by placing requirements or restrictions upon the reinstated license. Such modifications may include probation, preissuance reviews, and other such requirements as permitted by law and determined by the board.**

**(3) Continuing education courses required under section (2) of this rule shall comply with the provisions of the current continuing education requirements as set forth in [4 CSR 10-4.020, 4 CSR 10-4.030, and 4 CSR 10-4.040 and 4 CSR 10-4.050(4)] 4 CSR 10-4.011.**

**(4) No [permit] license shall be reinstated until the applicant pays all required fees and penalties, which [s/he] he or she has not paid previously, for any periods during which [s/he] he or she was practicing public accounting in Missouri.**

**(5) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY: sections [326.110, RSMo Supp. 1995] 326.262, 326.286, 326.310, 326.316 and 620.149, RSMo Supp. 2003. Original rule filed June 13, 1984, effective Oct. 11, 1984. Amended: Filed July 15, 1985, effective Dec. 12, 1985. Amended: Filed Jan. 26, 1995, effective July 30, 1995. Amended: Filed Sept. 4, 1996, effective March 30, 1997. Amended: Filed Nov. 3, 2003.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated twenty-five dollars and thirty-two cents (\$25.32) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life, 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 amendment will cost private entities an estimated seven hundred one dollar and eighty-five cents (\$701.85) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life, 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 amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). 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.*



**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**  
**Division 10 - Missouri State Board of Accountancy**  
**Chapter 2 - General Rules**  
**Proposed Amendment - 4 CSR 10-2.075 Reinstatement of License to Practice**  
 Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
5	Licensees (reinstatement of license @ \$90 + an average of \$50 delinquent fees)	\$700.00
5	Licensees (postage @ \$.37)	\$1.85
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$701.85</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. Currently the board process approximately 5 applications for reinstatement annually. The board estimates that delinquent fees average approximately \$50 per applicant. In recent years the board has been decreasing the number of firms practicing without a license and with the implementation of peer review anticipates the number will continue to decrease.
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 at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.095 Ownership of CPA Firms.** The board is proposing to amend the original purpose statement, amend sections (1)–(3) and add new sections (4) and (5).

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*PURPOSE: This rule clarifies the statutes pertaining to ownership of certified public accounting firms [of certified public accountants and public accountants].*

(1) Limited Liability Companies (L.L.C.).

(A) Ownership. Only the following may have a member's interest in a L.L.C.:

1. *[Natural persons who hold both a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any state, country or province of another country, if the other state or country or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] A majority ownership shall consist of natural persons who hold a license as a CPA to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any state, country or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent if the other state or country or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;*

2. *[Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners hold both a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, if the other country or state or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners who have a majority of ownership hold an active license as a CPA to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;*

3. Professional corporations holding a permit to practice public accounting issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. All shareholders of either a domestic or foreign professional corporation shall own their shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting, **provid-**

**ed that all non-CPA members are active individual participants in the firm or affiliated entities.** All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a *[certificate as a CPA and a permit] license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during *[his/her] his or her* lifetime. *[and that all trustees of the trust, i]If there are multiple trustees, a majority shall hold a [certificate as a CPA and a permit] license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia. **Any trustees who are not licensed CPAs shall be active individual participants in the firm.**

(B) Transfer of Member's Interest. Provisions shall be made in the Articles of Organization or in Restated Articles of Organization and in any merger or consolidation document, which shall require that a member who, for whatever reasons, ceases to be eligible to be a member to dispose of all of *[his/her] his or her* membership interest within a reasonable period of time to a person qualified to be a member or to the L.L.C.

(2) Professional Corporations.

(A) Ownership. A professional corporation may issue shares only to the following:

1. Natural persons who hold a *[certificate as a C.P.A. and a current permit] current license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any other country or state or province of another country, **or holds a foreign designation recognized by the board to be substantially equivalent**, if the other country or state or province of another country grants reciprocity licensure to holders of *[C.P.A. certificates] a CPA license* issued by this state;

2. Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners hold *[both] a [certificate as a C.P.A. and a current permit] current license as a CPA* to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, **or holds a foreign designation recognized by the board to be substantially equivalent**, if the other country or state or province of another country grants reciprocity licensure to holders of *[C.P.A. certificates] CPA licenses* issued by this state;

3. Professional corporations holding a permit to practice issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. Shareholders at all times shall own their own shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a *[certificate as a C.P.A. and a permit] current license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during *[his/her] his or her* lifetime and that all trustees of the trust. *[, i]If there are multiple trustees, [hold a certificate as a C.P.A. and a permit] each shall hold a license* to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia.

(B) Transfer of Shares. Provisions shall be made requiring any shareholder who ceases to be eligible to be a shareholder to dispose of all of [his/ her] his or her shares within a reasonable period to a person qualified to be a shareholder or to the corporation or association.

(3) Partnerships[, Sole-Proprietorships, and Other Business Entities] and Limited Liability Partnerships (LLP).

(A) Ownership. A partnership [, sole-proprietorship or other lawful business entity, as the case may be,] or LLP may issue ownership interest only to the following:

1. [Natural persons who hold a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any other country or province of another country, if the other country or state or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] A majority ownership shall consist of natural persons who hold a license as a CPA to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any state, country or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;

2. [Domestic or foreign general partnerships, including limited liability partnerships, in which all the partners hold both a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, if the other country or state or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] Domestic or foreign general partnerships, including limited liability partnerships, in which all the partners who have a majority ownership hold an active license as a CPA to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;

3. Professional corporations holding a permit to practice issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. Shareholders [at all times] of either a domestic or foreign professional corporation shall own their own shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting, provided that all non-CPA members are active individual participants in the firm or affiliated entities. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. [Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a certificate as a C.P.A. and a permit to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during his/her lifetime and that all trustees of the trust; if there are multiple trustees, hold a certificate as a C.P.A. and permit to

practice accounting issued by this state, another state or territory of the United States or the District of Columbia.] Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a license as a CPA to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during his or her lifetime. If there are multiple trustees, a majority shall hold a license as a CPA to practice accounting issued by this state, another state or territory of the United States or the District of Columbia. Any trustees who are not licensed CPAs shall be active individual participants in the firm.

(B) Transfer of Interest. [Provisions shall be made requiring any interest holder who ceases to be eligible to be an interest holder to dispose of all of his/her interest within a reasonable period to a person qualified to be an interest holder of the firm]. Provisions shall be made in the Articles of Organization or in Restated Articles of Organization and in any merger or consolidated document, which shall require that a member who, for whatever reasons, ceases to be eligible to be a member to dispose of all of his or her membership within a reasonable period to a person qualified to be a member or to the L.L.C.

(4) Sole Proprietorships.

(A) The ownership of a sole proprietorship shall consist of a natural person who holds a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia, or any state, country or province of another country if the other state or country or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state.

(5) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY:* sections [326.021, 326.040 and 326.050, RSMo 1994 and 326.110, RSMo Supp. 1999] 326.262, 326.280 and 326.289, RSMo Supp. 2002. Original rule filed Aug. 31, 2000, effective Feb. 28, 2001. Amended: Filed Nov. 3, 2003.

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 10-2.101 Resident Manager. The board is proposing to amend section (1).

*PURPOSE:* This rule is being amended to be consistent with terminology used throughout 4 CSR 10.

(1) A resident manager of an office is a certified public accountant [(C.P.A.)] (CPA) or public accountant holding a [live permit] license to practice, issued under section 326.210, RSMo and currently practicing public accounting who has direct supervision of the office and who, in addition, oversees the planning, administration, direction and review of the services being performed by that office.

*AUTHORITY:* sections [326.110, RSMo Supp. 1993] 326.262 and 326.289, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Dec. 15, 1983, effective April 12, 1984. Amended: Filed Nov. 3, 2003.

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.111 Registration of Each Office of Public Accounting.** This rule clarified the requirements of section 326.055, RSMo regarding annual registration of each office established and maintained for the practice of public accounting or out of which a certified public accountant or public accountant practices or offers to practice public accounting.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. Amended: Filed Oct. 3, 1974, effective Oct. 13, 1974. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed April 1, 1986, effective July 11, 1986. Amended: Filed April 14, 1987, effective July 23, 1987. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at

[boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.112 Registration of Governmental Accounting Offices.** This rule established requirements regarding annual registration of each office or unit established and maintained by Missouri, a political subdivision of this state or the United States government, for the practice of governmental accounting, budgeting or auditing including the auditing of tax returns, as specified in section 326.210, RSMo.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Sept. 3, 1986, effective Feb. 28, 1987. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.115 Display of Permits by Public Accounting Offices.** This rule required each public accounting office to display a live permit to practice at all times.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed July 10, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed Nov. 3, 2003.

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



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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 10—Missouri State Board of Accountancy**  
**Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.120 Ethics Examinations.** This rule required candidates for a certificate as a certified public accountant to complete a course of ethics approved by the board.

*PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed July 3, 1975, effective July 17, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed June 13, 1984, effective Oct. 11, 1984. Amended: Filed July 13, 1993, effective Jan. 31, 1994. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 10—Missouri State Board of Accountancy**  
**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.130 Applications for Examination.** The board is proposing to amend sections (2)–(5) and (8), add new language in section (11) and delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*

(2) Items which constitute a complete initial application are[—]: a completed and notarized application form, the appropriate fee, one (1) recent two-inch by two-inch (2" × 2") passport-type photograph

of the applicant and certified college transcripts. The applicant is responsible for insuring that transcripts are received by the board or the firm which administers the examination for the board at least thirty (30) days before the examination or the application will be considered incomplete.

(3) [Items which constitute a complete re-examination application are—a completed and notarized application form and the appropriate fee.] Applicants wishing to apply for re-examination must call 1-800-CPA-Exam or register on-line at [www.nasba.org](http://www.nasba.org) and pay the appropriate fee.

(4) Applicants who wish to transfer conditional credit from other jurisdictions must use the initial application form [(see 4 CSR 10-2.062)] and pay the fee for all parts of the examination. These candidates are responsible for requesting transfer of their grades from the original jurisdiction. The applicant is responsible for insuring that grades from the other jurisdiction are received by the board or the firm which administers the examination for the board at least thirty (30) days before the date of the examination or the application will be considered incomplete. A form for this purpose can be obtained from the board's office or the firm which administers the examination for the board.

(5) Applicants who are applying for examination under the provisions of section [326.060.8] 326.280, RSMo and who expect to satisfy the educational requirements within sixty (60) days after the examination also must submit a certificate of enrollment as required by 4 CSR 10-2.135. The applicant is responsible for insuring that the certificate of enrollment is received by the board or the firm which administers the examination for the board at least thirty (30) days before the date of the examination or the application will be considered incomplete. A form for this purpose can be obtained from the board's office or the firm which administers the examination for the board.

(8) To assist the board in evaluating the educational qualifications of applicants who have degrees from colleges or universities outside the United States of America, these applicants shall have their educational qualifications and transcripts evaluated by a qualified evaluator which has been approved in advance by the board. Names and application forms for approved evaluators may be obtained from the board office. The applicant shall be responsible for paying any fees charged by the [evacuator] evaluator. The applicant is responsible for insuring that, at least thirty (30) days before the date of the examination, the evaluator's report detailing the evaluator's findings is received by the board or the firm which administers the examination for the board or the application will be considered incomplete.

**(11) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY: sections [326.110, RSMo Supp. 1997 and 326.170, RSMo 1994] 326.262, 326.268 and 326.286, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Dec. 7, 1982, effective March 11, 1983. Amended: Filed March 14, 1984, effective July 12, 1984. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed June 10, 1998, effective Dec. 30, 1998. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.135 Requirements for Applicants for the Examination Who Expect to Satisfy the Educational Requirements Within Sixty Days After the Examination.** The board is proposing to amend sections (1)–(3), add new language in sections (4) and (5) and delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*

*PURPOSE: This rule specifies the procedure an applicant must follow to demonstrate that [s/he] he or she reasonably expects to satisfy the educational requirements of section 326.[060]280.1(4), RSMo.*

(1) An applicant for examination under the provisions of section [326.060.8] **326.280.5**, RSMo who expects to satisfy the educational requirements of section [326.060.1] **326.280.1**, RSMo within sixty (60) days after the date of the examination shall submit with the application a certified copy of [his/her] **his or her** transcript(s) listing all courses completed.

(2) The applicant shall submit a certificate of enrollment which must be signed by the candidate under oath and notarized or bear the school seal and the signature of the dean, registrar or department head of the college or university in which [s/he] **he or she** is enrolled. This certificate of enrollment shall list all accounting and business courses the applicant currently is taking and state the anticipated date the courses will be completed, the degree the applicant will be awarded and the date the degree will be conferred. [A form for this purpose can be obtained from the board.] It shall be the applicant's responsibility to submit a certified copy of [his/her] **his or her** final transcript as evidence that the applicant satisfies the educational requirements.

(3) No [certificates] **licenses** shall be issued and no grades for any part of the examination **shall be** issued to any applicant unless the educational requirement, in fact, is met within the sixty (60)-day period.

(4) **An applicant for the Uniform CPA Examination who is currently enrolled in college and who will complete all courses and graduation requirements no later than sixty (60) days following the examination, may be permitted to take the examination. In order to determine eligibility, the information required by this rule must be completed and submitted with all transcript(s) at least thirty (30) days prior to the examination.**

(5) **The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full**

**force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY: sections [326.110, RSMo Supp. 1993 and 326.170, RSMo 1986] 326.262, 326.268 and 326.280, RSMo Supp. 2003. Original rule filed Sept. 6, 1983, effective Jan. 13, 1984. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.140 Granting of Credit for the Examination.** The board is proposing to amend section (1), add new language in subsection (2)(E), amend sections (3), (4), (6) and (8), add new language in sections (9)–(10) and (13), renumber the remaining sections accordingly.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

(1) A candidate who passes two (2) parts of the exam [for practice prior to the May 1994 examination,] and receives a score of fifty percent (50%) or more on the remaining parts of the examination at one (1) sitting shall be granted conditional credit for the part(s) of the examination passed. The conditional credit shall expire unless the candidate is granted credit for passing all remaining parts of the examination within the next six (6) regularly scheduled examinations. A candidate may add conditional credit of additional parts by passing one (1) or more parts of the exam and by receiving a score of fifty percent (50%) or more on any parts [s/he] **he or she** did not pass. Adding to conditional credit shall not extend the time limit of the condition.

(2) Candidates who were granted credit for passing parts of the examination prior to the May 1994 examination are deemed to have been granted conditional credit according to the following guidelines:

(C) Credit granted for passing accounting theory prior to May 1994 shall be retained as credit for financial accounting and reporting—business enterprises (FARE) until either remaining sections are passed or credit expires under this rule; [and]

(D) Credit granted for passing accounting practice prior to May 1994 shall be retained as credit for accounting reporting—taxation, managerial and governmental and not-for-profit organizations (ARE) until either remaining sections are passed or credit expires under this rule[.] ; and

(E) Candidates who passed the practice section prior to May 1994 shall be considered to have passed two (2) parts for the purpose of determining conditioning.

(3) A candidate shall be deemed to have passed the certified public accountant examination when [s/he] he or she has been granted credit for all four (4) parts of the examination.

(4) In addition to the conditions set out in sections (1) and (2) of this rule, a grade of at least seventy-five percent (75%) is required to pass any part. **After the November 2003 written examination, applicants are required to pass the computer-based Uniform CPA examination.**

(6) An applicant who [s] was not required to take one (1) or more parts of the examination prior to May 1994 because of being licensed by this state as an attorney-at-law will not be required to pay the fee for that part(s) of the examination. Conditional credit granted under this section shall expire at the time of the May 1994 examination [or as provided in section (1) of this rule, whichever occurs first].

(8) A candidate must sit for all parts of the examination for which [s/he] the candidate has not already been granted conditional credit by this state.

(9) Candidates who have attained conditional status as of the launch date of the computer-based Uniform CPA Examination will be allowed a transition period to complete any remaining sections of the CPA examination. The transition period is the period of time or maximum number of opportunities (whichever is first exhausted) the candidates who have conditioned under the paper-and-pencil examination have remaining, at the launch of the computer-based CPA examination, to complete all remaining sections.

(10) If a previously conditioned candidate does not pass all remaining sections during the transition period, conditioned credits earned under the paper-and-pencil examination will expire and the candidate will lose credit for the sections earned under the paper-and-pencil examination. However, any section passed during the transition period is subject to the conditioning provisions of the computer-based examination as indicated in the aforementioned conditioning recommendation, except that a previously conditioned candidate will not lose conditional credit for a section of the computer-based examination that is passed during the transition period, even though more than eighteen (18) months may have elapsed from the date the section is passed, until the end of the transition period.

(11) After the launch date of the uniform computer-based examination when a candidate first passes one (1) or more sections of the CPA examination the candidate must pass any remaining sections within eighteen (18) months. In the event all four (4) sections of the Uniform CPA Examination are not passed within the rolling eighteen (18)-month period, credit for any section(s) passed outside the eighteen (18)-month period will expire and that section(s) must be retaken.

/(9)/(12) No information pertaining to grades or passing or failing of candidates shall be given to anyone by telephone.

(13) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY: sections [326.060 and 326.170, RSMo 1986, and 326.110, RSMo Supp. 1993] 326.262, 326.268 and 326.280, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Oct. 16, 1979, effective Feb. 11, 1980. Amended: Filed July 10, 1984, effective Dec. 13, 1984. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed Nov. 3, 2003.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated nineteen dollars and forty-seven cents (\$19.47) annually for the life of the rule. It is anticipated that the total annual cost will recur 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 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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## PUBLIC ENTITY FISCAL NOTE

## I. RULE NUMBER

Title 4 - Department of Economic Development  
 Division 10 - Missouri State Board of Accountancy  
 Chapter 2 - General Rules  
 Proposed Rule - 4 CSR 10-2.140 Granting of Credit for the Examination  
 Chapter 3 - Seals  
 Prepared July 17, 2003 by the Division of Professional Registration

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$19.47
<b>Total Annual Cost of Compliance for the</b>	
<b>Life of the Rule</b>	
	\$19.47

## III. WORKSHEET

Examination scores are received from the testing service approximately 4 times a year on a disk. Upon receipt of the examination scores, the Executive 1 will load the tape into the division's computerized licensing system. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER EXAM	TOTAL COST
Executive I	\$30,192.00	\$40,487.47	\$19.47	\$0.32	15 minutes	\$4.87	\$19.47

## IV. ASSUMPTION

1. The above figures were based on FY03 actuals. The board anticipate the number of firms renewing will remain constant for the life of the rule.
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.

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

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.150 Examination Procedures.** The board is proposing to amend sections (2), (5), (6) and (8) and add new language in section (11).

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

(2) Examinations shall be held in the months of May and November *[on]* of each year in a location designated by the board. Notice of the time and place of the examination shall be mailed to each candidate whose application to sit for the examination has been filed with and approved by the board.

(5) A candidate is required to pay a nonrefundable fee for all parts for which *[s/he]* he or she has not yet been granted credit by this state. For the purpose of determining the fee, accounting practice is considered two (2) parts until the November 1993 examination, after which each part tested shall be charged as a single part.

