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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

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

PROPOSED AMENDMENT

9 CSR 10-5.200 Report of Complaints of Abuse, Neglect and Misuse of Funds/Property

PURPOSE: This rule amendment includes changes to the definitions of abuse and neglect as recommended to the Department of Mental Health in order to address incidents that do not impact consumer safety as administrative employee performance issues instead. The rulemaking prescribes and updates procedures for reporting and investigating complaints of abuse, neglect, and misuse of funds/property in an organization that is licensed, certified, accredited, in possession of deemed status, and/or funded by the Department of Mental Health (department) as required by sections 630.135, 630.167, 630.168, 630.655, and 630.710, RSMo.

PURPOSE: This rule prescribes procedures for reporting and investigating complaints of abuse, neglect, and misuse of funds/property in [a residential facility, day program or specialized service that is licensed, certified] ***an agency that is licensed, certified, accredited, in possession of deemed status, and****/or funded by the Department of Mental Health (department) as required by sections 630.135, 630.167, 630.168, 630.655, and 630.710, RSMo. The rule also sets forth due process procedures for persons who have been accused of abuse, neglect, and misuse of funds/property.*

(1) The following words and terms, as used in this rule, mean:

[(A) Class I neglect, failure of an employee to provide reasonable or necessary services to maintain the physical and mental health of any consumer when that failure presents either imminent danger to the health, safety or welfare of a consumer, or a substantial probability that death or physical injury would result;

(B) Class II neglect, failure of an employee to provide reasonable or necessary services to a consumer according to the individualized treatment or habilitation plan, if feasible, or according to acceptable standards of care. This includes action or behavior which may cause psychological harm to a consumer due to intimidating, causing fear or otherwise creating undue anxiety;]

(A) Agency: An organization that is licensed, certified, accredited, in possession of deemed status, and/or funded by the Department of Mental Health;

*[(C)]***(B)** Consumer*[,]***: An** individual (client, resident, patient) receiving **department-funded** services directly from *[any program or facility contracted, licensed, certified or funded by the department]* **an agency**;

[(D) Medications.

1. "Medication Error," a mistake in prescribing, dispensing, or administering medications. A medication error occurs if a consumer receives an incorrect drug, drug dose, dosage form, quantity, route, concentration, or rate of administration. This includes failing to administer the drug or administering the drug on an incorrect schedule. Levels of medication errors are:

A. "Minimal," medication error is one in which the consumer experiences no or minimal adverse consequences and receives no treatment or intervention other than monitoring or observation;

B. "Moderate," medication error is one in which the consumer experiences short-term reversible adverse consequences and receives treatment and or intervention in addition to monitoring or observation; and

C. "Serious," medication error is one in which the consumer experiences life-threatening and/or permanent adverse consequences or results in hospitalization.

2. "Serious" medication errors may be considered abuse or neglect and shall be subject to investigation by the Department of Mental Health.]

(C) Department: Department of Mental Health;

(D) Employee: A person employed by or contracted by an agency or a person serving as a volunteer or student for the agency;

(E) Misuse of funds/property*[,]***:** *[t]***T**he misappropriation or conversion for any purpose of a consumer's funds or property by an employee or employees with or without the consent of the consumer **or the purchase of property or services from a consumer in which the purchase price substantially varies from the market value**;

(F) Neglect: Failure of an employee to provide reasonable or necessary services to maintain the physical and mental health of any consumer when that failure presents either imminent danger to the health, safety, or welfare of a consumer or a substantial probability that death or serious physical injury would result. This would include, but is not limited to, failure to provide adequate supervision during an event in which one consumer causes serious injury to another consumer;

*[(F)]***(G)** Physical abuse*[—]***:**

1. An employee purposefully beating, striking, wounding**,** or injuring any consumer; *[or]*

2. In any manner whatsoever, an employee mistreating or maltreating a consumer in a brutal or inhumane manner*[. Physical abuse includes handling a consumer with any more force than is reasonable for a consumer's proper control, treatment or management]*; **or**

3. An employee handling a consumer with any more force than is reasonable for a consumer's proper control, treatment, or management;

*[(G)]***(H)** Sexual abuse*[,]***:** *[a]***A**ny touching, directly or through clothing, of a consumer by an employee for sexual purpose or in a sexual manner. This includes**,** but is not limited to:

1. Kissing;

2. Touching of the genitals, buttocks**,** or breasts;

3. Causing a consumer to touch the employee for sexual purposes;

4. Promoting or observing for sexual purpose any activity or performance involving consumers including any play, motion picture, photography, dance, or other visual or written representation;

5. Failing to intervene or attempting to stop inappropriate sexual activity or performance between consumers; and/or

6. Encouraging inappropriate sexual activity or performance between consumers; and

*[(H)]***(I)** Verbal abuse*[,]***:** *[a]***A**n employee *[using profanity or speaking in a demeaning, nontherapeutic, undignified, threatening or derogatory manner]* **making a threat of physical violence to a consumer, when such threats are made directly** to a consumer or about a consumer in the presence of a consumer.