(6) A candidate who shall have been found qualified to take the examination and fails to pass the examination shall remain qualified to apply for reexamination if the candidate in the meantime has not committed an act which is grounds to refuse to issue a *[certificate]* license under section *[326. 130]* 326.310, RSMo.

(8) Reference to books, or other matter, by a candidate during the examination or exchange of information with other persons shall be considered fraud or deceit in obtaining a *[certificate]* license.

**(11) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY: sections [326. 110, RSMo 1994] 326.262, 326.268, 326.280 and 326.286, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Oct. 16, 1979, effective Feb. 11, 1980. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Oct. 22, 1987, effective March 25, 1988. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed April 5, 1995, effective Oct. 30, 1995. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 10-2.160 Fees.** The board is proposing to delete subsection (1)(I) and renumber the remaining subsection, delete section (2) and renumber the remaining sections accordingly.

*PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

(1) The following fees are established by the Missouri State Board of Accountancy:

*[(I)] Labels of names and addresses  
of successful exam candidates \$20.00  
plus \$.01 per record  
(the purchaser must provide the labels);]*

*[(J)] (I) Proctoring Fee (proctoring exam candidates  
for other state boards) \$60.00/.]*

*[(2)] For those individuals applying for their initial license to practice prior to October 1, 2002, the fee shall be the full annual amount if the application is received in the board office prior to April 1 and one-half (1/2) the annual amount if the application is received on or after April 1.]*

*[(3)] (2) All fees are nonrefundable and cannot be applied to another application, except under extraordinary circumstances as determined by the board.*

*[(4)] (3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction.*

*AUTHORITY: sections 326.262, 326.271, 326.277, 326.280, 326.283, 326.286 and 326.289, RSMo Supp. [2001] 2003. Emergency rule filed Aug. 6, 1981, effective Aug. 16, 1981, expired Dec. 10, 1981. Original rule filed Aug. 6, 1981, effective Dec. 11, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.180 Procedures for Peer Review Hearings.** This rule established the procedure to be followed in hearings concerning the peer review required by section 326.055.2, RSMo.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.055 and 326.170, RSMo 1986 and 362.110, RSMo Supp. 1993. Original rule filed Dec. 11, 1984, effective May 11, 1985. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RESCISSION

**4 CSR 10-2.190 Subpoenas.** This rule specified that failure to comply with a lawful subpoena issued by the board constitutes misconduct.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Feb. 13, 1985, effective May 11, 1985. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED AMENDMENT

**4 CSR 10-2.200 Use of the Title Certified Public Accountant and Display of [C.P.A. Certificates] CPA Licenses.** The board is proposing to amend the rule title and the original purpose statement, amend sections (1) and (2) and add new language in section (3).

*PURPOSE:* This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*PURPOSE:* This rule clarifies when a certified public accountant who received his or her certificate prior to August 28, 2001, is prohibited from using the title certified public accountant and displaying a certified public accountant certificate.

(1) If the holder of a certificate as a certified public accountant [(C.P.A.)] (CPA) does not hold a [live permit] current license to practice issued under [section 326.210, RSMo] prior law and [s/he] he or she is engaged either full- or part-time in performing or offering to perform for the public one (1) or more types of services involving the use of accounting, auditing or bookkeeping skills, one (1) or more types of management advisory or consulting services, the preparation of tax returns, the furnishing of advice on tax matters, or any similar occupation, then [s/he] he or she shall not use the title certified public accountant or [C.P.A.] CPA in any manner except in a resume or qualifications prepared in connection with an application for employment.

(2) If the holder of a certificate as a [C.P.A.] CPA does not hold a [live permit] current license to practice issued under section [326.210] 326.286, RSMo and if [s/he] he or she is engaged either full- or part-time in performing or offering to perform for the public one (1) or more types of services involving the use of accounting, auditing or bookkeeping skills, one (1) or more types of management advisory or consulting services, the preparation of tax returns, the furnishing of advice on tax matters, or any similar occupation, then [s/he] he or she shall not display [his/her] his or her certificate.

**(3) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

*AUTHORITY:* sections [326.110, RSMo Supp. 1993 and 326.170, RSMo 1986] 326.262 and 326.292, RSMo Supp. 2003. Original rule filed Sept. 16, 1985, effective March 24, 1986. Amended: Filed Nov. 3, 2003.

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### PROPOSED RESCISSION

**4 CSR 10-2.210 Peer Reviews.** This rule established the standards for conducting a peer review in accordance with section 326.055.2, RSMo.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Dec. 15, 1983, effective April 12, 1984. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 10-2.215 Requirements Necessary to be Accredited to Perform Peer Reviews Under Section 326.055.2, RSMo.** This rule set forth the qualifications necessary to be accredited by the board to perform peer reviews as provided for in section 326.055.2, RSMo.

*PURPOSE:* This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* section 326.110, RSMo Supp. 1993. Original rule filed Feb. 5, 1990, effective June 28, 1990. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED AMENDMENT**

**4 CSR 10-3.010 General Purpose of Ethics Rules.** The board is proposing to amend the original purpose statement and sections (1)–(5) and add language in a new section (6).

*PURPOSE:* This rule is being amended to implement provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*PURPOSE:* This Code of Professional Conduct is promulgated under the authority granted by section [326.170] 326.271, RSMo which delegates to the board the power and duty to prescribe rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public [accountancy] accounting.

*PUBLISHER'S NOTE:* The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) [The Rules of Conduct set forth rest upon the premise that the reliance of the public in general, and of the business community in particular, on sound financial reporting, and on the implication of professional competence which inheres in the authorized use of a legally restricted title relating to the practice of public accountancy, imposes on persons engaged in that practice certain obligations both to their clients and to the public. These obligations, which the Rules of Conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action, to strive continuously to improve one's professional skills, to observe, where applicable, generally accepted accounting principles and generally accepted auditing standards, to promote sound and informative financial reporting, to hold the affairs of clients in confidence, to uphold the standards of the public accountancy profession and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy.] A licensee shall comply with the professional standards of the most current American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, which is incorporated by reference in this rule. A printed copy or copy on CD-Rom, of the Rules of Professional Conduct may also be obtained from the American Institute of Certified Public Accountants, PO Box 2209, Jersey City, NJ 07303-2209 or <http://www.aicpa.org>. The licensee shall also comply with the requirements of any other governmental agency, which may regulate professional responsibilities. In the event of a conflict between the AICPA Code of Professional Conduct and the Missouri statute or rules, the Missouri statute or rules shall prevail.

(2) [Acceptance of licensure to engage in the practice of public accountancy, or to use titles which imply a particular competence so to engage, involves acceptance by the licensee of those obligations, and accordingly of a duty to abide by the Rules of Conduct.] As the AICPA Code of Professional Conduct is considered to be generally accepted standards of auditing and accounting, regardless of whether a licensee is a member or non-member of the AICPA, the licensee shall comply with its provisions. When these pronouncements are written in terms of "should," a licensee shall follow the pronouncements in every applicable instance as though they were

written in mandatory language, except in those cases where a justifiable reason exists for a departure from the pronouncements in the licensee's or licensed entity's or its report on those financial statements.

(3) *[The Rules of Conduct are intended to have application to all kinds of professional services performed in the practice of public accountancy, including tax and management advisory services, and to apply as well to all licensees, whether or not engaged in the practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is more limited.] A licensee who performs audits, reviews, compilations, management advisory taxes, or other professional services shall comply with standards promulgated by the AICPA or by other governmental entities having similar authority as recognized by the board. Other pronouncements that have similar generally recognized authority are considered to be interpretations of generally accepted auditing standards, and departures therefrom must be justified.*

(4) A licensee who is engaged in the practice of public *[accountancy]* accounting outside the United States will not be subject to discipline by the board for departing, with respect to foreign practice, from any of the rules, so long as *[his/her]* his or her conduct is in accordance with the standards of professional conduct applicable to the practice of public *[accountancy]* accounting in the country in which *[s/he]* he or she is practicing. However, even in this case, if a licensee's name is associated with financial statements in a manner as to imply that *[s/he]* he or she is acting as a *[n independent]* certified public accountant and under circumstances that would entitle the reader to assume that United States practices are followed, *[s/he]* he or she will be expected to comply with *[4 CSR 10-3.020(1) and (2)]* this rule.

(5) In the interpretation and enforcement of the *[R]*rules of *[C]*conduct, the board will give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by the boards of other jurisdictions, and by appropriately authorized committees on ethics of professional organizations.

(6) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY: section [326.170, RSMo 1986] 326.271, RSMo Supp. 2003. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Nov. 3, 2003.*

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED RESCISSION**

**4 CSR 10-3.020 Independence, Integrity and Objectivity.** This rule set forth the first of four ethical principles a certified public accountant or public accountant or firm, partnership, limited liability company or professional corporation practicing public accounting in this state should maintain his/her or its integrity and objectivity and, when engaged in the practice of public accounting, be independent of those s/he or it serves.

*PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo 1994. Original rule filed July 3, 1975, effective Aug. 25, 1975. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED RESCISSION**

**4 CSR 10-3.030 Competence and Technical Standards.** This rule set forth the second of four ethical principles and was intended to help insure that a certified public accountant or public accountant or firm, partnership, limited liability company or professional corporation practicing public accounting observed the profession's standards and strived continually to improve his/her or its competence and the quality of his/her or its service.

*PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed June 13, 1984, effective Oct. 11, 1984. Amended: Filed June 2, 1986, effective Oct. 27, 1986. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed Nov. 13, 1992, effective June 7, 1993. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed Nov. 3, 2003.*



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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED RESCISSION**

**4 CSR 10-3.040 Responsibilities to Clients.** This rule presented the third of four ethical principles and was intended to help insure that a certified public accountant or public accountant or firm, partnership, limited liability company or professional corporation practicing public accounting was fair and candid with his/her or its clients and served them to the best of his/her or its ability with professional concern for their best interests consistent with his/her or its responsibilities to the public.

*PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Sept. 3, 1986, effective Jan. 30, 1987. Amended: Filed Oct. 22, 1987, effective March 25, 1988. Amended: Filed Nov. 1, 1988, effective Feb. 11, 1989. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 3—Professional Ethics—Rules of Conduct**

**PROPOSED AMENDMENT**

**4 CSR 10-3.060 Other Responsibilities and Practices.** The board is proposing to amend the original purpose statement and sections (1)–(4), (6), (9) and (11).

*PURPOSE: This rule is being amended to implement provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*PURPOSE: This rule sets forth the [fourth of four ethical] professional principles and is intended to help insure that a certified public accountant [or public accountant] or certified public accounting firms, [partnership, limited liability company or professional corporation] practicing public accounting shall conduct him/herself or [itself] the firm in a manner which will enhance the stature of the profession and its ability to serve the public.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) A licensee shall not commit any act that reflects adversely on [his/her] his or her or [its] the firm's fitness to engage in the practice of public [accountancy] accounting.

(2) A licensee shall be determined to have committed an act which reflects adversely on [his/her] his or her or [its] the firm's fitness to engage in the practice of public [accountancy] accounting if [s/he] he or she or [it] the firm fails to comply with a rule adopted by the board for the purpose of implementing the provisions of sections [326.055 and 326.210] 326.280 to 326.289, RSMo or with any order issued pursuant to either of the previously mentioned sections.

(3) A licensee shall not permit others to carry out on [his/her] his or her or [its] the firm's behalf, either with or without compensation, acts which, if carried out by the licensee, would place [him/her] him or her or [it] the firms in violation of the [R/rules of [C]conduct.

(4) A licensee shall not use or participate in the use of any form of public communication having reference to [his/her] his or her or [its] the firm's professional services which contains a false, fraudulent, misleading, deceptive or unfair statement or claim.

(6) A licensee shall not practice public [accountancy] accounting under a firm name which is misleading in any way, as to the legal form of the firm, or as to the persons who are partners, members, managers, officers, directors or shareholders of the firm, partnership, limited liability company or professional corporation, as the case may be or as to any matter with respect to which public communications are restricted by section (4) of this rule. However, names of one (1) or more past partners, members or shareholders may be included in the firm name of a partnership, limited liability company, or professional corporation or its successor, and a partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole practitioner.

(9) When testifying as an expert witness in a judicial proceeding or properly constituted inquiry, a licensee shall be candid even though [his/her] his or her testimony may be damaging to another licensee.

(11) [No licensee (person, firm, partnership, limited liability company, professional corporation or other entity) engaged in the practice of public accounting, or offering to engage in the practice of public accounting, in this state shall pay a commission to a third party to obtain a client, nor shall any licensee, directly or indirectly, accept a commission for a referral to a client of products or services of others unless, prior to being engaged by such client, or making the referral for products or services of others, the licensee discloses to the client in writing the fact and the amount of any such commission(s). The term commission shall include, but not be limited to, any fee, profit or other thing of value required or received for the rendering or selling of goods or services and any fee, profit or other thing of value required or received for referring a client to the products or services of others or any fee, profit or other thing of value paid to obtain a client. This rule does not apply to payments made where the payments are part of the employees' compensation or for the purchase of all, or a material part, of an accounting practice, or to retirement payments to persons formerly engaged in the practice of public accountancy.] A licensee shall comply with any accounting record retention requirements in the professional standards of the most current American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, which is incorporated by reference in this rule, and any other governmental agency, which may regulate client business or use the licensee's report to evaluate the client's compliance with applicable laws and related regulations. However, documentation or working papers required by professional standards for attest services, for present or former clients, shall be maintained in paper or electronic format by a licensee or permit holder for a period of not less than four (4) years from the date of any report issued in connection with the attest service. Failure to maintain such documentation or working papers may be deemed an admission that they do not comply with professional standards.

*AUTHORITY:* sections [326.110 and 326.170, RSMo 1994] 327.271, 326.280 and 326.289, RSMo Supp. 2003. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Oct. 16, 1979, effective Feb. 11, 1980. Amended: Filed July 15, 1985, effective Dec. 12, 1985. Amended: Filed April 1, 1986, effective July 11, 1986. Amended: Filed Nov. 1, 1988, effective Feb. 11, 1989. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed Oct. 13, 1995, effective April 30, 1996. Amended: Filed Nov. 3, 2003.

*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 State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

#### PROPOSED RESCISSION

**4 CSR 10-4.010 Effective Dates and Basic Requirements.** This rule set the date on which continuing education courses were required for renewal of permits to practice and established the basic continuing education requirements.

*PURPOSE:* This rule is being rescinded and readopted to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* section 326.110, RSMo Supp. 1996. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed Aug. 3, 1988, effective Nov. 24, 1988. Amended: Filed April 18, 1989, effective July 27, 1989. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed Oct. 9, 1996, effective April 30, 1997. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

#### PROPOSED RULE

##### 4 CSR 10-4.010 Effective Dates and Basic Requirements

*PURPOSE:* This rule sets forth the continuing education requirements for renewal of license to practice.

(1) The following requirements of continuing professional education apply to the renewal of licenses pursuant to section 326.286, RSMo:

(A) An applicant seeking renewal of a license shall have completed no less than one hundred twenty (120) hours of continuing professional education, complying with these rules during the three (3)-year period preceding renewal. Commencing on January 1, 2003, a minimum of twenty (20) hours of continuing professional education (CPE) is required in each calendar year. Also commencing on January 1, 2003, a minimum of two (2) hours of the required twenty (20) hours per calendar year of CPE shall be in the area of ethics. An applicant seeking renewal of a license shall demonstrate participation in a program of learning meeting the standards set forth in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by National Association of State Boards of Accountancy (NASBA) and American Institute of Certified Public Accountants (AICPA) as provided in 4 CSR 10-4.021, or such other standards acceptable to the board;

(B) An applicant whose license has lapsed shall have completed no less than one hundred twenty (120) hours of CPE complying with these rules during a three (3)-year period preceding the date of reapplication; or who agrees to obtain the one hundred twenty (120) hours of CPE within one (1) year of applying for reinstatement. The

applicant shall provide to the board, upon request, copies of CPE documentation verifying compliance with this requirement;

(C) A non-resident licensee seeking renewal of a license in this state shall be determined to have met the CPE requirement of this rule by meeting the CPE requirements for renewal of a license in the state in which the licensee's principal office is located;

(D) Nonresident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal office is located by attesting on an application provided by the board;

(E) If a nonresident licensee's principal office state has no CPE requirements for renewal of a license, the nonresident licensee must comply with all CPE requirements for renewal of a license in this state.

*AUTHORITY: section 326.271, RSMo Supp. 2003. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed Nov. 3, 2003.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated seven hundred eighteen dollars and two cents (\$718.02) annually for the life of the rule. It is anticipated that the total annual cost will recur 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 \$1,550,400 annually for the life of the rule. It is anticipated that the total annual cost will recur 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 Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

Title 4 -Department of Economic Development  
 Division 10 - Missouri State Board of Accountancy  
 Chapter 4 - Continuing Education Requirements  
 Proposed Rule - 4 CSR 10-4.010 Effective Dates and Basic Requirements  
 Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$718.02
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	
	<b>\$718.02</b>

**III. WORKSHEET**

The board will conduct random audits annually of 165 licensees. The Account Clerk II will generate a random listing of licensees to be contacted for the audit, prepare the correspondence and mailing, review documentation for compliance, approve documentation and notify licensee of approval. The board estimates that 15 licensees will require additional communication with the board due to noncompliance. The Senior Auditor will oversee the auditing process, contact licensees for noncompliance and negotiate a plan to bring the licensee into compliance. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER LICENSEE	TOTAL COST
Account Clerk II	\$21,072.00	\$28,257.55	\$13.59	\$0.23	10 minutes	\$2.26	\$373.60
Senior Auditor	\$44,184.00	\$59,250.74	\$28.49	\$0.47	15 minutes	\$7.12	\$106.82
<b>Total Costs</b>							<b>\$480.42</b>

**Expense and Equipment Dollars for Initial Applications**

Letterhead	\$0.10
Envelope for Mailing	\$0.16
Postage	\$0.32
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost per Application:</b>	<b>\$1.44</b>

**Total Expense and Equipment Costs  
(for 165 applications for reinstatement) \$237.60**

**IV. ASSUMPTION**

1. The above figures were based on FY03 actuals. The board anticipate the number of firms renewing will remain constant for the life of the rule.
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.

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

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 10 - Missouri State Board of Accountancy**

**Chapter 4 - Continuing Education Requirements**

**Proposed Rule - 4 CSR 10-4.010 Effective Dates and Basic Requirements**

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1938	Continuing Professional Education (40 hours per year @ \$20 per hour)	\$1,550,400.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$1,550,400.00

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The board anticipates 5,831 (75%) licensees will obtain the required continuing professional education at no direct cost to them through their employer or via the self study programs. The board further estimates that 1,938 (25%) licensees will receive 40 hours of continuing professional education annually for an average cost of \$20.00 per hour for the life of the rule. However, it is not possible to estimate all costs, (i.e., gas, meals, and lodging) that a licensee could incur in obtaining the required continuing education.
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 at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED RESCISSION**

**4 CSR 10-4.020 Programs Which Qualify.** This rule established the criteria to be satisfied in order for a continuing education program to be considered acceptable by the board.

*PURPOSE:* This rule is being rescinded and readopted to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* section 326.110, RSMo Supp. 1993. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed June 4, 1990, effective Nov. 30, 1990. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED RULE**

**4 CSR 10-4.020 Qualifying Programs**

*PURPOSE:* This rule establishes the criteria to be satisfied in order for a continuing education program to be considered acceptable by the board.

(1) Programs Qualifying for Continuing Professional Education Credit.

(A) Standards. Effective January 1, 2003 a program qualifies as acceptable continuing professional education for purposes of section 326.286, RSMo and these rules if it is a program of learning that contributes to the growth in the professional knowledge and professional competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) or such other standards acceptable to the board.

(B) Subject Areas. The board will accept programs meeting the standards set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by the NASBA and the AICPA or standards deemed by the board to be comparable thereto.

*AUTHORITY:* section 326.271, RSMo Supp. 2003. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed June 4, 1990,

effective Nov. 30, 1990. Rescinded and readopted: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED RESCISSION**

**4 CSR 10-4.030 Qualifying Subjects.** This rule established general subject matters acceptable as continuing education courses.

*PURPOSE:* This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

*AUTHORITY:* section 326.110, RSMo Supp. 1993. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Rescinded: Filed Nov. 3, 2003.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy  
Chapter 4—Continuing Education Requirements**

**PROPOSED RULE**

**4 CSR 10-4.031 Continuing Professional Education (CPE) Documentation**

*PURPOSE:* This rule sets forth the record requirements for documenting the required continuing professional education (CPE).

(1) Continuing Professional Education Records.

(A) Applicants for renewal of a license shall attest on an application provided by the board that they have met the requirements for participation in a program of continuous learning as set forth by the

board or contained in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA). Responsibility for documenting the acceptability of the program and the validity of the credits rests with the applicant who should retain such documentation for a period of five (5) years following completion of each learning activity.

(B) The board may verify information submitted by applicants for licensure. In cases where the board determines that the requirement is not met, the board may grant an additional period of time in which the deficiencies can be cured. Fraudulent reporting of CPE is a basis for disciplinary action.

*AUTHORITY: sections 326.271 and 326.310, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

#### PROPOSED RESCISSION

**4 CSR 10-4.040 Measurement of Continuing Education Hours.** This rule established the method for measuring continuing education credit. It also restricted the number of continuing education hours that could be claimed for self-study programs, writing articles or publications and teaching continuing education courses.

*PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed July 11, 1994, effective Jan. 29, 1995. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

#### PROPOSED RULE

##### 4 CSR 10-4.041 Continuing Professional Education (CPE) Exceptions and Waivers

*PURPOSE: This rule sets forth the exemptions from continuing professional education (CPE) requirements in certain circumstances.*

(1) Exceptions.

(A) A licensee who received a license after August 28, 2001 and who is not practicing public accounting in any setting may be granted an inactive license and be exempted from the continuing professional education (CPE) requirement by the board. The inactive licensee shall place the word "inactive," "retired," or "ret." in association with their certified public accountant title. The inactive licensee may return to active status upon showing evidence that they have completed no less than one hundred twenty (120) hours of CPE during the three (3)-year period preceding the request for reactivation; or agrees in writing to meet the requirement within one (1) year of applying for reactivation.

(B) The board may in particular cases make exceptions to the requirements set out in 4 CSR 10-4.010 for reasons of individual hardship including health, military service, foreign residence, or other good cause.

(C) Applicants requesting a waiver of CPE requirements shall do so in writing and shall provide documentation supporting the request if required by the board.

*AUTHORITY: section 326.271, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

#### PROPOSED RESCISSION

**4 CSR 10-4.050 Reporting and Supporting Evidence.** This rule prescribed the requirement for reporting continuing education courses and the records to be retained by the licensee.

*PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

*AUTHORITY: section 326.110, RSMo Supp. 1996. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed April 18,*

1989, effective July 27, 1989. Amended: Filed June 15, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 9, 1996, effective April 30, 1997. Rescinded: Filed Nov. 3, 2003.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at [boa@mail.state.mo.us](mailto:boa@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 5—Peer Review

#### PROPOSED RULE

#### 4 CSR 10-5.070 Peer Review Standards

**PURPOSE:** This rule clarifies section 326.289.9, RSMo, which specifies the standards for peer review.

**PUBLISHER'S NOTE:** The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The Missouri State Board of Accountancy (the board) specifies that the "Standards for Performing and Reporting on Peer Reviews," as promulgated by the American Institute of Certified Public Accountants (AICPA), which is incorporated by reference in this rule, or such other standards which are adopted, accepted, or recognized by the AICPA as meeting or exceeding the AICPA standards, shall satisfy the requirements of 326.289.9, RSMo. A printed copy or copy on CD-Rom, of the "Standards for Performing and Reporting on Peer Reviews," may also be obtained from the American Institute of Certified Public Accountants, PO Box 2209, Jersey City, NJ 07303-2209 or <http://www.aicpa.org>.

(2) The board may specify that a peer review program that is administered by a state board of accountancy, which is determined by the board to meet or exceed the AICPA standards, satisfies the requirements of 326.289.9, RSMo.

(3) To meet the standards for an approved peer review program, peer reviews shall occur at least once every three (3) years.

(4) Any peer review conducted within this state shall be through a firm that has a current, firm permit in this state.

**AUTHORITY:** sections 326.271 and 326.289.9, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule. An information meeting and public hearing is scheduled for January 6, 2003, 10:00 a.m., at the Division of Professional Registration, Main Conference Room, 3605 Missouri Blvd., Jefferson City, Missouri. Written comments must be post-marked or received by January 20, 2004. In preparing your comments, please include the regulatory citation and the *Missouri Register* page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments may be mailed to: Ken L. Bishop, Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 10—Missouri State Board of Accountancy Chapter 5—Peer Review

#### PROPOSED RULE

#### 4 CSR 10-5.080 Firms Subject to Peer Review Requirements

**PURPOSE:** This rule clarifies section 326.289.9, RSMo which specifies requirements for firms that are subject to peer review.

(1) As of January 1, 2004, any firm seeking renewal of its permit to practice public accounting, and which has been engaged to perform more than two (2) attest services in any calendar year, shall enroll in the Missouri Society of Certified Public Accountants (MSCPA) peer review administration program, or an approved peer review program as prescribed in 4 CSR 10-5.070. The firm must enroll in an approved peer review program within ninety (90) days after entering into an engagement for the third attest service in any calendar year. The firm shall be required to verify, on the application to renew an office, that it is enrolled in an approved peer review program.

(2) As of January 1, 2004, any out-of-state firm with a Missouri permit, that is not enrolled in a peer review program that satisfies the requirements of this chapter, and which has been engaged to perform more than two (2) attest services in any calendar year, shall enroll in the MSCPA peer review administration program, or an approved peer review program as prescribed in 4 CSR 10-5.070. The firm must enroll in an approved peer review program within ninety (90) days after entering into an engagement for the third attest service in any calendar year. The firm shall be required to verify, on the application to renew an office, that it is enrolled in an approved peer review program.

(3) As of January 1, 2008, any firm seeking renewal of its permit to practice public accounting, and which has performed one (1) or more attest engagements, reviews or compilations, in any calendar year, shall enroll in the MSCPA peer review administration program, or an approved peer review program as prescribed in 4 CSR 10-5.070. The firm must enroll in an approved peer review program within ninety (90) days after entering into an engagement for its first attest, review, or compilation service. The firm shall be required to verify, on the application to renew an office, that it is enrolled in an approved peer review program.



*AUTHORITY: sections 326.271 and 326.289.9, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions one hundred fourteen dollars and seventy-one cents (\$114.71) in 2004, fifty-nine dollars and seventy-one cents (\$59.71) in 2005; thirty-three dollars and thirty-one cents (\$33.31) in 2006; nine dollars and eleven cents (\$9.11) in 2007; and twenty-six dollars and seventy-one cents (\$26.71) in 2008 and annually thereafter for the life of the rule. It is anticipated that the total annual cost will recur 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 \$2,100,000 every three (3) years for the life of the rule. It is anticipated that the total annual cost will recur for the life, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. An information meeting and public hearing is scheduled for January 6, 2003, 10:00 a.m., at the Division of Professional Registration, Main Conference Room, 3605 Missouri Blvd., Jefferson City, MO. Written comments must be postmarked or received by January 20, 2004. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments may be mailed to: Ken L. Bishop, Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613.*

## PUBLIC ENTITY FISCAL NOTE

## I. RULE NUMBER

Title 4 - Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 5 - Peer Review

Proposed Rule - 4 CSR 10-5.080 Firms Subject to Peer Review Requirements

Prepared July 17, 2003 by the Division of Professional Registration

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance	
	Missouri State Board of Accountancy	2004 (50 firms)
2005 (25 firms)		\$59.71
2006 (13 firms)		\$33.31
2007 (2 firms)		\$9.11
2008 (10 firms) and annually thereafter		\$26.71

## III. WORKSHEET

The board anticipates 700 firms will be enrolled in the Missouri Society of Certified Public Accounts (MSCPA) peer review program during the first year of implementation of the rule. Based on those figures and the board's past experience, the board anticipates that an average of 50 firms will be non-compliant during the first year of implementation of the rule. The board estimates that the number of non-compliant firms will continually decrease by half annually for two years and then fall to 2 firms in 2007. Based on the implementation of the peer review requirements in 2008, the board estimates, 10 firms will be non-compliant in 2008 and annually thereafter. A firm that is non-compliant will require additional follow up from the board. The Account Clerk II and Senior Auditor II will contact firms to negotiate action to bring a firm into compliance with the current regulations.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER NON-COMPLIANT FIRM
Account Clerk II	\$21,702.00	\$29,102.38	\$13.99	\$0.23	10 minutes	\$2.33
Senior Auditor II	\$44,184.00	\$59,250.74	\$28.49	\$0.47	5 minutes	\$2.37
Total personal service cost per non-compliant firm						\$4.71

Expense and Equipment Dollars for Initial Applications

Letterhead	\$0.10
Envelope for Mailing Correspondence	\$0.16
Postage for Mailing Application	\$0.32
<b>Total Expense and Equipment Cost per</b>	<b>\$0.58</b>

The board anticipates that 2 letters of correspondence will be sent to each non-compliant firm. Therefore the total expense and equipment cost per non-compliant firms is estimated at \$1.62. \$2.20

## IV. ASSUMPTION

1. The above figures were based on FY03 actuals. The board anticipates the number of firms renewing will remain constant for the life of the rule.
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.

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

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 5 - Peer Review

Proposed Rule - 4 CSR 10-5.080 Firms Subject to Peer Review Requirements

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
700	Firms (Peer Review @ \$3000 every 3 years)	\$2,100,000.00
	<b>Estimated Cost of Compliance for the Life of the Rule</b>	<b>\$2,100,000 every three years with a continual increase to \$3,150,000 beginning in 2008 and every three years thereafter for the life of the rule.</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The board estimates 700 firms will be enrolled in the Missouri Society of Certified Public Accountants (MSCPA) peer review administration program during the first year of implementation of the rule. Firms will pay MSCPA directly for the administration of the program. MSCPA will then submit a listing to the board of firms in compliance with the peer review requirements.

During 2008 the number of firms will increase by 50% to include an additional 350 firms. After 2008 the board anticipates the numbers to remain constant for the life of the rule. Therefore, the board estimates the implementation of this rule will cost firms approximately \$2,100,000 every three years until 2008 at which time the number of firms will increase thereby costing private entities approximately \$3,150,000 every three years for the life of the rule. The board anticipates the number of firms to remain constant for the life of the rule after 2008.

2. It is anticipated that the total cost will recur every three years for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED RULE**

**4 CSR 10-5.090 Peer Review Requirements for Renewal of a Firm Permit**

*PURPOSE:* This rule clarifies the peer review requirements as a condition for renewal of a firm permit.

(1) Any certified public accounting firm (“firm”) required to have a current permit issued pursuant to Chapter 326, RSMo shall be enrolled in an approved peer review program as prescribed in 4 CSR 10-5.070.

(2) The firm shall verify that any member of the firm who is responsible for supervising attest or review services, or who signs, or authorizes someone to sign the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in 4 CSR 10-2.061.

(3) For firms with multiple offices, the resident manager of each office located in the state of Missouri shall verify that the office follows the same quality control policies and procedures established by the firm that has been subjected to the peer review process. The resident manager of each office shall verify that any member of the firm who is responsible for supervising attest or review services, or who signs, or authorizes someone to sign the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in 4 CSR 10-2.061. The verification from the resident manager shall be provided to the Peer Review Oversight Board (PROB) at least one hundred twenty (120) days prior to the date of the firm’s annual renewal.

(4) For firms that are enrolled in an approved peer review program in another state to be eligible for the renewal of the firm permit, the resident manager of each office located in Missouri shall verify that the office follows the same quality control policies and procedures established by the firm that has been subjected to the peer review process in the other state. The resident manager of each office shall verify that any member of the firm who is responsible for supervising attest or review services, or who signs, or authorizes someone to sign the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in 4 CSR 10-2.061. The verification from the resident manager shall be provided to the PROB at least one hundred twenty (120) days prior to the date of the firm’s annual renewal.

(5) Firms that are enrolled in an approved peer review program and are providing services in the state of Missouri, but not through an office located in Missouri, shall verify that the out-of-state-office(s), through which the services are being provided, follows the same quality control policies and procedures established by the firm that has been subjected to the peer review process in the other state. The resident manager of each office shall verify that any member of the firm who is responsible for supervising attest or review services, or signs, or authorizes someone to sign the firm’s report on attest or review engagements on behalf of the firm, has met the competency requirements as prescribed in 4 CSR 10-2.061. The verification from the resident manager of such office(s) shall be provided to the PROB at least one hundred twenty (120) days prior to the date of the firm’s annual renewal.

*AUTHORITY:* sections 326.271 and 326.289.9, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule. An information meeting and public hearing is scheduled for January 6, 2003, 10:00 a.m., at the Division of Professional Registration, Main Conference Room, 3605 Missouri Blvd., Jefferson City, Missouri. Written comments must be post-marked or received by January 20, 2004. In preparing your comments, please include the regulatory citation and the *Missouri Register* page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments may be mailed to: Ken L. Bishop, Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED RULE**

**4 CSR 10-5.100 Administration**

*PURPOSE:* This rule clarifies the requirements for the administration of the peer review process.

(1) The Missouri Society of Certified Public Accountants (MSCPA) peer review administration program, or any approved American Institute for Certified Public Accountants (AICPA) peer review program, may serve as the provider for peer review administration for Missouri firms. Any schedule of charges for the administration of a firm’s peer review within this state will be determined without regard to membership in any organization, including MSCPA or AICPA.

(2) Upon request, the administrator shall provide a list containing the names of firms enrolled in, or terminated from, the peer review program. The list shall also include the firm names and addresses, the period covered by their most recently accepted peer review and the date of that peer review. The Peer Review Oversight Board (PROB), as defined in 4 CSR 10-5.110, may require additional information, or documentation, or individual peer reviews, or may review procedures, if they deem it necessary to ascertain the effectiveness or quality of a peer review program that has been accepted by the PROB.

(3) Annually by June 1, the PROB shall provide the board a list of firms that are enrolled in an approved peer review program, a list of firms that have not provided the verification required by 4 CSR 10-5.030(2) and (3), and a list of firms terminated from the peer review program. These firms may be determined to be ineligible for renewal by the board.

(4) Firms determined to be ineligible for renewal for failure to be currently enrolled in an approved peer review program, and/or failure to provide the verifications required by 4 CSR 10-5.030(2) and (3) shall be notified by the board in writing of the reason(s) and shall be advised of its right to file a complaint with the Administrative Hearing Commission.

*AUTHORITY:* sections 326.271 and 326.289.9, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. An information meeting and public hearing is scheduled for January 6, 2003, 10:00 a.m., at the Division of Professional Registration, Main Conference Room, 3605 Missouri Blvd., Jefferson City, Missouri. Written comments must be post-marked or received by January 20, 2004. In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments may be mailed to: Ken L. Bishop, Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 10—Missouri State Board of Accountancy  
Chapter 5—Peer Review**

**PROPOSED RULE**

**4 CSR 10-5.110 Oversight**

*PURPOSE: This rule clarifies the requirements for the oversight of the peer review process.*

(1) The president of the board shall appoint a Peer Review Oversight Board (PROB) to ensure that firms comply with the peer review requirements for firm permit renewal. All appointments must be approved by a majority of the board. PROB members may be removed at any time by a majority vote of the board for cause. The PROB shall meet as necessary to ascertain that participating firms are successfully undergoing peer review, are providing the verification required by 4 CSR 10-5.030(2) and (3), and are eligible for renewal of their firm permit. For the purposes of this rule, "undergoing peer review" shall mean enrolled in a peer review program that has been determined, by the PROB, to meet or exceed the standards of the American Institute of Certified Public Accountants (AICPA) peer review program which has been approved by the board. In addition a firm undergoing peer review shall have made the verifications required by 4 CSR 10-5.030(2) and (3).

(2) The PROB will consist of five (5) members who are Missouri licensed certified public accountants. Initially, the president of the board will appoint one (1) member for a one (1)-year term beginning July 1, 2003 and ending June 30, 2004, two (2) members for a two (2)-year term beginning July 1, 2003 and ending June 30, 2005, and two (2) members for a three (3)-year term beginning July 1, 2003 and ending June 30, 2006. Thereafter, the president of the board will appoint members for a three (3)-year term, however no member shall serve more than ten (10) consecutive years. Annually, the president of the board will appoint a chairman of the PROB from the members of the PROB.

(3) Members of the PROB shall:

(A) Have a current, unrestricted license to practice in the state of Missouri;

(B) Not be a current member of the board;

(C) Have a minimum of five (5) years experience at a supervisory level in the accounting and auditing function of the firm, which was/is enrolled in an approved peer review program; and

(D) Resign from the PROB if the member's firm receives anything other than an unmodified report on its most recently accepted review.

(4) Members of the PROB may bill the board for actual expenses incurred while serving, as approved by the executive director of the board.

*AUTHORITY: sections 326.265, 326.271 and 326.289.9, RSMo Supp. 2003. Original rule filed Nov. 3, 2003.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated one thousand eight hundred and eight dollars (\$1,808) annually for the life of the rule. It is anticipated that the total annual cost will recur 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. An information meeting and public hearing is scheduled for January 6, 2003, 10:00 a.m., at the Division of Professional Registration, Main Conference Room, 3605 Missouri Blvd., Jefferson City, Missouri. Written comments must be post-marked or received by January 20, 2004. In preparing your comments, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments may be mailed to: Ken L. Bishop, Missouri State Board of Accountancy, PO Box 613, Jefferson City, MO 65102-0613.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 10 - Missouri State Board of Accountancy**

**Chapter 5 - Peer Review**

**Proposed Rule - 5.110 Oversight**

Prepared July 17, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$1,808.00
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	
<b>\$1,808.00</b>	

**III. WORKSHEET**

Pursuant to 4 CSR 10-5.040 the Missouri Society of Certified Public Accountants (MSCPA) or any approved American Institute of Certified Public Accountants (AICPA) peer review program will submit a list to the Peer Review Oversight Board (PROB) containing the names of the firms enrolled in or terminated from the peer review program. The PROB will provide a list of firms enrolled in an approved peer review program and a list of firms terminated from the peer review program. The PROB shall consist of 5 members and will be reimbursed for actual expenses.