(2) This *[section]* **rule** applies to any director, supervisor**,** or employee of any *[residential facility, day program or specialized service, that is licensed, certified or funded by the Department of Mental Health]* **agency**. Facilities, programs**,** and services that are operated by the department are regulated by the department's operating regulations and are not included in this *[definition]* **rule**.

(A) Any such person shall immediately file a written complaint if that person has reasonable cause to believe that a consumer has been subjected to any of the following *[misconducts]* while under the care of *[a residential facility, day program or specialized service]* **an agency**:

1. Physical abuse;

2. Sexual abuse;

3. Misuse of funds/property;

[4. Class I neglect;]

*[5.]***4.** *[Class II n]***N**eglect; **or**

*[6.]***5.** Verbal abuse*[; or]***.**

[7. Serious medication error.]

(B) A complaint under subsection **(2)**(A) above shall be made to the head of the *[facility, day program or specialized service,]* **agency** and to the department's regional *[center]* **office**, supported community living placement office**,** or district administrator office. If the allegation results in an investigation, the head of the *[facility]* **agency** shall make reasonable arrangements with respect to the alleged perpetrator to assure the safety of all of the *[facility's]* **agency's** consumers. Such arrangements may include**,** but are not limited to**,** leave with or without pay*[,]* or transfer to a position where there is no client contact.

(C) The head of the *[facility, day program or specialized service]* **agency** shall forward the complaint to—

1. The Children's Division if the alleged victim is under the age of eighteen (18); or

2. The Division of Senior Services and Regulation if the alleged victim is a resident or client of a facility licensed by the Division of Senior Services and Regulation or receiving services from an entity under contract with the Division of Senior Services and Regulation.

(3) The head of the *[facility, day program or specialized service that is licensed, certified or funded by the department]* **agency** shall immediately report to the local law enforcement official *[any alleged or suspected]* **if there is a reasonable suspicion that any of the following abuse or neglect has occurred**—

(A) Sexual abuse; or

(B) Abuse or neglect *[which]* **that** results in physical injury; or

(C) Abuse, neglect**,** or misuse of funds/property *[which may result in a criminal charge]* **if the head of the agency has cause to believe that criminal misconduct is involved**.

(4) If a complaint has been made under this rule, the head of the *[facility or program and all employees of the facility, program or service]* **agency** shall fully cooperate with law enforcement authorities and with department employees or employees from other agencies authorized to investigate the complaint. Failure to cooperate may result in contract termination or dismissal of the employee.

(6) Within *[ten (10) working]* **twenty (20) calendar** days of receiving the final report from the investigator, if there is a preliminary determination of abuse, neglect**,** or misuse of funds/property, the head of the supervising facility or department designee shall send to the alleged perpetrator a *[summary of]* **letter summarizing** the allegations and findings *[which]* **that** are the basis for the alleged abuse/neglect/misuse of funds or property; the *[provider]* **agency** will be copied. The *[summary]* **letter** shall comply with the constraints regarding confidentiality contained in section 630.167, RSMo**,** and shall be sent by regular and certified mail.

(A) The alleged perpetrator may meet with the head of the supervising facility or department designee, submit comments**,** or present evidence; the *[provider]* **agency** may be present and present comments or evidence in support of the alleged perpetrator. If the alleged perpetrator wishes to have this meeting, s/he must notify the head of the supervising facility or department designee within *[ten (10) working days of receiving the summary]* **twenty (20) calendar days from the date of the letter**.

(B) This meeting shall take place within *[ten (10) working days of notification]* **twenty (20) calendar days from the date of the letter**, unless the parties mutually agree upon an extension.

(C) Within *[ten (10) working]* **twenty (20) calendar** days of the meeting, or if no request for a meeting is received within *[ten (10) working days of the alleged perpetrator's receipt of the summary]* **twenty (20) calendar days from the date of the letter**, the head of the supervising facility or department designee shall make a final determination as to whether abuse/neglect/misuse of funds or property took place. The perpetrator shall be notified of this decision by regular and certified mail; the *[provider]* **agency** will be copied. If the charges do not meet the criteria in section*[s (11) and (12)]* **(10)**, the decision of the head of the supervising facility or department designee shall be the final decision of the department.

(D) If the charges meet the criteria in section*[s (11) and (12)]***(10)**, the letter shall advise the perpetrator that they have *[ten (10) working days following receipt of the letter]* **twenty (20) calendar days from the date of the letter** to contact the department's hearings administrator if they wish to appeal a finding of abuse, neglect**,** or misuse of funds/property.