**Mileage** - It is estimated that each member will drive an average of 240 miles round trip to attend board meetings.

240	Round Trip Miles Per Meeting
4	Meetings Per Year
\$0.330	Mileage Reimbursement Rate
5	Members
\$1,584.00	Total Milcage Reimbursement

**Meals** - Costs of meals are based on the CONUS rate of reimbursement for Jefferson City, Missouri.

\$7.00	Lunch CONUS rate for Jefferson City
4	Meetings Per Year
8	Members (includes 3 staff)
\$224.00	Total Meal Reimbursement

**IV. ASSUMPTION**

1. 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.

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

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 3—Students**

**PROPOSED AMENDMENT**

**4 CSR 90-3.010 Students.** The board is proposing to amend sections (2)(D) of this rule and delete the annotations that immediately follow this rule in the *Code of State Regulations*.

*PURPOSE:* This rule is being amended to clarify the time within which an individual must complete the training requirements and submit an examination application to the board, as well as extending the deadline for examination/temporary permit applications to be submitted to the board office in order to take the examination.

(2) Qualification for State Exam.

(D) In order to be scheduled for examination, **all training hours must be completed and** a properly completed application on a form supplied by the board must be received in the Jefferson City office **within five (5) years from the date the board issues the relevant student or apprentice license as set forth above in 4 CSR 90-3.010(2)(C).** The Application for Examination/Temporary Permit Form must be received in the board office no less than *[ten (10)] eleven (11)* working days prior to the first day of each scheduled examination. Applications received after this cut-off date and all applications received after every available space for the examination has been filled, whether that application was received prior to or after this cut-off date, shall be scheduled for the next regularly scheduled examination. The Examination Scheduling Request Form along with the examination fee, must be submitted to the test administrator's office.

*AUTHORITY:* sections 329.040, 329.050 and 329.210, RSMo Supp. [1999] 2003 and 329.070 and 329.230, RSMo [1994] 2000. This version of rule filed June 26, 1975, effective July 6, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 5—Apprentices**

**PROPOSED AMENDMENT**

**4 CSR 90-5.010 Apprentices.** The board is proposing to delete the annotations and forms that immediately follow this rule in the *Code of State Regulations*.

*PURPOSE:* This amendment deletes the annotations and forms that immediately follow this rule in the *Code of State Regulations*.

*AUTHORITY:* sections 329.210, RSMo Supp. 2003 and 329.230, RSMo [1994] 2000. This version of rule filed June 26, 1975, effective July 6, 1975. Amended: Filed Nov. 30, 1994, effective May 28, 1995. Amended: Filed Dec. 14, 1995, effective June 30, 1996. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 7—Reciprocity**

**PROPOSED AMENDMENT**

**4 CSR 90-7.010 Reciprocity.** The board is proposing to amend section (5).

*PURPOSE:* This rule is being amended to exempt out-of-state applicants from re-taking the licensure examination if they have previously taken and successfully passed the National Interstate Council of State Cosmetology Board (NIC) National Examination in another state.

(5) Any person who does not meet the qualifications for licensure by reciprocity shall be required to meet all of Missouri's requirements for licensure as set forth in Chapter 329, RSMo, including but not limited to training and examination requirements. **However, the board may waive the examination required by section 329.050.1(4), RSMo for any applicant who has previously taken the examination presently administered in Missouri, or its equivalent, and, in the board's discretion, obtained a satisfactory score. Such applicant may request a waiver of the examination requirement by exam score endorsement.**

*AUTHORITY:* sections 329.130[, 329.210,] and 329.230, RSMo 2000 and 329.210, RSMo Supp. 2003. This version of rule filed June 26, 1975, effective July 6, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 8—Training Hours**

**PROPOSED AMENDMENT**

**4 CSR 90-8.010 Hours.** The board is proposing to amend section (3).

*PURPOSE:* This rule is being amended to clarify the provisions for transferring hours from a Class CH-hairdressing classification to a Class CA-hairdressing and manicuring classification.

(3) No training hours may be counted towards satisfaction of more than one course of study or classification in a Missouri cosmetology school, however, nothing stated herein prohibits the transfer of training hours between Class CH-hairdressing and Class CA-hairdressing and manicuring course of study.

*AUTHORITY:* sections 329.040 and 329.210, RSMo Supp. [2001] 2003 and 329.230, RSMo 2000. This version of rule filed June 26, 1975, effective July 6, 1975. Amended: Filed March 31, 1988, effective June 27, 1988. Amended: Filed Aug. 2, 1990, effective Dec. 31, 1990. Amended: Filed Dec. 14, 1995, effective June 30, 1996. Rescinded and readopted: Filed March 1, 2001, effective Aug. 30, 2001. Amended: Filed Nov. 30, 2001, effective June 30, 2002. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 10—Violations of Cosmetology Laws and  
Regulations**

**PROPOSED AMENDMENT**

**4 CSR 90-10.010 Violations.** This board is proposing to delete the annotation that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE:* This amendment deletes the annotation that immediately follows this rule in the *Code of State Regulations*.

*AUTHORITY:* section 329.230, RSMo [1986] 2000. This version of rule filed June 26, 1975, effective July 6, 1975. Amended: Filed March 31, 1988, effective June 27, 1988. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 11—Sanitation**

**PROPOSED AMENDMENT**

**4 CSR 90-11.010 Sanitation.** The board is proposing to amend subsections (1)(D) and (2)(D) and delete the annotations that immediately follow this rule in the *Code of State Regulations*.

*PURPOSE:* This rule is being amended to change terminology and clarify how tools/implements are to be kept sanitized and where they are to be stored.

(1) Physical Facilities.

(D) *[Toilet Facilities] Restrooms.* All shops shall provide adequate and conveniently located *[toilet facilities] restrooms*, for use by patrons and operators. All schools shall provide two (2) or more restrooms to separately accommodate male and female students. All *[lavatories] restrooms* shall be provided with, **at least, an operating toilet, a functional sink with hot and cold running water, soap and individual towels.** Floors, walls, ceilings and fixtures shall be **made of washable materials and kept clean and in good repair at all times.**

(2) Sanitation Requirements.

(D) Disinfecting and Storing Implements. All implements (instruments or tools) used in cosmetology shops and schools, including scissors, clips, blades, rods, brushes, combs, etc., shall be thoroughly cleansed after each use. All implements which may come in contact directly or indirectly with the skin of the patron shall be disinfected with an Environmental Protection Agency (EPA)-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity used according to the manufacturer's instructions. All implements shall be completely immersed in the solution, or, if not capable of immersion, thoroughly dipped in the solution for a period of not less than five (5) minutes. Spray solutions may be used as approved by the board. Implements shall either be stored in the solution or removed and stored in a dust-tight cabinet, covered container or drawer at all times when not in use; *the implements shall be permitted to air dry.* **The dust-tight cabinet, covered container or drawer shall be kept free of other items not capable of being disinfected. Implements shall be permitted to air dry.**



*AUTHORITY: sections 329.035, 329.140, and 329.230, RSMo 2000 and 329.210, RSMo Supp. 2003. This version of rule filed June 26, 1975, effective July 6, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 3, 2003.*

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

*PRIVATE COST: This proposed amendment will cost private entities an estimated fifty-seven thousand four hundred twenty dollars (\$57,420) during the first year of implementation 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 amendment with the Missouri State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). 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.*

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 90 - State Board of Cosmetology**

**Chapter 11 - Sanitation**

**Proposed Amendment - 4 CSR 90-11.010 Sanitation**

Prepared October 1, 2003 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

**Annual Cost to Comply Beginning in FY03**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
116	Salon Owners (Functional Sinks - \$495)	\$57,420.00
	<b>Estimated Annual Cost of Compliance During the First Year of Implementation</b>	

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The estimated number of salon owners is based on 1% of the 11,675 salons inspected in FY2002.
2. The estimated cost for the functional sinks are based on the following figures obtained from a local contractor in Jefferson City, Missouri.

faucet	\$50
sink	\$150
run hot water line	\$145
installing vent to drain	\$150

3. It is anticipated that the total cost will occur during the first year of implementation of the rule.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.240-324.275, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.240-324.275, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of sections 324.240-324.275, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 12—Instructor Trainees**

**PROPOSED AMENDMENT**

**4 CSR 90-12.020 Registration of Instructor Trainees.** The board is proposing to delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE:* This amendment deletes the form that immediately follows this rule in the *Code of State Regulations*.

*AUTHORITY:* sections 329.210, RSMo Supp. [1997] 2003 and 329.230, RSMo [1994] 2000. Original rule filed Oct. 11, 1978, effective Jan. 13, 1979. Amended: Filed April 19, 1989, effective July 1, 1989. Amended: Filed Aug. 2, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 30, 1995, effective July 30, 1995. Amended: Filed Dec. 14, 1995, effective June 30, 1996. Amended: Filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 12—Instructor Trainees**

**PROPOSED AMENDMENT**

**4 CSR 90-12.070 Reinstatement of Expired Instructor License.** The board is proposing to delete the form that immediately follows this rule in the *Code of State Regulations*.

*PURPOSE:* This amendment deletes the form that immediately follows this rule in the *Code of State Regulations*.

*AUTHORITY:* sections 329.210, RSMo Supp. 2003 and 329.230, RSMo [1994] 2000. Original rule filed Oct. 11, 1978, effective Jan. 13, 1979. Rescinded: Filed March 15, 1982, effective July 11, 1982. Readopted: Filed April 13, 1982, effective July 11, 1982. Amended: Filed April 19, 1989, effective July 1, 1989. Amended: Filed Aug. 2, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 4, 1999, effective July 30, 1999. Amended: Filed Nov. 3, 2003.

*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 State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 90—State Board of Cosmetology  
Chapter 13—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 90-13.010 Fees.** The board is proposing to amend subsections (1)(H) and (1)(I) and add new language in subsection (1)(R).

*PURPOSE:* This amendment increases the student/instructor trainee and apprentice enrollment fees in order to cover the cost of processing enrollment and examination applications, as well as, the issuance of original licenses after student/instructor trainees and/or apprentices have successfully passed the national licensure examination. This amendment also establishes a fee for out-of-state applicants that have successfully passed the national licensure examination.

(1) The following application fees hereby are established by the State Board of Cosmetology:

(H) Student/Instructor Trainee Enrollment Fee	\$/15.00/ <b>25.00</b>
(I) Apprentice Enrollment Fee	\$/15.00/ <b>25.00</b>
(R) Exam Score Endorsement Fee	<b>\$50.00</b>

*AUTHORITY:* sections 329.110, RSMo 2000 and 329.210, RSMo Supp. [2001] 2003. Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 11, 1981. Original rule filed July 1, 1981, effective Dec. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 3, 2003.

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

*PRIVATE COST:* This proposed amendment will cost private entities an estimated thirty two thousand three hundred seventy dollars (\$32,370) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. 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 amendment with the Missouri State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by faxing comments to (573) 751-8176, or by e-mailing comments to [cosmo@mail.state.mo.us](mailto:cosmo@mail.state.mo.us). 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.

## PRIVATE ENTITY FISCAL NOTE

### I. RULE NUMBER

**Title 4 -Department of Economic Development**

**Division 90 - State Board of Cosmetology**

**Chapter 13 - General Rules**

**Proposed Amendment - 4 CSR 90-13.010 Fees**

Prepared October, 2003 by the Division of Professional Registration

### II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
3,029	Student/Instructor Trainee Enrollment Fee (\$10 increase)	\$30,290.00
158	Apprentice Enrollment Fee (\$10 increase)	\$1,580.00
10	Applicants by Exam Score Endorsement (\$50)	\$500.00
	<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>	<b>\$32,370.00</b>

### III. WORKSHEET

See table above.

### IV. ASSUMPTION

1. The estimated figures above are based on FY01 and FY02 actuals.
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.

**NOTE:** The board is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.240-324.275, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.240-324.275, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of sections 324.240-324.275, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

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

**PROPOSED AMENDMENT**

**4 CSR 240-3.500 Definitions Pertaining Specifically to Telecommunication Company Rules.** The commission is amending sections (1)–(18), adding new sections and renumbering remaining sections.

*PURPOSE:* This amendment change provides clarification to the rule as a result of telecommunication technical advancements and upgrades.

(1) Access line means *[the line associated with each service location to which a unique telephone number is assigned] an analog line or a digital voice-grade equivalent line used to connect an end-user to a company's central office. Voice-grade equivalent should be considered as each channel available for voice traffic on a high capacity line. One (1) high capacity line equipped with twenty-four (24) voice-grade channels will be considered twenty-four (24) access lines.*

(2) Base rate area means an area within an exchange as specified in the telecommunications company's tariffs and maps, within which each *[grade or]* class of basic local telecommunications service is furnished at a uniform rate without the application of mileage or zone charges.

(4) Call/s/ means a customer's attempted telecommunications transmission/s/ whether completed or not.

(7) Class of service means the type of service being provided to the customer such as residential or business services.

(8) Customer means any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for telecommunications service.

*[(7)](9)* Exchange means exchange as defined in section 386.020(16), RSMo.

*[(8)]* Grade of service means the number of customers or parties that a telephone line is designed to serve, such as one (1)-party, two (2)-party or four (4)-party.]

(10) Held application means an application for establishment of basic local telecommunications service which a company has not satisfied within thirty (30) days after the date applicant desires that service begin. This would not include those applications held for credit reasons.

(11) Incumbent local exchange telecommunications company means incumbent local exchange telecommunications company as defined in section 386.020(22), RSMo.

*[(9)](12)* Line is a general term used in the telecommunications industry in several different senses, the most common of which are access line, trunk, channel and route.

(13) Long distance service means at a minimum two-way switched voice service between points in different local calling scopes as determined by the commission.

(14) Message means a completed call.

*[(10)](15)* New customer means any customer who has no prior service history with the telecommunications company with whom service is being requested.

*[(11)](16)* Pay telephone means a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

*[(12)]* Pay telephone service provider means a telecommunications company that offers access to telephone service with a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or billed to an alternate number.]

*[(13)]* Regrade means a change to a different grade of basic local telecommunications service.]

*[(14)]* Service bureau means the designated office, or location where trouble reports and/or service orders are worked and dispatched.]

(17) Person means person as defined in section 386.020(39), RSMo.

(18) Public utility means public utility as defined in section 386.020(42), RSMo.

(19) Rate means rate as defined in section 386.020(45), RSMo.

(20) Service means service as defined in section 386.020(47), RSMo.

(21) Service objective means an acceptable level of service for an established category of service as identified in 4 CSR 240-32.080. Service objectives should be maintained on an exchange-specific basis or as otherwise monitored according to 4 CSR 240-32.080.

(22) Station means a point of input to or output from the network, including a telephone instrument or other terminal device.

*[(15)](23)* Surveillance level means a *[level at or below which telephone service is inferior and will require the telecommunications company providing that service to take immediate action to investigate and correct]* substandard level of performance for an established category of service as identified in 4 CSR 240-32.080. A company whose service falls within a surveillance level shall immediately investigate and take appropriate corrective action to achieve and maintain the commission's service objective.

*[(16)](24)* Switching is a generic term for machines that switch telephone calls from/to other telephones or trunks.

*[(17)](25)* Tandem means a central office where trunks are interconnected to transmit telecommunications traffic between other central offices.

(26) Tariff means a schedule of rates, services and rules approved by the commission.

(27) Telecommunications company means telecommunications company as defined in section 386.020(51), RSMo.

*[(18)](28)* Telecommunications service means telecommunications service as defined in section 386.020(53), RSMo.

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

*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 comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**PROPOSED AMENDMENT**

**4 CSR 240-3.550 Telecommunications Company Records and Reports.** The commission is amending sections (4) and (5) of reporting requirements.

*PURPOSE:* This amendment change provides clarification to the rule as a result of telecommunication technical advancements and upgrades.

(4) For companies providing basic local telecommunications service, the records specified in section (2) above shall include the following:

(A) Each company shall record each application for basic local telecommunications service *[or regrade of service]*; and

(B) Each company shall keep a record, by exchange, of each held application for basic local telecommunications service *[and for each application for regrade]* that is not satisfied within thirty (30) days. The record will list the name and address of each applicant for service *[or regrade]*, whether the applicant's location is inside or outside the base rate area, the date of application, the date service is requested to begin, the date service was promised to begin, the class *[and grade]* of service applied for and the reason for the delay in providing the requested service.

(5) Companies shall file the following information with the commission:

(A) Each company providing basic local telecommunications service shall file with the commission no later than forty-five (45) days following the end of each quarter a report, referred to as the quarterly report, of the quality of the telephone service provided to its customers. The quarterly report shall include:

1. The aggregated service level for each aspect of service quality for which there has been established a service objective in 4 CSR 240-32.080, together with such other information concerning service quality that the company deems applicable or the commission specifically requests. *[Those levels shall represent an average of the measurements taken throughout the reporting period.]* If the reported service level *[in any separately measured exchange, business office or service bureau does not meet the surveillance level, the company shall list each such exchange, business office or service bureau and its service level]* falls within the commission's identified surveillance level on an exchange-specific basis or as otherwise monitored according to 4 CSR 240-32.080, then the company shall list the service level and provide

**an explanation of what corrective action will be taken to achieve and maintain the commission's service objective;**

2. The number of applications held for both basic local telecommunications service *[and for regrade of service]*. Those numbers will be kept distinct from one another. The listing shall categorize the number held for thirty (30), sixty (60), ninety (90) and one hundred twenty (120) days; and

3. The number of applications listed pursuant to subsection (4)(B) above, by exchange, and the number of such applications that were satisfied during that quarter;

(D) Each company shall advise the commission's customer services department of abnormal service conditions by **submitting electronically via the commission's electronic filing and information system (EFIS), or** telephone or facsimile. Abnormal conditions include any tandem outage, central office or exchange isolation, cable cut, or central office problem that involves three hundred (300) or more customers and lasts thirty (30) minutes or more or any other service condition the company wishes to bring to the attention of the customer services department; and

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

*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 comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 13—Service and Billing Practices for Residential  
Customers of Electric, Gas and Water Utilities**

**PROPOSED AMENDMENT**

**4 CSR 240-13.015 Definitions.** The commission is amending section (1).

*PURPOSE:* This amendment adds definitions for terms that are used in this chapter, specifically for "applicant" and "denial of service."

(1) The following definitions shall apply to this chapter:

(A) **Applicant means an individual(s) who has applied to receive residential service from the utility;**

*[(A)](B)* Bill means a written demand for payment for service and the taxes and franchise fees related to it;

*[(B)](C)* Billing period means a normal usage period of not less than twenty-six (26) nor more than thirty-five (35) days for a monthly billed customer nor more than one hundred (100) days for a quarterly billed customer, except for initial, corrected or final bills;

*[(C)](D)* Complaint means an informal or formal complaint under 4 CSR 240-2.070;

*[(D)](E)* Customer means a person or legal entity responsible for payment for service except one denoted as a guarantor;

*[(E)](F)* Cycle billing means a system which results in the rendition of bills to various customers on different days of a month;

*(F)/(G)* Delinquent charge means a charge remaining unpaid by a monthly billed customer at least twenty-one (21) days and for at least sixteen (16) days by a quarterly billed customer from the rendition of the bill by the utility or a charge remaining unpaid after the preferred payment date selected by the customer;

*(G)/(H)* Delinquent date means the date stated on a bill, which shall be at least twenty-one (21) days for a monthly billed customer, and at least sixteen (16) days for a quarterly billed customer from the rendition of the bill or which shall be the preferred payment plan date selected by the customer, after which the utility may assess an approved late payment charge in accordance with a utility tariff on file with the commission;

**(I) Denial of service means the utility's refusal to commence service upon an applicant's request for service at a particular location;**

*(H)/(J)* Deposit means a money advance to a utility for the purpose of securing payment of delinquent charges which might accrue to the customer who made the advance;

*(I)/(K)* Discontinuance of service or discontinuance means a cessation of service not requested by a customer;

*(J)/(L)* Due date means the date stated on a bill when the charge is considered due and payable;

*(K)/(M)* Estimated bill means a charge for utility service which is not based on an actual reading of the meter or other registering device by an authorized utility representative;

*(L)/(N)* Extension agreement means a verbal agreement between the utility and the customer extending payment for fifteen (15) days or less;

*(M)/(O)* Guarantee means a written promise from a third party to assume liability up to a specified amount for delinquent charges which might accrue to a particular customer;

*(N)/(P)* In dispute means any matter regarding a charge or service which is the subject of an unresolved inquiry;

*(O)/(Q)* Late payment charge means an assessment on a delinquent charge in accordance with a utility tariff on file with the commission and in addition to the delinquent charge;

*(P)/(R)* Preferred payment date plan means a commission-approved plan offered at the utility's option in which the delinquent date for the charges stated on a bill shall occur on the same day during each billing period as selected by the customer;

*(Q)/(S)* Purchased gas adjustment clause means the adjustment procedure approved by the commission to recognize variations in the cost of purchased gas;

*(R)/(T)* Rendition of a bill means the mailing or hand delivery of a bill by a utility to a customer;

*(S)/(U)* Residential service or service means the provision of or use of a utility service for domestic purposes;

*(T)/(V)* Seasonally billed customer means a residential customer billed on a seasonal basis in accordance with a utility tariff on file with the commission;

*(U)/(W)* Settlement agreement means an agreement between a customer and a utility which resolves any matter in dispute between the parties or provides for the payment of undisputed charges over a period longer than the customer's normal billing period;

*(V)/(X)* Tariff means a schedule of rates, services and rules approved by the commission;

*(W)/(Y)* Termination of service or termination means a cessation of service requested by a customer;

*(X)/(Z)* Utility means an electric, gas or water corporation as those terms are defined in section 386.020, RSMo; and

*(Y)/(AA)* Utility charges means the rates for utility service and other charges authorized by the commission as an integral part of utility service.

*AUTHORITY: sections 386.250(6), RSMo [Supp. 1991] and 393.140(II), RSMo [1986] 2000. Original rule filed Sept. 22, 1993, effective July 10, 1994. Amended: Filed Nov. 3, 2003.*

*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:** *Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register, and should include a reference to Commission Case No. AX-2003-0574 or to the Denial of Service Rule. If comments are submitted by paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. Comments may also be submitted at the public hearing. The commission will hold a public hearing at which the commission will take sworn testimony concerning the reasonableness of the rule. The hearing is scheduled for January 26, 2004, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to provide testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 240—Public Service Commission Chapter 13—Service and Billing Practices for Residential Customers of Electric, Gas and Water Utilities

#### PROPOSED RULE

#### 4 CSR 240-13.035 Denial of Service

*PURPOSE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and establishes procedures to be followed by utilities to insure reasonable and uniform standards exist for the denial of service. This rule also protects an applicant(s) at the time of their application, from being required to pay for the bill incurred by other individuals for service from which the applicant(s) did not receive substantial benefit.*

(1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility within the state of Missouri;

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030;

(C) Refusal to permit inspection, maintenance, replacement or meter reading of utility equipment if the utility believes that health or safety is at risk. A utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one (1) of the following:

- A. Written notice by first class mail sent to the applicant; or
- B. Written notice delivered in hand to the applicant; or

C. At least two (2) telephone call attempts reasonably calculated to reach the applicant.

2. The notice shall contain the following information:

A. The name and address of the applicant and the address where service is being requested;

B. How the applicant may comply with the requirements to have service connected;

C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry;

D. A statement in Spanish either:

(I) Advising the applicant that if they do not read English, to ask someone who does to translate the notice for them; or

(II) Advising the applicant to call the utility for assistance if the utility provides telephone assistance in Spanish;

E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission;

(D) Misrepresentation of identity;

(E) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system; or

(F) As provided by state or federal law.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;

(B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of the service. To meet that burden the utility must have reliable evidence that:

1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and

2. The bill was incurred within the last five (5) years; and

3. The utility has attempted to collect the unpaid bill from the customer of record; and

4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service in accordance with this rule as soon as possible on the day specified by the customer for service to commence, but no later than, three (3) business days following the day specified by the customer for service to commence.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety or a state of emergency.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

*AUTHORITY: sections 386.250(6) and 393.140(11), RSMo 2000 and 393.130(1), RSMo Supp. 2003. Original rule filed Nov. 3, 2003.*

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

*PRIVATE COST: This proposed rule will cost private entities more than five hundred dollars (\$500) in the aggregate. The cost for each utility is estimated to be under forty-three thousand dollars (\$43,000) the first year and eighteen thousand five hundred dollars (\$18,500) in succeeding years.*

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register, and should include a reference to Commission Case No. AX-2003-0574 or to the Denial of Service Rule. If comments are submitted by paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. Comments may also be submitted at the public hearing. The commission will hold a public hearing at which the commission will take sworn testimony concerning the reasonableness of the rule. The hearing is scheduled for January 26, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to provide testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*



**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Missouri Department of Economic Development

Division: Missouri Public Service Commission

Chapter: 13-Service and Billing Practices for Residential Customers of Electric, Gas and Water Utilities

Type of Rulemaking: New Rule

Rule Number and Name: 4 CSR 240-13.035 Denial of Service

**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:	Classifications* by type of the business entities which would likely be affected:	Estimated in the aggregate as to the cost of compliance with the rule by the affected entities:
Four (4) electric corporations	Publicly held electric corporations	\$1,814,400 the first year \$800,000 subsequent years
Seven (7) gas corporations	Publicly held gas corporations	\$1,393,200 the first year \$600,000 in subsequent years
Sixty-six (66) water corporations	Publicly held water corporations	\$ 32,400 the first year \$ 10,000 subsequent years
	All entities	\$3,240,000 the first year 1,410,000 subsequent years

**III. WORKSHEET**

1. The Missouri Public Service Commission sent a draft of the proposed rule and letter or e-mail to all publicly held electric, gas and water utility corporations in the state asking for the fiscal impact of this rule on their operations.
2. Nine of the seventy-seven publicly held corporations affected by the proposed rule responded to the request with numbers reflecting their estimated cost.

**IV. ASSUMPTIONS**

1. The life of the rule is estimated to be indefinite.

2. Staff estimated the aggregated private entity cost per utility to be \$42,000 the first year and \$32,000 in succeeding years.
3. The lower private entity cost after the first year is based on the fact that there is a one-time initial cost for making changes to billing systems for notice requirements.
4. It is important to note, that the majority of the utility corporations will not experience any fiscal impact.
5. Fiscal year 2003 dollars were used to estimate costs. No adjustment for inflation is applied.
6. Estimates assume utilities will use all other debt collection options available to them.
7. The rule does not affect the creditor rights and remedies of a utility otherwise permitted by law.
8. The rule does not require a utility to commence service to an applicant engaged in name-switching to avoid payment of bills nor does it require commencement of service when there has been any other type of consumer fraud.
9. The rule does not affect the current rules regarding deposits.
10. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations and with all applicable Missouri statutes.
11. The universe of entities is based on fiscal year 2003 data and is assumed to remain constant.
12. Not all utilities are denying service to an applicant because of an unpaid bill of another individual for service from which the applicant did not receive substantial benefit, so those utilities are unaffected.
13. A utility should not have been using its monopoly status to deny an essential service to an applicant to force the applicant to pay for another customer's bill when the applicant has not received substantial benefit from the service provided to the other customer.
14. Prompt connection of applicants who have a history of paying their utility bills should enhance revenue.
15. The rule will have limited effect, if any, on water companies.
16. A level of un-collectibles is included in the revenue requirements for each regulated gas and electric company. The level may vary from year to year for many reasons other than the effects of this rule, including, for example: the economy, the level of unemployment in certain areas, the weather and the price of natural gas.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**PROPOSED AMENDMENT**

**4 CSR 240-32.020 Definitions.** The commission is amending sections (1)–(52) to conform the definitions with the entire chapter.

*PURPOSE: This amendment change provides clarification to the rule as a result of telecommunications technical advancements and upgrades.*

(1) Access line—*[a circuit between a customer premises and the central office. Any line giving access to a larger system or network]* **an analog line or a digital voice-grade equivalent line used to connect an end-user to a company's central office. Voice-grade equivalent should be considered as each channel available for voice traffic on a high capacity line. One (1) high capacity line equipped with twenty-four (24) voice-grade channels will be considered twenty-four (24) access lines.**

(2) Automated dialing—announcing device/s—any automated equipment which, when attached to a telephone line, is capable of initiating calls on the telephone network; has storage capability for multiple numbers to be called or has a random or sequential number generator that produces numbers to be called; and working alone or in conjunction with other equipment, is capable of transmitting a pre-recorded message to the station called.

(3) Base rate area—an area within an exchange as specified in the telecommunications company's tariffs and maps, within which each *[grade or]* class of basic local telecommunications service is furnished at a uniform rate without the application of mileage or zone charges.

(4) Basic local telecommunications company—any incumbent or competitive local exchange telecommunications company which provides basic local telecommunications service as defined in section 386.020(4), RSMo *[Supp. 1997]*.

(5) Basic local telecommunications service—basic local telecommunications service as defined in section 386.020(4), RSMo *[Supp. 1997]*.

(6) Blockage—*[central office equipment is in busy condition or is available but customers are unable to access the equipment because of grading limitations]* **when a call has been attempted but was not completed, as a result of a network failure or busy central office equipment.**

(7) Call/s—*a customer's attempted telecommunications transmission/s/ whether completed or not.*

**(10) Class of service—the type of service being provided to the customer such as residential or business service.**

*[(10)](11) Customer—any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, [etc.,] or other entity that accepts financial and other responsibilities in exchange for telecommunications service.*

*[(11)](12) Customer provided equipment (CPE)—terminal equipment connected to the telephone network which is owned by the user or leased from a supplier.*

*[(12)](13) Customer trouble report—[any] all oral or written communication from a customer or user of telecommunications service*

*relating to a defect or a specific difficulty encountered in connection with the operation of a company's facilities. [Multiple accounts of customer trouble which relate to the same defect or specific difficulty may be recorded on a single report if that report clearly shows the total number of oral or written communications received.]*

*[(13)](14) Exchange—exchange as defined in section 386.020(16), RSMo [Supp. 1997].*

*[(14) Grade of service—the number of customers or parties that a telephone line is designed to serve, such as one (1)-party, two (2)-party or four (4)-party.]*

*[(15) Held application—an application for establishment of basic local telecommunications service which a company has not satisfied within thirty (30) days after the date applicant desires that service begin. This would not include those applications held due to credit reasons.]*

*[(16)](15) Incumbent local exchange telecommunications company—incumbent local exchange telecommunications company as defined in section 386.020(22), RSMo [Supp. 1997].*

*[(17) Individual line service—a basic local telecommunications service in which only one (1) customer is served by the access line.]*

**(16) Intercept service—a service arrangement provided by a company where calls placed to a nonworking telephone number are intercepted and the calling party is informed that the called telephone number is not in service or has been changed.**

*[(18)](17) Interexchange telecommunications company—interexchange telecommunications company as defined in section 386.020(23), RSMo [Supp. 1997].*

*[(19)](18) Interexchange telecommunications service—interexchange telecommunications service as defined in section 386.020(24), RSMo [Supp. 1997].*

*[(20)](19) Interoffice trunk—a type of line that generally carries aggregated telecommunications traffic and is ordinarily extended between two (2) switching units.*

*[(21)](20) InterLATA telecommunications service—interLATA telecommunications service as defined in section 386.020(25), RSMo [Supp. 1997].*

*[(22)](21) IntraLATA telecommunications service—intraLATA telecommunications service as defined in section 386.020(26), RSMo [Supp. 1997].*

*[(23)](22) LATA or local access and transportation area—LATA or local access and transportation area as defined in section 386.020(29), RSMo [Supp. 1997].*

*[(24)](23) Line—a general term used in the telecommunications industry in several different senses, the most common of which are access line, trunk, channel and route.*

*[(25)](24) Local calling scope—[the area within which basic local telecommunications service is furnished customers under a specific schedule of basic local telecommunications service rates. A local calling scope may include one (1) or more exchanges or portions of exchanges] **the geographic area within which telecommunications service is furnished under a non-optional, flat, monthly rate. A local calling scope may include one (1) or more exchange service areas.***

[(26)](26) Local message—a completed call between stations located within the same local calling scope.]

[(27)](25) Long distance service—[telecommunications service furnished between customers in different local calling scopes. This service is also referred to as message toll service] includes at a minimum, two-way switched voice service between points in different local calling scopes as determined by the commission.

[(28)](26) Message—a completed call.

[(29)](27) Message rate service—a basic local telecommunications service in which originated local messages are measured and [charged] billed for on the basis of the number and/or duration of messages, or as defined in a tariff approved by the commission as of the effective date of this rule.

[(30)](28) Nonpublished telephone number—a telephone number which is not listed in the paper phone directories but which is listed with dial-up Directory Assistance.

[(31)](29) Operator [service—operator service as defined in section 386.020(37), RSMo Supp. 1997] assisted calls—a telecommunications service using either human or automated call intervention that is initiated by dialing “0.”

[(32)](30) Outside plant—the telecommunications wires, cable, equipment and facilities installed along, over or under streets, alleys, highways or private rights-of-way between the central office and customers’ premises or between central offices.

[(33)] Party line service—a basic local telecommunications service in which a number of customers are served by the same central office line equipment.]

(31) Pay telephone—a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

[(34)] Pay telephone service provider—a telecommunications company that offers access to telephone service with a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or billed to an alternate number.]

[(35)](32) Person—person as defined in section 386.020(39), RSMo [Supp. 1997].

[(36)](33) Private shared tenant services—private shared tenant services as defined in section 386.020(40), RSMo [Supp. 1997].

[(37)] Public utility—public utility as defined in section 386.020(42), RSMo Supp. 1997.]

[(38)](34) Rate—rate as defined in section 386.020(45), RSMo [Supp. 1997].

[(39)] Regrade—a change to a different grade of basic local telecommunications service.]

[(40)](35) Service—service as defined in section 386.020(47), RSMo [Supp. 1997].

(36) Service objective—an acceptable level of service for an established category of service as identified in 4 CSR 240-32.080.

Service objectives should be maintained on an exchange-specific basis or as otherwise monitored according to 4 CSR 240-32.080.

[(41)] Service bureau—the designated office, or location where trouble reports and/or service orders are worked and dispatched.]

[(42)] Standard intercept service—a service arrangement provided by a company where calls placed to a nonworking telephone number are intercepted and the calling party is informed that the called telephone number is not in service.]

[(43)](37) Station—a point of input to or output from the network, including a telephone instrument or other terminal device.

(38) Subsequent trouble report—A trouble report received for the same access line for trouble already reported but not yet cleared.

[(44)](39) Surveillance level—a [level at or below which telephone service is inferior and will require the telecommunications company providing that service to take immediate action to investigate and correct] substandard level of performance for an established category of service as identified in 4 CSR 240-32.080. A company whose service falls within a surveillance level shall immediately investigate and take appropriate corrective action to achieve and maintain the commission’s service objective.

[(45)](40) Switching—a generic term for machines that switch telephone calls from/to other telephones or trunks.

[(46)](41) Tandem—a central office where trunks are interconnected to transmit telecommunications traffic between other central offices.

[(47)](42) Tariff—a schedule of rates, services and rules approved by the commission.

[(48)](43) Telecommunications company—telecommunications company as defined in section 386.020(51), RSMo [Supp. 1997].

[(49)](44) Telecommunications facilities—telecommunications facilities as defined in section 386.020(52), RSMo [Supp. 1997].

[(50)](45) Telecommunications service—telecommunications service as defined in section 386.020(53), RSMo [Supp. 1997].

[(51)](46) Traffic—telecommunications volume, based on number of calls and duration of messages.

[(52)](47) Unlisted telephone number—a telephone number which is not listed in the paper phone directories and is not given out to callers to Directory Assistance.

(48) Unusual Repair—unusual repair exists when restoration is prohibited by an external element that is beyond the control of the company. Lack of material and manpower does not constitute unusual repair.

*AUTHORITY: sections 386.040, [RSMo 1994] 386.250, 386.310 and 392.200, RSMo [Supp. 1998] 2000. Original rule filed Dec. 11, 1975, effective Dec. 23, 1975. Amended: Filed Dec. 12, 1977, effective July 13, 1978. Amended: Filed July 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 13, 1984, effective Nov. 15, 1984. Rescinded and readopted: Filed Jan. 5, 1999, effective Sept. 30, 1999. Amended: Filed Oct. 30, 2003.*

*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 comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**PROPOSED AMENDMENT**

**4 CSR 240-32.060 Engineering and Maintenance.** The commission is deleting section (2) and amending sections (2), (5), (14) and (15), renumbering the remaining sections.

*PURPOSE:* This amendment change provides clarification to engineering and maintenance specifications in the rule resulting from telecommunications technical advancements and upgrades.

*[(2) Trunk circuits shall be full metallic or equivalent (for example, microwave, carrier, etc.)]*

*[(3)](2)* Grounded circuits will not be permitted except for signaling purposes *[and party line identification]*.

*[(4)](3)* All access line loops and trunk facilities shall be compatible with the transmission design factors required for a modern telecommunications network.

*[(5)](4)* Each company shall make reasonable provisions to meet emergencies resulting from lightning or power service failures, unusual and prolonged increases in traffic, absence of personnel, fire, storm or other natural disasters and shall inform its employees of procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telecommunications service. Each central office shall contain as a minimum three (3) hours of battery reserve. In each office without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice. In each central office, other than a controlled environmental vault, serving more than five thousand (5,000) lines, a permanent auxiliary power unit shall be installed.

*[(6)](5)* Each company shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system to provide *[for]* safe and adequate service at all times. Maintenance shall include proper repair and adjustment of all facilities and equipment, for example:

(A) Broken, damaged or deteriorated parts which are no longer serviceable shall be repaired or replaced;

(B) Adjustable apparatus and equipment shall be readjusted when in an unsatisfactory operating condition; and

(C) Electrical faults, such as leakage or poor insulation, noise induction, cross talk or poor transmission characteristics shall be corrected to meet the commission standards set forth in this rule.

*[(7)](6)* Each company shall adopt a program of periodic tests, inspections and preventive maintenance aimed at achieving efficient operation of its system and rendering safe and adequate service to its customers.

*[(8)](7)* Each company shall monitor the actual transmission performance of the network to determine if the established objectives and operating requirements are met. This monitoring function shall consist of circuit order tests prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic tests of a sample of access line loops in each exchange for noise and electrical faults, and special transmission surveys of the network.