(7) If an appeal is requested, the hearings administrator shall schedule the hearing to take place within *[thirty (30) working]* **ninety (90) calendar** days of the request, but may delay the hearing for good cause shown. *[At the hearing, the head of the supervising facility or designee, or other department designee shall present evidence supporting its findings of abuse, neglect, misuse of funds/property, or all. The provider or perpetrator may submit comments or present evidence to show why the decision of the head of the supervising facility or department designee should be modified or overruled. The hearings administrator may obtain additional information from department employees as s/he deems necessary.]* **Hearings shall be conducted in accordance with the procedures set forth in 9 CSR 10-5.230.**

(8) The decision of the hearings administrator shall be the final decision of the department. The hearings administrator shall notify the perpetrator, **by certified mail,** and the head of the supervising facility or department designee *[by certified mail]* of the decision within *[fourteen (14) working]* **twenty (20) calendar** days of the appeal hearing; the *[provider]* **agency** will be copied.

[(9) The opportunities described in sections (6), (7) and (8) of this rule regarding a meeting with the head of the supervising facility and an appeal before the department's hearings administrator apply also to providers and alleged perpetrators in an investigation of misuse of funds/property.]

*[(10)]***(9)** For those charges in section*[s (11) and (12)]* **(10)**, an alleged perpetrator does not forfeit his/her right to an appeal with the department's hearings administrator when s/he declines to meet with the head of the supervising facility under subsections (6)(A) and **(6)**(B) of this rule.

*[(11)]***(10)** If the department substantiates that a person has perpetrated physical abuse, sexual abuse, **verbal abuse,** *[class I]* neglect, or misuse of funds/property, the perpetrator shall not be employed by the department, nor be licensed, employed**,** or provide services by contract or agreement at *[a residential facility, day program or specialized service that is licensed, certified or funded by the department]* **an agency**. The perpetrator's name shall be placed on the department Disqualification Registry pursuant to section 630.170, RSMo. Persons who have been disqualified from employment may request an exception by using the procedures described in 9 CSR 10-5.210 Exception Committee Procedures.

[(12) If the department substantiates that a person has perpetrated two (2) counts of verbal abuse, or two (2) counts of class II neglect, or one (1) count of verbal abuse and one (1) count of class II neglect, within a twelve (12)-month period, the perpetrator shall not be employed by the department, nor be licensed, employed or provide services by contract or agreement at a residential facility, day program or specialized service that is licensed, certified or funded by the department. The perpetrator's name shall be placed on the department Disqualification Registry pursuant to section 630.170, RSMo.]

*[(13)]***(11)** In accordance with 9 CSR 10-5.190, no person convicted of specified crimes may serve in facilities or programs licensed, certified**,** or funded by the department.

*[(14)]***(12)** No director, supervisor**,** or employee of *[a residential facility, day program or specialized service]* **an agency** shall evict, harass, dismiss**,** or retaliate against a consumer or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of consumer abuse, neglect**,** or misuse of funds/property. Penalties for retaliation may be imposed up to and including cancellation of agency contracts and/or dismissal of such person.

(13) If an event deadline falls on a Saturday, Sunday, or legal holiday, the last day of the period so computed shall extend to the next calendar day that is not a Saturday, Sunday, or legal holiday.

*AUTHORITY: sections 630.135, 630.168, 630.655, and 630.705, RSMo 2000 and **sections** 630.050, 630.165, 630.167, and 630.170, [RSMo Supp. 2004] **SB 1081, Second Regular Session, Ninety-fourth General Assembly, 2008**. Original rule filed Oct. 29, 1998, effective May 30, 1999. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 1, 2008.*

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 opposition to this proposed amendment by writing to Rikki Wright, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication 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 RULE

9 CSR 10-5.230 Hearings Procedures

PURPOSE: This rule sets out procedures for requesting and conducting hearings before the Department of Mental Health Hearings Administrator as provided for in 9 CSR 10-5.200.

(1) Requests for hearings shall be submitted in the following manner:

(A) All requests for hearings shall be made in writing by the appellant or his/her attorney to the hearings administrator within twenty (20) calendar days from the date of the final determination letter as set out in 9 CSR 10-5.200(6)(D). The request may be hand delivered or sent by mail or facsimile.

1. A request for hearing filed by hand delivery or mail is considered received on the date received by the office of the hearings administrator. Requests shall be sent to: Office of Hearings Administrator, Department of Mental Health, 1706 East Elm, PO Box 687, Jefferson City, MO 65102.

2. A request for hearing filed by facsimile is considered received at the time the office of the hearings administrator receives the request, provided that the original of the document is sent to the office of the hearings administrator and received within ten (10) calendar days of the fax. If a request arrives by fax after 5:00 p.m., Central Standard Time, and before 12:00 a.m., Central Standard Time, or on a Saturday, Sunday, or legal holiday, it is considered filed on the next working day. Requests filed by facsimile shall be sent to the office of hearings administrator's designated line at (573) 751-8069.

A. The time controlling when a facsimile arrives at the office of the hearings administrator is the office of the hearings administrator's facsimile machine journal.

B. The person filing by facsimile bears the risk of loss in transmission, non-receipt, or illegibility. If the request for hearing is

not received or is materially illegible, the request is not considered filed and is totally null and void for all purposes.

C. A party filing a request for hearing by facsimile shall notify the office of the hearings administrator in advance, if possible, of its intention to file the request by fax; and

(B) The request for a hearing shall set out the appellant's name, current address, and telephone number and that of his or her attorney, if applicable; the decision being appealed, the date of the decision, and the name of the person making the decision and a brief statement of the appellant's reason for appealing the decision.

(2) Appellants may represent themselves and handle their own cases, but shall have the right to be represented by a Missouri licensed attorney. A party to an appeal cannot be represented by anyone other than a duly licensed attorney. If either party is represented by an attorney, the attorney shall promptly notify the office of hearings administrator and enter his/her appearance.

(3) When a hearing has been requested, the hearings administrator shall schedule the hearing within ninety (90) calendar days of receiving the request for hearing, but may delay the hearing for good cause shown.

(4) The hearings administrator may schedule a pre-hearing conference with the parties. The hearings administrator may meet (in person, via telephone or video conference) with the parties and their representatives at a pre-hearing conference to determine the facts at issue. At the pre-hearing conference, the parties may stipulate to mutually agreed matters or the appeal may be resolved by agreement of the parties. All parties are required to provide the hearings administrator with a current address and telephone number. If the appellant fails to provide the hearings administrator with a current address or phone number and cannot be reached to schedule a pre-hearing conference or fails to participate in a pre-hearing conference after receiving written notice of the date and time of the conference, it shall be deemed that the appellant no longer wishes to proceed with the appeal and is withdrawing the appeal.

(5) The hearings administrator shall send written notice of hearing and prehearing dates to the parties and representatives no less than ten (10) calendar days before the scheduled date for such hearing, unless there is good cause to shorten the period to provide notice.

(6) The hearings administrator may grant continuances for good cause. A continuance must be requested no later than seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, prior to the scheduled date and time of the hearing or prehearing. Absent exigent circumstances, requests for continuances received less than seventy-two (72) hours prior to the hearing or prehearing shall not be considered.

(7) Requests for subpoena shall be governed by the following requirements:

(A) A request for a subpoena for attendance at depositions or hearings shall be made in writing and specify the name of the persons, the address(es) where the person can be served with the subpoena, the deposition or hearing location, and the time the person is expected to appear at the deposition or hearing location;

(B) A request for a subpoena *duces tecum* shall be made in writing and specify the name of the person, the address(es) where the person can be served with the subpoena, the documents the person is to provide, a statement of what is intended to be proved by the documents, where he or she should bring the documents, and a date when the documents are to be provided;

(C) All subpoena requests shall be sent by regular mail or fax to the hearings administrator and opposing party at least five (5) working days before the hearing or deposition, unless there is good cause to shorten the period to request the subpoena;

(D) Any motions to quash a subpoena must be sent to the hearings administrator within three (3) working days of receiving the subpoena request;

(E) If no objection is sustained to a subpoena request, the hearings administrator shall prepare the subpoena and send the subpoena to the party who requested it. It is the responsibility of the person who requested the subpoena to have it served. Service of the subpoena is to be effected in accordance with section 537.077, RSMo; and

(F) If a subpoena for a witness was not requested in accordance with this rule, good cause will not be found to continue the hearing for that witness's failure to appear.

(8) The appellant or his/her attorney may request copies of any documents referred to in the decision letter from the attorney representing the department. If the documents involve protected health information, the attorney shall request a protective order from the hearings administrator. The protective order shall provide that no documents containing protected health information shall be released to anyone except the appellant or his/her attorney, and the appellant or his/her attorney shall return any documents provided to him or her before the end of the hearing.

(9) All parties who are represented by an attorney shall submit a proposed order with every motion or request that is filed or presented to the hearings administrator.