*[(9)](8)* In the event that service must be interrupted for purposes of working on the lines or equipment, the work shall be done in a manner which will cause minimal inconvenience to customers, except in emergency situations. Each company shall attempt to notify each affected customer in advance of an extended interruption. Each company shall make every effort to accommodate emergency services and customers with extraordinary needs.

*[(10)](9)* On a going-forward basis, each telecommunications company shall bond and ground its facilities to the multigrounded neutral wire of the company providing electricity. If vertical (pole) ground wires have not been strategically placed, at the beginning or end of power exposures or where power company equipment is located, the telecommunications company should coordinate with the power company to have those vertical neutral ground wires placed. Each telecommunications company shall be prepared and properly equipped to measure ground connections to ensure that the bonds and grounds are functional. As appropriate, connections shall be measured with proper test equipment. All construction, removal, and maintenance work will at all times comply with the current editions of the *National Electric Safety Code* and the *National Electric Code*.

*[(11)](10)* Each company shall maintain the following specifications for its outside plant:

(A) Access line loops shall not have a loop resistance that exceeds the operating design of the connected central office equipment. Loop resistance greater than the design of the central office equipment shall have long line adapters, voice frequency repeaters or other special equipment. Subscriber loops not served by analog or digital carrier technologies shall maintain a minimum of twenty-three (23) milliamperes of loop current when measured at the customer's premises;

(B) Transmission loss of access line loops shall not exceed eight and five-tenths (8.5) decibels when measured at one thousand (1,000) hertz. Loops that are measured with more loss shall be corrected to a maximum loss of eight and five-tenths (8.5) decibels; and

(C) Where inductive loading is necessary, loading procedures shall conform to industry standards for forty-four (44), sixty-six (66) or eighty-eight (88) millihenry load coil spacings.

*[(12)](11)* Each company shall investigate and pursue corrective action for the following faults on working cable pairs when they are detected with the customer's equipment disconnected:

(A) A leakage tip to ring, tip to ground or ring to ground of forty thousand (40,000) ohms of resistance or less;

(B) An imbalance between the tip and ring of a cable pair of ten percent (10%) or more when measured from the central office with a cable analyzer;

(C) A balance reading below sixty (60) decibels with reference to noise with C-message weighting (dBrnC), measured by a noise measuring test set, where the noise metallic reading is subtracted from the power influence when the power influence reading is over seventy (70) dBrnC;

(D) Voltage of ten (10) volts direct current (DC) or more on either side of a dry cable pair when measured from the central office;

(E) A power influence reading of ninety (90) dBmC or more on the cable pair when measured from the central office;

(F) A noise metallic reading of thirty (30) dBmC or more on the cable pair when measured from the central office;

(G) An alternating current voltage on the tip or ring to ground of more than fifty (50) root mean square volts; and

(H) Any other fault that affects or may contribute to service degradation.

*[(13)](12)* Transmission loss on trunks that only carry traffic within a local calling scope shall not exceed six (6) decibels of loss.

*[(14)](13)* Transmission loss on trunks that carry long distance traffic shall not exceed four (4) decibels of loss.

*[(15)](14)* The following are requirements for placement of buried cable:

(A) Buried telephone feeder and distribution cable shall be placed at a minimum depth of twenty-four inches (24") of coverage unless the company determines that good cause could be shown;

(B) Buried drop cable shall be placed at a minimum depth of twelve inches (12") of coverage unless the company determines that good cause could be shown;

(C) Trenching and plowing of cable shall be performed in such a way as to prevent unnecessary damage to private and public property;

(D) When it is necessary to plow or trench cable across private land, a company shall obtain permission or easement (written, if possible) from the owner before the work is performed; and

(E) When performing any work that endangers other companies' buried utility facilities, telecommunications companies shall fully comply with *Missouri Revised Statutes*, Chapter 319, sections 319.010 through 319.075.

*[(16)](15)* When there is no available existing network interface device, a company shall install a network interface device when service is installed if installation requires a premises visit. If a premises visit is not required, then the company shall install a network interface device when existing service locations are next visited by company service personnel under normal conditions. At those locations where a network interface device has not been installed or is not accessible to the customer, the company shall not charge a trouble isolation fee even if the trouble is on the customer's side of the protector *[unless the company's approved tariff provides otherwise as of the effective date of this rule]*. However, if the customer refuses, and signs a refusal, to allow placement of a network interface device on the outside of a premises, the company may charge the customer for isolating the trouble when the cause of the trouble is found inside the premises.

**AUTHORITY:** sections 386.040, [RSMo 1994] and 386.250, 386.310 and 392.200, RSMo [Supp. 1998] 2000. Original rule filed Dec. 11, 1975, effective Dec. 23, 1975. Amended: Filed Nov. 12, 1976, effective May 20, 1977. Amended: Filed March 15, 1978, effective Oct. 2, 1978. Rescinded and readopted: Filed Jan. 5, 1999, effective Sept. 30, 1999. Amended: Filed Oct. 30, 2003.

**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 comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary

of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 32—Telecommunications Service**

**PROPOSED AMENDMENT**

**4 CSR 240-32.070 Quality of Service.** The commission is amending section (4) and section (5) of the quality service tracking standards.

**PURPOSE:** This amendment change provides clarification to the rule's quality of service standards and requirements.

(4) *[Each company shall make commitments to customers or potential customers as to the date of installation, repair or regrade of basic local telecommunications service.] Each customer requesting the installation or repair of basic local telecommunications service will be provided with a commitment as to the date service will be installed or repaired. The customer may request an appointment more specific in time than the one offered by the company.* If requested by the customer, the company will indicate a morning or afternoon appointment, and will make reasonable efforts to accommodate *[more specific]* the customer's appointment requests. *[When substantial construction is required to meet a regrade of service request, the company shall provide an approximate date by which that regrade will be completed. This projected commitment date shall be based on a good faith estimate and be projected to a specific quarter of a specific year. This date shall be provided to the customer within thirty (30) days of the original request for regrade of service.]*

(5) Each company shall provide for the receipt of all customer trouble reports at all hours and make a full and prompt investigation of all complaints. The company shall maintain an accurate record of trouble reports made by its customers. This record shall include an appropriate identification of the customer; the service affected; the time, date and nature of the report; the action taken to clear the trouble or satisfy the complaint; and the date and time of trouble clearance or other disposition. If customer trouble reports are relayed to a recorder after business hours and on weekends, the recorder must be capable of automatically recording the date and time so that company personnel can determine the exact time the trouble was reported to the company. **The time and date of initial customer contact will start the out-of-service time period as identified in 4 CSR 240-32.080(5)(H).**

**AUTHORITY:** sections 386.040, [RSMo 1994] and 386.250, 386.310 and 392.200, [RSMo Supp. 1998] 2000. Original rule filed Dec. 11, 1975, effective Dec. 23, 1975. Rescinded and readopted: Filed Jan. 5, 1999, effective Sept. 30, 1999. Amended: Filed Oct. 30, 2003.

**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 comments in support of or in opposition to this proposed amendment with the

Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 32—Telecommunications Service**

**PROPOSED AMENDMENT**

**4 CSR 240-32.080 Service Objectives and Surveillance Levels.** The commission is amending sections (1), (2), (4) and (5) of the requirements that establish, collect and monitor data that makes up quality of service levels.

*PURPOSE: This amendment change provides clarification to the rule's objective and surveillance levels.*

(1) Each company shall make at least monthly measurements to determine the level of service for each applicable category using the criteria listed below. **Filing requirements for this area can be found in 4 CSR 240-3.550.** Any category that cannot be monitored continuously shall be tested during normal business hours. Since technology will continue to change the way telecommunications companies provide and monitor service and because of the vast range of central office sizes, a company may find it is not technically feasible to collect data for some categories.

(2) Each company is expected to provide service within each exchange **or as otherwise monitored in this section** that meets or exceeds the service objective level. If service within any exchange falls to or below the surveillance level, the company shall immediately investigate and take appropriate corrective action. **The identified problem and the corrective action taken shall be submitted to the commission with the company's quarterly report.**

(4) For purposes of preparing trouble reports, each verbal, **electronic** or written communication regarding trouble with an access line will be taken as a separate communication unless *lit is either a duplicate communication or it is due to CPE or inside wire. Multiple communications of customer trouble which relate to the same defect or specific difficulty may be recorded on a single report if that report clearly shows the total number of oral or written communications received.* **the communication is a subsequent trouble report. A trouble report for the same access line should be recorded as a separate trouble report if the previously reported trouble was repaired or corrected and closed prior to this communication.**

(5) The service objectives, surveillance levels and monitoring criteria for the following categories are:

(A) Orders for basic local telecommunications service—

1. Service objective—that ninety percent (90%) **or more** of such orders shall be installed, except for customer-caused delays and **a declared** natural disaster—

A. Within five (5) working days after the customer ordered service; or

B. On or by the date requested if it is at least five (5) working days after the date the customer ordered service;

2. Surveillance level—eighty-five percent (85%) **or below**; and

3. Monitoring criteria—continuously, by exchange;

*[(B) Orders for regrade of service—*

1. Service objective—that ninety-five percent (95%) of such orders not requiring substantial construction shall be completed within thirty (30) days after the date on which

*the customer ordered the service, except delays made at the request of the customer;*

2. Surveillance level—ninety percent (90%); and

*[3. Monitoring criteria—continuously, by exchange;]*

*[(C)](B) Installation [and regrade] commitments—all customers shall be given a commitment of when service will be installed in accordance with 4 CSR 240-32.070(4)—*

1. Service objective—that ninety-five percent (95%) **or more** of commitments for installation of basic local telecommunications service *[and regrade of]* service shall be met, except for customer-caused delays and **a declared** natural disaster/s/;

2. Surveillance level—ninety percent (90%) **or below**; and

3. Monitoring criteria—continuously, by exchange; *[and]*

*[(D)](C) Operator assisted calls—*

1. Service objective—that one hundred percent (100%) of operator assisted calls, *[including directory assistance,]* shall be answered on average within *[six (6)]* **twelve (12) seconds or less of dialing "0."** This objective incorporates the required switch delay for **0-calls**;

2. Surveillance level—*[eight (8)]* **fourteen (14) seconds or more**; and

3. Monitoring criteria—continuously, on a company-wide basis, **if a company provides this service by contractor service, the company providing the basic local service shall monitor the contractor's performance and report it as the local service provider's results;**

*[(E)](D) Customer assistance calls—*

1. Service objective—that the average speed of answer for calls to the business office or repair bureau shall be fifteen (15) seconds **or less**;

2. Surveillance level—that average speed of answer for calls to the business office or repair bureau exceeding twenty (20) seconds on a continuous basis indicates a need for investigation and corrective action; and

3. Monitoring criteria—continuously *[if possible]*, on a company-wide basis **via an interactive voice system, if not possible, manual monitoring of twenty-five (25) incoming calls to a service center will be conducted on a monthly basis;**

*[(F)](E) Originating switched calls—*

1. Service objective—that ninety-eight percent (98%) **or more** of calls shall receive a dial tone within three (3) seconds;

2. Surveillance level—ninety-seven and four-tenths percent (97.4%) **or less**; and

3. Monitoring criteria—continuously, *[if possible, or]* **via dial tone delay or dial tone denial reports or if a company lacks the capability to produce such reports**, based on at least twenty-five (25) test calls, by exchange. **If a company provides this service by contractor service, the company providing the basic local service shall monitor the contractor's performance and report it as the local service provider's results;**

*[(G)](F) Local exchange switched call completion—*

1. Service objective—that ninety-eight percent (98%) **or more** of local exchange switched calls shall be completed without encountering a blockage or equipment busy condition;

2. Surveillance level—ninety-five percent (95%) **or less**; and

3. Monitoring criteria—continuously, *[if possible, or]* **via switch call completion reports or if a company lacks the capability to produce such reports**, based on at least twenty-five (25) test calls, by exchange. **If a company provides this service by contractor service, the company providing the basic local service shall monitor the contractor's performance and report it as local service provider's results;**

*[(H)](G) Interexchange switched call completion—*

1. Service objective—that ninety-eight percent (98%) **or more** of interexchange switched calls shall be completed without encountering a blockage or equipment busy condition;

2. Surveillance level—ninety-five percent (95%) **or less**; and

3. Monitoring criteria—continuously, *if possible, or* via call blockage reports or if a company lacks the capability to produce such reports, based on at least twenty-five (25) test calls, by exchange and if a company provides this service by contractor service, the company providing the basic local service shall monitor the contractor's performance and report it as local service provider's results; and

*[(1)](H)* Customer trouble reports—

1. Frequency—

A. Service objective—that the frequency shall not exceed six (6) reports for every one hundred (100) access lines each month;

B. Surveillance level—*[eight (8) reports]* shall not exceed eight (8) reports for every one hundred (100) access lines each month;

C. Monitoring criteria—monthly, by exchange; and

D. The service objective and surveillance levels do not apply to trouble caused by CPE and inside wire or when the report is a *[duplicate or]* subsequent trouble report *[of]* for the same access line. **In order to exclude trouble reports caused by CPE or inside wire the company must specifically determine the cause is from CPE or inside wire. Trouble reports whereby a company simply tests the line and produces a "test ok" or "found ok" condition are still countable trouble reports and are not excludable from the company's trouble report rate;**

2. Clearing time—**Out of Service Conditions—**

A. Service objective—that ninety percent (90%) or more of out-of-service trouble not requiring unusual repair shall be cleared within twenty-four (24) hours;

B. Surveillance level—eighty-five percent (85%) or less; and

C. Monitoring criteria—monthly by exchange; and

3. Repair commitments—**All customers shall be given a commitment of when service will be restored in accordance with 4 CSR 240-32.070(4)—**

A. Service objective—that ninety percent (90%) or more of commitments for clearing trouble shall be met, except for customer-caused delays and a declared natural disaster/s/;

B. Surveillance level—eighty-five percent (85%) or less; and

C. Monitoring criteria—monthly, by exchange.

*AUTHORITY: sections 386.040, [RSMo 1994 and] 386.250, 386.310 and 392.200, [Supp. RSMo 1998] 2000. Original rule filed Dec. 11, 1975, effective Dec. 23, 1975. Amended: Filed Dec. 12, 1977, effective July 13, 1978. Amended: Filed Aug. 13, 1984, effective Nov. 15, 1984. Rescinded and readopted: Filed Jan. 5, 1999, effective Sept. 30, 1999. Amended: Filed Oct. 30, 2003.*

*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 comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 250—Missouri Real Estate Commission Chapter 8—Business Conduct and Practice

#### PROPOSED AMENDMENT

**4 CSR 250-8.090 Brokerage Service Agreements.** The Missouri Real Estate Commission proposes to add section (3) and renumber the remaining sections accordingly.

*PURPOSE: The purpose of this amendment is to modify the regulation to be compatible with the statutory changes made to Chapter 339 that became effective August 28, 2002 through the passage of House Bill 1964.*

**(3) In a commercial real estate transaction, a brokerage service agreement prepared by legal counsel for the client/customer to be represented or assisted shall not be subject to the provisions of 4 CSR 250-8.090(4)–(7).**

*[(3)] (4) Seller's/Lessor's Agency (Sale/Lease Listing) Agreement.*

(A) Every written listing agreement or other written agreement for brokerage services shall contain all of the following:

1. The price;

2. The commission to be paid (including any and all bonuses);

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

6. A statement which permits or prohibits the designated broker from offering subagency;

7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or transaction brokers;

10. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the seller's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;

11. The signatures of all owners and the listing broker or listing agent as authorized by the broker;

12. The type of listing;

13. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property; and

14. All other terms and conditions under which the property is to be sold, leased or exchanged.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the listing after the expiration date.

(C) Any change to the listing agreement or other written agreement for brokerage services must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written listing agreement or other written agreement for brokerage services to the owner of the property at the time the signature of the owner is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net listing agreement for the sale or lease of real property or any interest in real property; this



agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) A listing agreement or other written agreement for brokerage services may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

*/(4)/* (5) Buyer's/Tenant's Agency Agreement.

(A) Every written buyer or tenant authorization shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;
2. The commission or fee to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. A statement which permits or prohibits the designated broker from offering subagency;
7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or transaction brokers;
10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the buyer's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;
11. The signatures of the buyers or tenants and the broker or agent as authorized by the broker;
12. The type of agreement; and
13. All other terms and conditions prescribed by the buyers or tenants.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement or other written authorization must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the written authorization shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) A buyer or tenant agency agreement may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original buyer or tenant agency agreement.

*/(5)/* (6) Transaction Brokerage Agreement Between Broker and Seller/Lessor.

(A) Every written seller's or lessor's transaction brokerage agreement shall contain all of the following:

1. The price;

2. The commission to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. The signatures of all owners and the broker or affiliated licensee as authorized by the broker;
7. The type of agreement;
8. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;
9. All other terms and conditions under which the property is to be sold, leased or exchanged;
10. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or other transaction brokers; and

11. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement to the owner of the property at the time the signature of the owner(s) is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) Transaction brokerage agreements may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

*/(6)/* (7) Transaction Brokerage Agreement Between Broker and Buyer/Tenant.

(A) Every written buyer's or tenant's transaction brokerage agreement shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;
2. The commission or fee to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. The signatures of the buyers or tenants and the broker or affiliated licensee as authorized by the broker;
7. The type of agreement;
8. All other terms and conditions prescribed by the buyers or tenants;

9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by

339.710 to 339.860, RSMo, including but not limited to seller's agents and/or other transaction brokers; and

10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the agreement shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) Transaction brokerage agreements may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

[(7)](8) Other Written Authorization. Written authorization to show residential property without an agency agreement or transaction brokerage agreement with the owner/landlord must contain all of the following:

(A) A definite beginning date;

(B) An expiration date;

(C) The signatures of all owners or landlords and the broker or licensee as authorized by the broker;

(D) The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;

(E) Permission to enter and show the property;

(F) The commission or fee to be paid (including any and all bonuses);

(G) All other terms and conditions prescribed by the owners or landlords;

(H) Any change to the written authorization must contain the initials of all parties; and

(I) A statement which confirms that the owner or landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the other written authorization, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

*AUTHORITY: sections 339.120, 339.730, 339.740, 339.750, 339.755, 339.780 and 339.820, RSMo [Supp. 1999] 2000. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 3, 2003.*

*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 Real Estate Commission, Janet Carder, Executive Director, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777, or via e-mail at realesta@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

#### **Division 250—Missouri Real Estate Commission Chapter 8—Business Conduct and Practice**

#### **PROPOSED AMENDMENT**

**4 CSR 250-8.096 Brokerage Relationship Confirmation.** The Missouri Real Estate Commission proposes to add section (2).