(10) The hearing shall be conducted according to the following procedures:

(A) The hearing shall be conducted at the facility where the decision was made, unless the hearings administrator finds good cause to hold the hearing in another place;

(B) If the appellant or his/her attorney does not appear at the hearing and does not call the facility or the hearings administrator to provide notification of an exigent circumstance requiring a continuance within thirty (30) minutes of the time set out in the notice, it shall be deemed that the appellant no longer wishes to proceed with the appeal and is withdrawing the appeal;

(C) At the beginning of the hearing, the hearings administrator shall state the reason for the hearing and outline the hearing procedure;

(D) Both parties shall be given the opportunity to present opening statements. The department shall present its witnesses and exhibits first, then the appellant shall present his or her witnesses and exhibits. The department shall have the burden of proof by a preponderance of the evidence. Both parties shall be given the opportunity to present closing statements;

(E) All witnesses shall be sworn or affirmed. All witnesses are subject to cross-examine;

(F) The hearings administrator, at the request of either party or on his/her own motion, may order the witnesses to be separated so as to preclude any witness, other than the parties, from hearing the testimony of other witnesses. When requested by the appellant, only one (1) person in addition to counsel may remain in the room to represent the department;

(G) A witness may testify by telephone or videoconference upon request from either party. The appellant or his/her attorney if represented or the attorney representing the department should submit a written request, with a copy to the other party, for the approval of the hearings administrator for a witness to testify by telephone or videoconference at least five (5) working days before the hearing, unless there is good cause to shorten the period. Objections to a witness testifying by telephone or videoconference should be submitted to the hearings administrator at least two (2) working days prior to the hearing, unless there is good cause to shorten the period;

(H) The formal rules of evidence shall not apply at these hearings. Parties may introduce any relevant evidence at the discretion of the hearings administrator;

(I) In all cases of allegations of abuse, neglect, or misuse of funds/property, the attorney representing the department shall offer the investigative report into evidence at the administrative hearing. In accordance with section 630.167.3(1), RSMo, the investigative report shall be admitted into evidence;

(J) The hearings administrator may exclude evidence that is purely cumulative;

(K) The hearings administrator may take administrative notice of department rules, department operating regulations, and facility policies without the necessity of an offer into evidence; and

(L) The hearing shall be recorded. After the hearings administrator issues his or her decision, a copy of the recording shall be made available to either party upon request. The department will not transcribe the recording from aural to written form. The cost of a transcription shall be borne by the requesting party.

(11) All requests shall be in writing and directed to the attention of the hearings administrator and copied to the other party. This includes such matters as requests for continuances, documents, recordings, remote witness testimony, subpoenas, protective orders, and copies of decision. Requests may be sent to the office of the hearing administrator at 1706 East Elm, PO Box 687, Jefferson City, MO 65102 or faxed to (573) 751-8069.

(12) The hearings administrator's decision is final and is subject to judicial review in accordance with sections 536.100 to 536.140, RSMo. A motion for attorney's fees, if any, shall be filed with the office of the hearings administrator within thirty (30) calendar days of the date of the decision. The filing of a petition for judicial review does not stay the thirty (30)-day filing requirement.

AUTHORITY: sections 630.050 and 630.167, SB 1081, Second Regular Session, Ninety-fourth General Assembly, 2008. Original rule filed Dec. 1, 2008.

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 opposition to this proposed rule by writing to Rikki Wright, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be in writing and must be received within thirty (30) days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division *[30] 40—[Child Support Enforcement]* *Family Support Division*
Chapter 3—County Reimbursement

PROPOSED AMENDMENT

13 CSR *[30]40*-3.010 Reimbursable Expenditures. The division is moving the rule and amending subsections (1)(A), (1)(C), and (5)(D).

PURPOSE: This proposed amendment will transfer this rule from Child Support Enforcement to Family Support Division, update the name of the division, and raise the threshold in the definition of equipment purchases from five hundred dollars ($500) to twenty-five hundred dollars ($2,500).

PURPOSE: The purpose of this rule is to define those expenditures for which the ***Family Support*** *Division [of Child Support Enforcement] will provide federal financial participation through reimbursement and also to provide, in certain instances, criteria or prerequisites for claiming that reimbursement.*

(1) Definitions. As used in this regulation—

(A) Division means the **Family Support** Division *[of Child Support Enforcement]*;

(C) Director means the person serving as director of the Missouri **Family Support** Division *[of Child Support Enforcement]*.

(5) Additional Criteria or Prerequisites for Claiming Certain Reimbursable Expenses.

(D) Equipment Purchases. Equipment, for the purpose of this rule, is nonexpendable personal property with an initial cost of **twenty-**five hundred dollars ($*[500]***2,500**). Reimbursement for equipment shall be available only through straight-line depreciation. The depreciation claimed will be based on the Internal Revenue Service's Table of Class Lives and Recovery Periods set forth in Publication *[534, Internal Revenue Service Tax Preparation Guide including all revisions.]* **946, How to Depreciate Property, dated 2007, which is incorporated herein by reference. A copy of the information may be obtained by the Internal Revenue Service, 3702 W. Truman Blvd, Jefferson City, MO 65109, any local Internal Revenue Service office, or at their website, http://www.irs.mo.gov/formspubs/index.html. The reference material does not include any later amendments or additions.** To claim depreciation in the purchase of equipment with an initial cost of **twenty-**five hundred dollars ($*[500]***2,500**) or more, the county must request and receive (in writing) the director's prior approval for federal financial participation in the cost of equipment. The director will not grant retroactive approval. The county will claim depreciation annually after the first full year of use.

*AUTHORITY: section 454.400, RSMo [Supp. 1999] **2000**. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Amended: Filed Nov. 2, 1989, effective Feb. 11, 1990. Amended: Filed May 17, 2000, effective Dec. 30, 2000. Amended: Filed Nov. 26, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies 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 Janel Luck, Director, Family Support Division, 615 Howerton Court, 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 13—DEPARTMENT OF SOCIAL SERVICES
Division *[30] 40—[Child Support Enforcement]* *Family Support Division*
Chapter 3—County Reimbursement

PROPOSED AMENDMENT

13 CSR *[30]40*-3.020 Minimum Record*[k]*-Keeping Requirements for County Reimbursement and Standardization of Claims Submissions. The division is moving the rule and amending section (1).

PURPOSE: This proposed amendment will transfer this rule from Child Support Enforcement to Family Support Division and update the name of the division.

PURPOSE: The purpose of this rule is to establish minimum record-keeping requirements to document reimbursement claims received from county and city governing bodies under cooperative agreement with the ***Family Support*** *Division [of Child Support Enforcement] (IV-D) and to standardize claims submissions.*

(1) County government units which enter into cooperative agreements to provide child support enforcement (IV-D) services under section 454.405, RSMo**,** and federal regulations and which submit reimbursement claims under those agreements, will maintain records, available for audit, for five (5) years from the date the claims are presented to the **Family Support** Division *[of Child Support Enforcement]* for payment. If any litigation, claim, negotiation, audit**,** or other action involving the records is started before the end of the five (5)-year period, the county will keep the records until the action is completed and all issues which arise from it are resolved, or until the end of the regular five (5)-year period, whichever is later. For documentation, the records will include at a minimum:

AUTHORITY: section 454.400, RSMo [1986] ***2000****. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Amended: Filed Nov. 26, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies 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 Janel Luck, Director, Family Support Division, 615 Howerton Court, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 85—Intermediate Care and Skilled Nursing Facility

PROPOSED AMENDMENT

19 CSR 30-85.022 Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities. The department is adding new sections (1), (2), (8), (10), (11), (12), (25), (28), (29), (31), (32), (33), and (34); deleting sections (4), (5), (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (40), (41), (42), (43), (44), (45), and (52); amending section (6); amending newly-renumbered sections (4), (5), (9), (13), (14), (24), (26), (35), (36), (38), (39), and (40); and renumbering throughout.

PURPOSE: This amendment adds the definitions of "area of refuge," "major renovation," and "accessible spaces"; updates the incorporated by reference material; clarifies the requirements for notifying and submiting written reports to the Department of Health and Senior Services (department) when there is a fire in the building and premises; clarifies and amends the requirements for smoke sections, designated smoking areas, fire drills, evacuation plans, fire safety training, oxygen storage, rangehood extinquishing systems, and maintenance, height and width of treads and risers on stairways; adds the requirements for one (1)-hour fire-rated separation for the lobby and conducting a fire watch upon discovery of a fire; revises the requirements for emergency lighting, installation of new floor covering, and the installation, operation, maintenance, and testing for sprinkler and fire alarm systems and adds the requirement for all facilities to submit a plan of compliance to the state fire marshal describing how the facility meets the standards of NFPA 13, 1999 edition, for sprinkler systems and NFPA 72, 1999 edition, for fire alarm systems as required by section 198.074, RSMo Supp. 2007.

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

(1) Definitions. For the purpose of this rule, the following definitions shall apply:

(A) Accessible spaces—shall include all rooms, halls, storage areas, basements, attics, lofts, closets, elevator shafts, enclosed stairways, dumbwaiter shafts, and chutes;

(B) Area of refuge—a space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and if applicable, evacuation has begun; and

(C) Major renovation—shall include the following:

1. Addition of any room(s), accessible by residents, that either exceeds fifty percent (50%) of the total square footage of the facility or exceeds four thousand five hundred (4,500) square feet; or

2. Repairs, remodeling, or renovations that involve more than fifty percent (50%) of the building; or

3. Repairs, remodeling, or renovations that involve more than four thousand five hundred (4,500) square feet of a smoke section.