*PURPOSE: The purpose of this amendment is to modify the regulation to be compatible with the statutory changes made to Chapter 339, RSMo that became effective August 28, 2002 through the passage of House Bill 1964.*

**(2) In a commercial real estate transaction where the real estate contract is prepared by legal counsel for the seller/landlord or buyer/tenant, the written confirmation by the party or parties who are represented by legal counsel shall not be required.**

*AUTHORITY: sections 339.120[,] and 339.780, RSMo [Supp. 1999] 2000 and 339.720, RSMo Supp. 2003. Original rule filed Jan. 14, 2000, effective July 30, 2000. Amended: Filed Nov. 3, 2003.*

*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 Real Estate Commission, Janet Carder, Executive Director, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777, or via e-mail at realesta@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

#### **Division 250—Missouri Real Estate Commission Chapter 8—Business Conduct and Practice**

#### **PROPOSED AMENDMENT**

**4 CSR 250-8.097 Broker Disclosure Form.** The Missouri Real Estate Commission proposes to amend section (1).

*PURPOSE: The purpose of this amendment is to modify the regulation to be compatible with the statutory changes made to Chapter 339, RSMo that became effective August 28, 2002 through the passage of House Bill 1964.*

**(1) [At] In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, land-**

lord, buyer, or tenant who has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), provide a tenant with a written copy of the current Broker Disclosure Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

*AUTHORITY: sections 339.120, RSMo [Supp. 1999] 2000 and 339.770, RSMo Supp. 2003. Original rule filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Amended: Filed Nov. 3, 2003.*

*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 Real Estate Commission, Janet Carder, Executive Director, PO Box 1339, Jefferson City, MO 65102, by facsimile at (573) 751-2777, or via e-mail at realesta@mail.state.mo.us. 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 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 5—General Program Procedures**

**PROPOSED AMENDMENT**

**9 CSR 10-5.190 [Criminal Record Review] Background Screening for Employees and Volunteers.** The department proposes to amend the title of the rule and sections (1) through (11).

*PURPOSE: This amendment will correct grammatical errors, update language, and incorporate revisions provided under Senate Bill No. 184, passed into law by the 92nd General Assembly and subsequently signed by the governor. These revisions add several offenses to those that disqualify a person from employment, and revise the listing of those crimes for which no exception can be granted.*

*PURPOSE: This rule establishes standards for obtaining [a criminal record review] background screening for certain staff and volunteers in residential facilities, day programs or specialized service operated or funded by the Department of Mental Health.*

(1) For the purposes of this rule, residential facilities, day programs and specialized services are divided into two (2) categories, as follows:

(A) Category I. Those that are certified or licensed exclusively by the Department of Mental Health (DMH) or, although not certified or licensed, are funded by the department. Specifically this category includes:

1. Agencies certified by [the Department of Mental Health] DMH as community psychiatric rehabilitation programs (CPRP) and/or outpatient programs;

2. Agencies certified by [the Department of Mental Health] DMH in the community-based waiver certification program;

3. Agencies certified by the Division of Alcohol and Drug Abuse;

4. Facilities that have contractual arrangements with the department but are exempt from the department's licensing and certification rules due to accreditation or other reason; and

5. Facilities and day programs which are licensed by the department and do not have a license from another state agency; and

(B) Category II. Those that, in addition to a license or certificate from [the Department of Mental Health] DMH, have a license or certification from another state agency. Specifically, this category includes facilities licensed by the [Division of Aging, the Division of Family Services and] Children's Division or the Department of Health and Senior Services; also included are intermediate care facilities/mental retardation (ICF/MR). Facilities and agencies included in Category II are subject to rules regarding criminal record review as promulgated by the state agency which licenses or certifies them and are not subject to sections (2) through (7) of this rule. However such agencies are subject to sections (8), (9), (10) and (11) regarding disqualifying crimes.

(2) This rule applies to—

(A) Staff;

(B) Volunteers who are recruited as part of an agency's formal volunteer program [and] but does not apply to volunteers who assist individuals as a friend would by providing assistance with shopping, transportation, recreation, etc.; and

(C) Members of the [providers] provider's household who have contact with residents or clients, except for minor children.

(3) Each residential facility, day program or specialized service defined under Category I above shall make the following inquiries for all new employees and volunteers:

(A) [make an] An inquiry with the [Department of Social Services] Department of Health and Senior Services to determine whether [any] the new employee or volunteer having contact with residents or clients is listed on the [Division of Aging's employment] employee disqualification list of the Department of Social Services or the Department of Health and Senior Services;

(B) An inquiry with the Department of Mental Health to determine whether the new employee or volunteer is on the DMH disqualification registry; and

(C) A criminal background check with the State Highway Patrol. The request for the background check shall not require fingerprints and shall be in accordance with requirements of the State Highway Patrol under Chapter 43, RSMo. The facility, program or service may use a private investigatory agency to conduct this review.

[ (4) Each residential facility, day program or specialized service defined under Category I above shall conduct a criminal background check with the state highway patrol for new staff and volunteers who have contact with patients, residents or clients. The request for the background check shall not require fingerprints and shall be in accordance with requirements of the state highway patrol under Chapter 43, RSMo. The facility, program or service may use a private investigatory agency to conduct this review. ]

[ (5) (4) The criminal background check and [inquiry with the Department of Social Services shall be initiated not later than two (2) working days of hiring the employee or selecting the volunteer] inquiries required under section (3) of this rule shall be initiated prior to the employee or volunteer having contact with residents, clients or patients.

*[(6)] (5) [In accordance with section 660.317, RSMo, each] Each residential facility, day program and specialized service included under Category I shall require all new applicants for employment or volunteer positions involving contact with residents or clients—*

(A) Sign a consent form authorizing a criminal record review with the highway patrol, either directly through the patrol or through a private investigatory agency;

(B) Disclose his/her criminal history, including any conviction or a plea of guilty to a misdemeanor or felony charge and any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(C) Disclose if s/he is listed on the employee disqualification list of the *[Division of Aging] Department of Social Services or the Department of Health and Senior Services, or the DMH disqualification registry.*

*[(7)] (6) Each agency shall develop policies and procedures regarding the implementation of this rule and the disposition of information provided by the criminal record review. At a minimum the guidelines shall address—*

(A) Procedures for obtaining the criminal record review;

(B) Procedures for confidentiality of records; and

(C) Guidelines for evaluating information received through the criminal record review which establish a clear boundary between those convictions which, by statute, must exclude an individual from service, and those convictions which would not automatically exclude an individual.

*[(8)] (7) [Convictions] Offenses which under section[s] 630.170 [and 660.317], RSMo [exclude] disqualify a person from service are [the following] as follows:*

(A) A person *[who has been convicted of, found guilty of, pled guilty to or nolo contendere to any of the following crimes]* shall be disqualified from holding any position in the agency~~[:]~~ **if that person—**

**1. Has been convicted of, found guilty of, pled guilty to or nolo contendere to any of the following crimes:**

*[1.] A. Physical abuse or Class I Neglect of a patient, resident or client; or*

*[2.] B. Furnishing unfit food to patients, residents or clients[: and] .*

**2. Is listed on the DMH disqualification registry; or**

**3. Is listed on the employee disqualification list of the Department of Health and Senior Services or Department of Social Services.**

(B) A person who has been convicted of, found guilty to, pled guilty to or nolo contendere to any of the following crimes shall be disqualified from holding any position having contact with patients, residents or clients in the agency. The~~se/~~ crimes **listed below** are not disqualifying unless they are felonies, except for failure to report abuse and neglect to the *[Division of Aging] Department of Health and Senior Services*, which is a Class A misdemeanor. The disqualifying crimes are:

1. First or second degree murder;
2. Voluntary manslaughter (includes assistance in self-murder);
3. Involuntary manslaughter;
4. First or second degree assault;
5. Assault while on school property;
6. Unlawful endangerment of another;
7. First or second degree assault of a law enforcement officer;
8. Tampering with a judicial officer;
9. Kidnapping;
10. Felonious restraint;
11. False imprisonment;
12. Interference with custody;
13. Parental kidnapping;
14. Child abduction;
15. Elder abuse in the first degree or the second degree;

16. Harassment;
17. Stalking;
18. Forcible rape;
19. First or second degree statutory rape;
20. Sexual assault;
21. Forcible sodomy;
22. First or second degree statutory sodomy;
23. First or second degree child molestation;
24. Deviate sexual assault;
25. First degree sexual misconduct;
26. Sexual abuse;
27. Endangering the welfare of a child;
28. Abuse of a child;
29. Robbery in the first degree or second degree;
30. Arson in the first or second degree;
31. First or second degree pharmacy robbery;
32. Incest;
33. Causing catastrophe;
34. First degree burglary;
35. Felony count of invasion of privacy;
36. Failure to report abuse and neglect to the Department of Social Services as required under subsection 3 of section 198.070, RSMo;
37. Any equivalent felony offense.

*[(9)] (8) Any person disqualified from employment under this rule may [appeal the disqualification to] request an exception from the [department's] DMH Exceptions Committee in accordance with 9 CSR 10-5.210 Exceptions Committee Procedures.*

*[(A) The request shall be written and may not be made more than one (1) time every twelve (12) months.*

*[(B) The request may be granted if a clear showing has been made that—*

*1. The person will not commit any additional acts for which the person had originally been disqualified; and*

*2. The person will not commit any other acts which would be harmful to a patient, resident or client of a facility, program or service.*

*[(C) The Exceptions Committee may grant the appeal subject to conditions and failure to comply with such conditions may result in the person being again disqualified.*

*[(D) The decision of the Exceptions Committee shall not be subject to appeal.]*

*[(E)] (A) The right to [receive] request an exception under this subsection shall not apply to persons [convicted of] who are disqualified due to being listed on the employee disqualification registry of the Department of Social Services or Department of Health and Senior Services, nor does it apply to persons who are disqualified due to any of the following crimes:*

1. First or second degree murder;
2. First or second degree statutory rape;
3. Sexual assault;
4. Forcible sodomy;
5. First or second degree statutory sodomy;
6. First or second degree child molestation;
7. Deviate sexual assault;
8. Sexual misconduct involving a child;
9. First degree sexual misconduct;
10. Sexual abuse;
11. Incest;
12. *[First or second degree endangering the welfare of a child] Causing catastrophe;*
13. Abuse of a child;
14. First *[or second]* degree pharmacy robbery; **or**
- [15. First degree burglary; or]*
- [16.] 15. Forcible rape.*

[(10)] (9) For the purposes of this rule, a verdict of not guilty by reason of insanity (NGRI) is not per se disqualifying. A suspended imposition of sentence (SIS) or suspended execution of sentence (SES) is disqualifying.

[(11)] (10) A provider shall not hire any person who has committed a disqualifying crime as identified in section [(8)](7) of this rule, unless the person has received an exception from the department. However, the provider retains the discretionary authority to deny employment to persons who—

- (A) Have committed crimes not identified as disqualifying;
  - (B) Have received an exception from the Exceptions Committee;
- or
- (C) Have received a verdict of Not Guilty by Reason of Insanity.

*AUTHORITY: sections 630.170, 630.710 and 660.317, [RSMo Supp. 1997] and 630.655, RSMo [1994] Supp. 2003. Emergency rule filed Aug. 15, 1997, effective Aug. 28, 1997, expired Feb. 26, 1998. Original rule filed Aug. 15, 1997, effective March 30, 1998. Amended: Filed Oct. 29, 1998, effective May 30, 1999. Amended: Filed Nov. 3, 2003.*

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

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

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

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

**PROPOSED AMENDMENT**

**9 CSR 10-5.210 Exceptions Committee Procedures.** The department proposes to delete section (8) and to amend sections (2), (3), (4), (5), (7), (9), (10), and (11).

*PURPOSE: This amendment makes some editorial changes, adds a definition of disqualifying incident, removes redundant material, removes requirements which have been found to be impractical or unnecessary, and implements provisions passed into law under SB 184 relative to exceptions for persons listed on the department's employment disqualification registry.*

(1) Definitions. The following terms are defined as follows:

(A) **Disqualifying incident**, a crime which under 9 CSR 10-5.190 results to a person being disqualified from employment, or one (1) or more administrative findings of abuse, neglect or misuse of client funds which, under 9 CSR 10-5.200 leads to a person being listed on the Department of Mental Health disqualification registry;

(B) *[An exception is]* **Exception**, a decision by the department not to enforce an administrative rule under the individual circumstances described in the request for an exception and the conditions described in the approval. None of the following are subject matter of an exception:

[(A)] 1. A contention that the rule is not valid;

[(B)] 2. A contention that the provider is in fact in compliance with the rule; and

[(C)] 3. A request for an interpretation of a rule.

(2) Rules Subject to an Exception. Only the following *[statutes and]* rules may be the subject of an exception:

(A) *[Statutes and rules related to crimes that disqualify]* **Rules related to disqualification** from employment under *[section 630.170, RSMo and]* 9 CSR 10-5.190 and 9 CSR 10-5.200;

(C) Certification rules for alcohol and drug abuse programs and psychiatric programs promulgated under 9 CSR 10-7 and 9 CSR 30;

(3) Who may apply for an exception?

(B) An individual may request an exception on his or her own behalf with respect to *[criminal backgrounds]* **disqualification from employment** under 9 CSR 10-5.190 and 9 CSR 10-5.200.

(D) Any other person or entity affected by an administrative rule under subsection (2)[(D)](E) of this rule.

(4) How to request an exception.

(A) A person may request an exception by sending to the exceptions committee a written request which—

1. Cites the rule number *[or statutes number]* in question;
2. Indicates why and for how long compliance with the rule should be waived; and
3. Is accompanied by supporting documentation, if appropriate.

(B) In addition, the following additional items must be part of a request under 9 CSR 10-5.190 *[Criminal Record Review]*, **related to disqualification from employment.**

*[1. A letter from the offender describing the crime and other factors under paragraphs 1. through 12. of this subsection;*

2. A description of the specific crime or crimes;
3. When they occurred;
4. Mitigating circumstances, if any;
5. The sentence of the court, including conviction date, sentence status and release date;
6. Activities and accomplishments since the crime;
7. The names and dates of any rehabilitative services;
8. The type of service and/or program the applicant wishes to provide for mental health clients;
9. Identification of the type of employment or position the applicant wishes to maintain or obtain and the name of the mental health program in which he or she wishes to work or continue working;

*10. Changes in personal life since the crime (e.g. marriage, family, and education);*

*11. References, i.e., written recommendations from at least three (3) persons who verify the applicant's assertions; and*

*12. Work history, with particular emphasis on work in the mental health field.]*

**1. A letter from the disqualified person containing the following information:**

- A. A description of the disqualifying incident;
- B. When the disqualifying incident occurred;
- C. If the disqualifying incident was a crime, the sentence of the court;
- D. Mitigating circumstances, if any;
- E. Activities and accomplishments since the disqualifying incident;
- F. The names and dates of any relevant training or rehabilitative services;
- G. The type of service and/or program the applicant wishes to provide for mental health clients;
- H. Identification of the type of employment or position the applicant wishes to maintain or obtain and the name of the men-

tal health program in which he or she wishes to work or continue working; and

I. Changes in personal life since the disqualifying incident (e.g., marriage, family, and education);

2. References, i.e., written recommendations from at least three (3) persons who verify the applicant's assertions; and

3. Work history, with particular emphasis on work in the mental health field.

(5) Response. Within forty-five (45) calendar days of receiving a request for an exception, the exceptions committee shall respond in writing.

[(A)] The committee may approve a request, approve the request with conditions, deny the request or defer a decision pending receipt of additional information.

[(B)] *An approved exception regarding criminal backgrounds under 9 CSR 10-5.190 becomes null and void if the subject changes employment or if there are other changes in the circumstances described in the request.*

(7) Documentation. A recipient of an exception shall[—]

[(A)] *Maintain* maintain documentation of all approved exceptions and make the documentation available for review upon request by authorized staff of the department.; and/

[(B)] *Annually send to the exceptions committee documentation which—*

1. *Addresses whether the exception has been implemented, the exception is still necessary and its effect on services;*

2. *Is required under the terms and conditions announced in the letter of approval.*

[(8)] *The Department of Mental Health will review the approved exceptions at least annually to determine whether the exception has been properly implemented and whether its implementation is having the intended impact on services.*

[(9)](8) Expiration Date for an Exception.

(A) An exception becomes null and void without any further action by the department under any of the following circumstances.

1. An expiration date is announced in the letter of approval.

2. The subject for whom the exception was granted changes employment.

3. There are changes in other circumstances described in the request.

(B) If an exception expires under this section, it may be renewed by submission of a new request.

[(10)](9) Rescinding Decisions. The exceptions committee may rescind any exception if, in its judgment, any of the following occur:

(A) The provider failed to meet a condition of the exception, or to maintain documentation required under section (7);

(B) It is discovered that the request contained misleading, incomplete or false information; or

(C) The exception results in poor quality of care, or risk/harm to a client or resident.

[(11)] (10) If the committee rescinds an exception, the committee shall provide all concerned parties with a notice of rescission with an effective date. There shall be no appeal of a rescission of an exception.

*AUTHORITY: sections 630.050, 630.170 and 630.656, RSMo 2000. Original rule filed Feb. 23, 2001, effective Sept. 30, 2001. Amended: Filed Nov. 3, 2003.*

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

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

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

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees Chapter 2—Definitions

### PROPOSED AMENDMENT

**10 CSR 100-2.010 Definitions.** The board is adding new sections (12) and (14) and amending section (15) and renumbering the remaining sections.

*PURPOSE: This amendment adds definitions for three terms used in other proposed rule changes concerning extended reporting periods. It also corrects one existing definition so it better conforms to statutory language.*

**(12) “In use” means the tank contains an accumulation of petroleum which is more than a de minimus amount; that is, the tank is not empty.**

[(12)] (13) “Marine terminal” means a large storage facility which receives product via barge or similar conveyance. It does not mean bulk storage facilities located near lakes or rivers, such as are used by petroleum distributors, and which typically receive product via truck.

**(14) “Out of use” means the tank is empty—that is, it does not contain more than a de minimus amount of petroleum—and is no longer regularly being used to store petroleum.**

[(13)] (15) “Personal injury” means injury, other than bodily injury, arising out of one (1) or more of the following offenses:

(A) False arrest, detention, imprisonment;

(B) Malicious prosecution;

(C) Wrongful entry into or eviction of a person from a room, dwelling, premises or property that the person occupies; or

(D) Invasion of right of private occupancy.

[(14)] (16) “Pipeline terminal” means a large storage facility which receives product via pipeline.

[(15)] (17) “Property damage” means physical injury to or destruction of tangible property, excluding all resulting loss of use of that property. It does not include *[cleanup costs, nor does it include]* loss or damage of an intangible nature. Loss or damage of an intangible nature includes, but is not limited to, loss or interruption of business, pain and suffering, lost income, mental distress, loss of use of any benefit, and punitive damages.

[(16)] (18) “Railroad corporation” means all corporations, companies or individuals now owning or operating, or which may hereafter own or operate, any railroad in this state.

[(17)] (19) "Site" means real property held under one (1) deed, except that in exceptional circumstances involving very large tracts of land, the board may, at its discretion, recognize separate portions of a large tract as separate tank sites.

[(18)] (20) "Tank" means—

(A) An underground storage tank, as defined in section 319.100, RSMo, which is used to store petroleum; or

(B) An aboveground storage tank, as defined in this rule.