4. If the addition is separated by two (2)-hour fire-resistant construction, only the addition portion shall meet the requirements for an NFPA 13, 1999 edition, sprinkler system, unless the facility is otherwise required to meet NFPA 13, 1999 edition.

(2) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 10, ***Standard for Portable Fire Extinguishers,*** **1998 edition; NFPA 13,** ***Standard for the Installation of Sprinkler Systems*****, 1999 edition; NFPA 96,** ***Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*****, 1998 edition; NFPA 99,** ***Standard for Health Care Facilities*****, 1999 edition; NFPA 101,** ***The Life Safety Code*****, 2000 edition; NFPA 72,** ***National Fire Alarm Code*****, 1999 edition; NFPA 25,** ***Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*****, 1998 edition; NFPA 253,** ***Standard Method of Test of Surface Burning Characteristics of Building Materials*****, 2000 edition; NFPA 701,** ***Standard Methods of Fire Tests for Flame Propagation of Textiles and Films*****, 1999 edition; NFPA 211,** ***Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances*****, 2000 edition; and NFPA 101A,** ***Guide to Alternative Approaches to Life Safety*****, 2001 edition, are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by**

telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above.

(B) This rule does not prohibit facilities from complying with standards set forth in newer editions of the incorporated by reference material listed in subsection (2)(A) of this rule if approved by the department.

(C) The department shall have the right of inspection of any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction. I/II

(D) Facilities shall not use space under stairways to store combustible materials. I/II

(E) No section of the building shall present a fire hazard. I/II

(F) All facilities shall notify the department immediately if there is a fire in the facility or premises and shall submit a complete written fire report to the department within seven (7) days of the fire, regardless of the size of the fire or the loss involved. II/III

(G) Following the discovery of any fire, the facility shall monitor the area and/or the source of the fire for a twenty-four (24)-hour period. This monitoring shall include, at a minimum, hourly visual checks of the area. These hourly visual checks shall be documented. I/II

(H) All electrical appliances shall be Underwriters' Laboratories (UL)-approved, shall be maintained in good repair, and no appliances or electrical equipment shall be used which emit fumes or which could in any other way present a hazard to the residents. I/II

*[(1)]***(3)** All openings that could permit the passage of fire, smoke, or both, between floors shall be fire-stopped with a suitable noncombustible material. II/III

*[(2)]***(4)** Hazardous areas shall be separated by construction of at least one (1)-hour fire-resistant construction. *[Hazardous area may be protected by an approved automatic fire detection or automatic sprinkler system in lieu of one (1)-hour fire-resistant construction.]* **Hazardous areas may be protected by an automatic sprinkler system in lieu of a one (1)-hour rated fire-resistant construction. When the sprinkler option is chosen, the areas shall be separated from other spaces by smoke-resistant partitions and doors. The doors shall be self-closing or automatic closing.** II

*[(3)]***(5)** The *[division]* **department** prohibits the storage of any unnecessary combustible materials in any part of a building in which a licensed facility is located. No section of the building shall present a fire hazard. I/II

[(4) The division shall have the right to inspect any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction. Facilities shall not use space under stairways to store combustible materials. II/III]

[(5) Facilities shall store oxygen cylinders in a separate room or area free of combustible materials. If oxygen is stored in excess of fifteen hundred (1,500) cubic feet in total, it shall be located in a room vented to the outside. I/II]

(6) **Oxygen storage shall be in accordance with NFPA 99, 1999 edition.** Facilities shall use permanent racks or fasteners to prevent accidental damage or dislocation of oxygen cylinders. Safety caps shall remain intact except where a cylinder is in actual use or where the regulator has been attached and the cylinder is ready for use. Individual oxygen cylinders in use or with an attached regulator shall be supported by cylinder collars or by stable cylinder carts. II/III

[(8) All new or replacement portable fire extinguishers shall be ABC-type extinguisher. II]

[(9) In or immediately adjacent to hazardous areas, the facility shall maintain an extinguisher of at least ten (10)-pound dry powder, or the equivalent. II]

[(10) In other areas, the facility shall maintain an extinguisher of at least five (5)-pound dry powder. II]

[(11) The facility shall provide a minimum of one (1) fire extinguisher per floor, so that there is no more than a one hundred foot (100') travel distance from any point on that floor to an extinguisher. I/II]

[(12) All fire extinguishers shall be installed and maintained in accordance with the National Fire Protection Association NFPA 10. Facilities with plans approved on or before December 31, 1998, shall comply with the requirements of the 1978 NFPA 10, Standard for Portable Fire Extinguishers. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1994 NFPA 10, incorporated by reference in this rule. This includes the documentation and dating of a monthly pressure check. II/III]

(8) Fire Extinguishers.