*AUTHORITY: section 319.129, RSMo Supp. [1999] 2003. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed March 31, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 3, 2003.*

*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 Executive Director of the Petroleum Storage Tank Insurance Fund, PO Box 836, Jefferson City, MO 65102. Statements may also be sent via facsimile to the Executive Director, PSTIF, (573) 522-2354. 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 100—Petroleum Storage Tank Insurance Fund  
Board of Trustees  
Chapter 3—Transport Load Fee**

**PROPOSED AMENDMENT**

**10 CSR 100-3.010 Assessment of Transport Load Fee.** The board is correcting section (6).

*PURPOSE: This amendment corrects an error in the current rule which should have been changed when the rule was amended in 2002.*

(6) The board shall assess the financial soundness of the Petroleum Storage Tank Insurance Fund at least once each year, and shall determine whether it is in the best interests of fund participants and beneficiaries to increase, decrease, or maintain the surcharge, *except that the amount of the surcharge shall never exceed twenty-five dollars (\$25) per average transport load*.

*AUTHORITY: sections 319.129 and 319.132, RSMo Supp. [2001] 2003. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed Nov. 15, 2001, effective May 30, 2002. Amended: Filed Nov. 3, 2003.*

*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 Executive Director of the Petroleum Storage Tank Insurance Fund, PO Box 836, Jefferson City, MO 65102. Statements may also be sent*

*via facsimile to the Executive Director, PSTIF, (573) 522-2354. 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 100—Petroleum Storage Tank Insurance Fund  
Board of Trustees  
Chapter 4—Participation Requirements**

**PROPOSED AMENDMENT**

**10 CSR 100-4.010 Participation Requirements for Underground Storage Tanks.** The board is amending section (2) to clarify the intent, adding a new subsection (5)(F) and amending section (6).

*PURPOSE: This amendment allows insured UST owners to continue their liability protection after they sell their underground tanks or when they take them out of use and no longer need pollution liability protection for a leak. It creates the opportunity to purchase an "extended reporting period" and eliminates the past practice of transferring insurance policies from owner to owner.*

(2) The following procedures shall be utilized to apply for insurance coverage for underground storage tanks **that are in use**:

(5) In order to continue their participation in the fund, participants are required to renew their participation annually.

(F) **If at the end of a policy period, all of the previously-insured underground storage tanks have been emptied and taken out of use, the owner/operator of the tank(s) shall no longer be insured for costs resulting from sudden or non-sudden releases, since there cannot be a release from an empty tank. Instead, the owner or operator may apply for an extended reporting period. The extended reporting period allows named persons to give notice of claim for a release which occurred while the previously-insured tank(s) was/were in use, but which is not yet known.**

**1. Participation fees shall be as follows:**

**A. The same as was paid on such tanks while they were in use; or**

**B. Twenty-five dollars (\$25) less per tank per year, if the named insured does not wish to continue to receive benefits for third party bodily injury and third party property damage as a result of a claim first made during the extended reporting period.**

**2. Terms and conditions of coverage shall be contained in documents issued by the board to the fund participant.**

**3. The extended reporting period shall consist of one (1)-year increments. It shall not last for more than five (5) years after it first commences, and in no case beyond the sunset date of the fund established by the Missouri General Assembly.**

**4. The board reserves the right to grant extended reporting periods at its sole discretion.**

(6) The following procedures shall be followed when there is a change of ownership, change of operator, or change of landowner:

(A) If, during the period of coverage as specified by the board, the owner of a UST changes, *[the fund participant or new owner shall notify the board in writing of such within thirty (30) days]* coverage shall cease and the former owner shall be given opportunity to purchase an extended reporting period, as described in (5)(F) above.

*[1. The fund will transfer coverage to the new owner, and will preserve the retroactive date of coverage for the site, if the new owner desires such and the previous owner consents to the transfer.*

A. In order to effect such a transfer, the new owner shall provide to the board written confirmation that such a transfer is desired, and that the previous owner agrees to such a transfer, along with the effective date of such transfer. The board may specify a particular form on which this confirmation must be provided.

B. The new owner must provide evidence of ability to pay the first ten thousand dollars (\$10,000), as specified in subsection (2)(E) of this rule, which might be incurred if and when the owner makes a claim for benefits from the fund.

C. No additional participation fees shall be required to effect such a transfer;]

*AUTHORITY:* sections 319.129, 319.131 and 319.133, RSMo Supp. [2001] 2003. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed Nov. 15, 2001, effective May 30, 2002. Amended: Filed Nov. 3, 2003.

*PUBLIC COST:* It is estimated this proposed amendment will cost the Petroleum Storage Tank Insurance Fund six hundred sixty-two thousand one hundred seventy-five dollars (\$662,175) in the aggregate.

*PRIVATE COST:* Since any cost incurred by a private entity as a result of this amendment is strictly voluntary, this proposed amendment will not impose any cost on private entities. However, based on an estimate of the number of private entities which may choose to avail themselves of the opportunity to purchase the additional liability protection afforded by this proposed amendment, it is estimated that the cost to private entities will be approximately five hundred sixty-seven thousand six hundred seventy-five dollars (\$567,675) in the aggregate. The savings to private entities in environmental cleanup costs which the private entity would otherwise incur has not been estimated.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Executive Director of the Petroleum Storage Tank Insurance Fund, PO Box 836, Jefferson City, MO 65102. Statements may also be sent via facsimile to the Executive Director, PSTIF, (573) 522-2354. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.



**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: Department of Natural Resources

Division: Petroleum Storage Tank Insurance Fund Board of Trustees

Chapter: Participation Requirements – Underground Storage Tanks

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 100-4.010 Participation Requirements – Underground Storage Tanks

**II. SUMMARY OF FISCAL IMPACT:**

Affected Agency or Political Subdivision	Estimated Cost of Compliance (FY04)	Estimated Cost of Compliance (Annual Aggregate – FY04-FY11)
Petroleum Storage Tank Insurance Fund	\$24,525	\$662,175

**III. WORKSHEET**

The Petroleum Storage Tank Insurance Fund (PSTIF) will receive additional revenues as a result of this rule amendment, and may also incur additional liabilities. The only additional revenues or liabilities will result from instances where a UST owner sells his facility and purchases an extended reporting period, rather than transferring coverage to the subsequent owner.

While it is impossible to predict with certainty how many insured UST owners will take advantage of this opportunity, and how many additional claims may be made as a result, some reasonable projections can be made.

It is assumed that, annually, insured UST owners will sell their UST facilities and avail themselves of the opportunity to purchase an extended reporting period for approximately 240 tank sites, and that for 200 of those the owner will purchase it at the higher price so they continue coverage for third party claims. It is also assumed that this will result in 1 additional claim being filed each year, at an average cost per claim of \$75,000, paid out over the life of the program. (Currently in most of these cases, the subsequent owner purchases insurance from PSTIF, so PSTIF already has a liability for any release subsequently discovered. The only increase in liability for PSTIF would be in a case where the first owner purchases an extended reporting period, the subsequent owner does

not purchase PSTIF insurance, and the first owner is held liable for a release discovered after he sells the facility.)

It is assumed that loss adjusting expenses for each claim will be 10%, or \$7500.

It is also assumed the administrative cost of issuing endorsements for the Extended Reporting Period, and collecting the premiums, will be \$65 per site.

Annual Revenues:

$(200 \text{ sites} \times 2.9 \text{ tanks per site} \times \$125) + (40 \text{ sites} \times 2.9 \text{ tanks per site} \times \$100) = \$84,100$

Annual Expenses:

Administrative costs:	240 x \$65 = \$15,600
Additional claims costs:	1 x \$75,000 = \$75,000
Additional loss adjusting expenses:	1 x \$7500 = \$7,500
Total:	\$98,100

#### IV. ASSUMPTIONS

1. This amendment becomes effective May 30, 2004.
2. No extended reporting period can be purchased or can extend beyond December 31, 2010, the sunset date currently established by law.
3. Fiscal Year 2004 dollars are used to estimate the costs and no adjustments are made for inflation.
4. Future changes in cleanup requirements imposed by the Department of Natural Resources may affect projected costs of cleanup, but for the purposes of this estimate, a constant regulatory context is assumed.

FISCAL NOTE  
PRIVATE ENTITY COST

**I. RULE NUMBER**

Title: Department of Natural Resources

Division: Petroleum Storage Tank Insurance Fund Board of Trustees

Chapter: Participation Requirements – Underground Storage Tanks

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 100-4.010 Participation Requirements – Underground Storage Tanks

**II. SUMMARY OF FISCAL IMPACT:**

Underground tank owners will only incur costs if they voluntarily choose to purchase an extended reporting period when they sell a facility. When they do so, they may also receive a cost savings as a result of the additional liability protection; the savings has not been estimated.

Classification of entity	Number in Class	Cost of Compliance (FY04)	Aggregate (FY04 – FY11)
Insured underground tank owners who purchase extended reporting period	240	\$21,025	\$567,675

**III. WORKSHEET**

While it is impossible to predict with certainty how many insured UST owners will take advantage of this opportunity, and thus how much cost will be incurred for the additional liability protection, some reasonable projections can be made. It is estimated that 120 insured owners of underground tanks will choose to purchase an extended reporting period, and that each owner owns, on average, two UST sites having 2.9 tanks apiece. For the purposes of this fiscal note, it is assumed all of these owners are private entities.

It is assumed that these owners will purchase the higher cost coverage for 200 facilities, and the lower cost coverage for 40 facilities:

$$(200 \text{ sites} \times 2.9 \text{ tanks per site} \times \$125) + (40 \text{ sites} \times 2.9 \text{ tanks per site} \times \$100) = \$84,100$$

**IV. ASSUMPTIONS**

1. This amendment becomes effective May 30, 2004.
2. No extended reporting period can be purchased or can extend beyond December 31, 2010, the sunset date currently established by law.
3. Fiscal Year 2004 dollars are used to estimate the costs and no adjustments are made for inflation.
4. Future changes in cleanup requirements imposed by the Department of Natural Resources may affect projected costs of cleanup, but for the purposes of this estimate, a constant regulatory context is assumed.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 100—Petroleum Storage Tank Insurance Fund  
Board of Trustees  
Chapter 4—Participation Requirements**

**PROPOSED AMENDMENT**

**10 CSR 100-4.020 Participation Requirements for Aboveground Storage Tanks.** The board is amending subsection (6)(A).

*PURPOSE: This amendment corrects the current rule and deletes obsolete language in subsection (A) of section (6) to reflect changes in operating procedures implemented in 2002.*

(6) The following procedures shall be followed when there is a change of ownership, change of operation, or change of landowner:

(A) If, during the period of coverage as specified by the board, the owner of an aboveground storage tank changes, *[the fund participant or new owner shall notify the board in writing of such within thirty (30) days.] coverage shall cease and the former owner shall be given opportunity to purchase an extended reporting period, as described in subsection (5)(E) above;*

*[1. The fund will transfer coverage to the new owner, and will preserve the retroactive date of coverage for the site, if the new owner desires such and the previous owner consents to the transfer.*

*A. In order to effect such a transfer, the new owner shall provide to the board written confirmation that such a transfer is desired, and that the previous owner agrees to such a transfer, along with the effective date of such transfer. The board may specify a particular form on which this confirmation must be provided.*

*B. The new owner must provide evidence of ability to pay the first ten thousand dollars (\$10,000), as specified in subsection (2)(E) of this rule, which might be incurred if and when the owner makes a claim for benefits from the fund.*

*C. No additional participation fees shall be required to effect such a transfer;]*

*AUTHORITY: sections 319.129, 319.131 and 319.133, RSMo Supp. [2001] 2003. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed Nov. 15, 2001, effective May 30, 2002. Amended: Filed Nov. 3, 2003.*

*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 Executive Director of the Petroleum Storage Tank Insurance Fund, PO Box 836, Jefferson City, MO 65102. Statements may also be sent via facsimile to the Executive Director, PSTIF, (573) 522-2354. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—Division of Medical Services  
Chapter 20—Pharmacy Program**

**PROPOSED AMENDMENT**

**13 CSR 70-20.320 Pharmacy Reimbursement Allowance.** The division is amending paragraph (1)(A)4.

*PURPOSE: This amendment clarifies the Pharmacy Federal Reimbursement Allowance and the methodologies to determine the formula for the amount of allowance each pharmacy is required to pay for the privilege of providing outpatient prescription drugs.*

(1) Pharmacy Reimbursement Allowance (PRA). PRA shall be assessed as described in this section.

(A) Definitions.

1. Department—Department of Social Services.

2. Director—Director of Department of Social Services.

3. Division—Division of Medical Services.

4. Monthly gross retail prescription receipts—For ease of administration for the department as well as the industry, this shall be an annual amount. The basis of tax *[for]* in any fiscal year *[2003]* will be the gross prescription sales *[for]* of the last calendar year *[2001]* prior to the previous fiscal year.

*AUTHORITY: sections 208.201, RSMo 2000 and 338.505, RSMo Supp. 2003. Emergency rule filed June 20, 2002, effective July 1, 2002, expired Feb. 27, 2003. Original rule filed July 15, 2002, effective Feb. 28, 2003. Amended: Filed Feb. 3, 2003, effective Aug. 30, 2003. Amended: Filed Nov. 3, 2003.*

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

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

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

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 25—Division of Administration  
Chapter 33—Laboratories for Serologic Tests for Human  
Immunodeficiency Virus Antibodies**

**PROPOSED AMENDMENT**

**19 CSR 25-33.010 Approval of Laboratories for the Performance of Serologic Tests for Human Immunodeficiency Virus Antibodies [in Blood].** The department is amending sections (1)–(3).

*PURPOSE: This amendment deletes references to specific laboratory procedures and specific body fluid test specimens and allows for laboratory testing for HIV antibody by any method approved by the federal Food & Drug Administration (FDA). It also deletes language referring to periodic renewals of certificates as compliance will be monitored by Department of Health and Senior Services, Bureau of Health Facility Regulation, Clinical Laboratory Improvement Amendments (CLIA) program.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at*

the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The director of a laboratory seeking Department of Health *[(DOH)]* and Senior Services (DHSS) approval to perform serologic tests for detection of the Human Immunodeficiency Virus (HIV) antibodies shall make written application on form Lab 125, which is incorporated by reference to the director, State Public Health Laboratory, *[DOH] DHSS*.

(B) In addition to applying for approval, the laboratory shall be in compliance with the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88). A copy of the currently valid CLIA certificate shall be initially submitted to the director, State Public Health Laboratory, *[DOH] DHSS* to obtain *[DOH] DHSS* approval. *[When CLIA certificates are renewed, a copy must be submitted to the director, State Public Health Laboratory, DOH for renewal of DOH approval certificate.]*

*[(C) Serologic tests to be used for detection of antibody to the HIV virus are—Enzyme Immunoassay (EIA), Immunoblot (Western Blot) and Indirect Immunofluorescence (IFA).]*

*[(D)] (C)* All laboratory testing shall be conducted at the address given when application for the approval is made. Written notice of change of address shall be given to *[DOH] DHSS* prior to actually moving the testing facilities.

(2) *[DOH] DHSS* shall issue a certificate of approval to a laboratory meeting the requirements of this rule. The certificate is effective until revoked *[and will be renewed upon receipt of a copy of updated CLIA certification and applies only to the laboratory to which it is issued]*.

(3) A certificate of approval may be revoked when a participating laboratory discontinues its testing services or fails to meet the requirements of CLIA 88 which relate to serologic testing for antibodies to HIV. **Compliance will be monitored by Department of Health and Senior Services, Bureau of Health Facility Regulation, CLIA program.**

*AUTHORITY: sections 191.653, [RSMo Supp. 1988 and 192.005.2 RSMo 1986] and 192.006, RSMo 2000. This rule was previously filed as 19 CSR 20-33.010. Original rule filed Jan. 19, 1989, effective April 13, 1989. Rescinded and readopted: Filed Jan. 15, 1993, effective July 8, 1993. Changed to 19 CSR 25-33.010 Jan. 1, 1995. Amended: Filed Nov. 3, 2003.*

*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 Larry Evert, Director, State Public Health Laboratory, PO Box 570, 307 W. McCarty, Jefferson City, MO 65102, Phone (573) 751-4437. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 25—Division of Administration  
Chapter 34—Laboratories for Serologic Tests for Syphilis**

**PROPOSED RESCISSION**

**19 CSR 25-34.010 Approval of Laboratories for the Performance of Serologic Tests for Syphilis on Prenatal Blood.** State law required that laboratories which perform serologic tests for syphilis for prenatal purposes must be approved by the Department of Health. This rule established the procedures and set forth the requirements for laboratory approval.

*PURPOSE: This rule is being rescinded and a corresponding proposed rule filed to delete the requirement that test procedures for syphilis must be from the manual of tests for syphilis and allows for serologic testing by any method approved by the federal Food & Drug Administration (FDA) through compliance with CLIA 88 regulations.*

*AUTHORITY: sections 192.005.2 and 210.030, RSMo 1986. This rule was previously filed as 13 CSR 50-142.010 and 19 CSR 20-34.010. Original rule filed Dec. 2, 1954, effective Jan. 1, 1955. Rescinded and readopted: Filed Dec. 7, 1981, effective April 11, 1982. Rescinded and readopted: Filed Jan. 15, 1993, effective July 8, 1993. Changed to 19 CSR 25-34.010 Jan. 1, 1995. Rescinded: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Larry Evert, Director, State Public Health Laboratory, PO Box 570, 307 W. McCarty, Jefferson City, MO 65102, Phone (573) 751-4437. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 25—Division of Administration  
Chapter 34—Laboratories for Serologic Tests for Syphilis**  
**PROPOSED RULE**

**19 CSR 25-34.010 Approval of Laboratories for the Performance of Serologic Tests for Syphilis on Prenatal Blood**

*PURPOSE: This rule deletes the requirement that test procedures for syphilis must be from the manual of tests for syphilis and allows for serologic testing by any method approved by the federal Food & Drug Administration (FDA) through compliance with CLIA 88 regulations.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) The director of a laboratory seeking Department of Health and Senior Services (DHSS) approval to perform serologic tests for syphilis on prenatal blood specimens shall make written application on form Lab 126, which is incorporated by reference to the director, State Public Health Laboratory, DHSS.

(A) In addition to applying for approval, the laboratory shall be in compliance with the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88). A copy of the currently valid CLIA certificate shall be initially submitted to the director, State Public Health Laboratory, DHSS to obtain DHSS approval.

(B) All laboratory testing shall be conducted at the address given when application for the approval is made. Written notice of change of address shall be given to the DHSS prior to actually moving the testing facilities.

(2) DHSS shall issue a Certificate of Approval to a laboratory meeting the requirements of this rule. The certificate is effective until revoked.

(3) The Certificate of Approval may be revoked when a participating laboratory discontinues its testing services or fails to meet the requirements of CLIA 88 which relate to syphilis serology. Compliance with CLIA 88 will be monitored by DHSS Bureau of Health Facility Regulation, CLIA program.

*AUTHORITY: sections 192.006 and 210.030, RSMo 2000. This rule was previously filed as 13 CSR 50-142.010 and 19 CSR 20-34.010. Original rule filed Dec. 2, 1954, effective Jan. 1, 1955. Rescinded and readopted: Filed Dec. 7, 1981, effective April 11, 1982. Rescinded and readopted: Filed Jan. 15, 1993, effective July 8, 1993. Changed to 19 CSR 25-34.010 Jan. 1, 1995. Rescinded and readopted: Filed Nov. 3, 2003.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Larry Evert, Director, State Public Health Laboratory, PO Box 570, 307 W. McCarty, Jefferson City, MO 65102, Phone (573) 751-4437. 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.*