(A) Fire extinguishers shall be provided at a minimum of one (1) per floor, so that there is no more than seventy-five feet (75') travel distance from any point on that floor to an extinguisher. I/II

(B) All new or replacement portable fire extinguishers shall be ABC-rated extinguishers, in accordance with the provisions of NFPA 10, 1998 edition. A K-rated extinguisher or its equivalent shall be used in lieu of an ABC-rated extinguisher in the kitchen cooking areas. II

(C) Fire extinguishers shall have a rating of at least—

1. Ten pounds (10 lbs.), ABC-rated or the equivalent, in or within fifteen feet (15') of hazardous areas as defined in 19 CSR 30-83.010; II and

2. Five pounds (5 lbs.), ABC-rated or the equivalent, in other areas. II

(D) All fire extinguishers shall bear the label of the Underwriters' Laboratories (UL) or the Factory Mutual (FM) Laboratories and shall be installed and maintained in accordance with NFPA 10, 1998 edition. This includes the documentation and dating of a monthly pressure check. II/III

*[(13)]***(9)** *[Unless there is an approved sprinkler system, f]***F**acilities shall provide every cooking range with a range hood and approved *[automatic class BC or ABC]* range hood extinguishing system *[which shall also have the capability of being manually operated. II]* **installed, tested, and maintained in accordance with NFPA 96, 1998 edition. The range hood and its extinguishing system shall be certified at least twice annually in accordance with NFPA 96, 1998 edition. II/III**

[(14) The facility shall install the range hood extinguishing system and maintain it in accordance with the NFPA 96. Facilities with plans approved on or before December 31, 1998, shall comply with the requirements of NFPA 96 referenced in the 1967 Life Safety Code, and facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1994 NFPA 96, incorporated by reference in this rule. III]

[(15) Every existing licensed facility with plans approved after April 8, 1972 and prior to January 1, 1999, shall install and maintain a fire alarm system in compliance with the provisions of the 1967 Life Safety Code, NFPA 101. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 72, National Fire Alarm Code, incorporated by reference in this rule. I/II]

[(16) Every existing licensed facility with plans approved before April 8, 1972 shall comply with the 1967 Life Safety Code or shall have an electrically-supervised fire alarm system with a manual pull station provided at, or near, each required exit and at, or near, each nurses' station; either batteries or a generator for emergency power; and alarm bells or other sounding devices that shall be audible in all areas of the building. II/III]

[(17) In addition to the manual pull stations, at least one (1) of the following must also activate every fire alarm system: a flow alarm on a complete sprinkler system; smoke detectors located in every resident room or every fifty feet (50') of the corridor and at every smoke door; or a complete heat detector system. II]

[(18) The facility shall test every fire alarm system at least once a month. II]

[(19) Facilities shall maintain a record of these fire alarm tests. III]

[(20) Upon its discovery, the facilities shall promptly correct any fault with the fire alarm. I/II]

[(21) A fire alarm service representative or electrical contractor shall inspect every alarm system at least once annually. This inspector shall test and certify in writing to the division that the system is operating in accordance with the National Fire Alarm Code, NFPA 72. Facilities with plans approved on or before December 31, 1998, shall comply with the requirements of NFPA 72 referenced in the 1967 Life Safety Code, and facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 72, National Fire Alarm Code, incorporated by reference in this rule. II/III]

[(22) All existing licensed facilities not of fire-resistant construction housing residents above the first floor who require personal assistance or assistive devices other than canes shall install and maintain an approved automatic sprinkler system throughout the facility according to the applicable edition of the NFPA 13, which was required to be met at the time of installation. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 13, Installation of Sprinkler Systems, incorporated by reference in this rule. I/II]

[(23) All existing licensed facilities not of fire-resistant construction housing residents above the second floor shall install and maintain an approved automatic sprinkler system throughout the facility according to the applicable edition of the NFPA 13, which was required to be met at the time of installation. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 13, Installation of Sprinkler Systems, incorporated by reference in this rule. I/II]

[(24) Plans approved on or after January 1, 1999, for all new facilities and all additions to existing facilities that contain resident sleeping rooms, regardless of construction type, shall have a complete sprinkler system installed and maintained according to the 1996 NFPA 13, incorporated by reference in this rule. Facilities whose plans were approved on or after June 11, 1981, and before December 31, 1998, shall have complete sprinkler systems installed and maintained in accordance with the applicable edition of NFPA 13 that was in effect at the time of initial plan approval. I/II]

(10) Complete Fire Alarm Systems.

(A) Facilities shall have a complete fire alarm system installed in accordance with NFPA 101, Section 18.3.4, 2000 edition. The complete fire alarm system shall automatically transmit to the fire department, dispatching agency, or central monitoring company. The complete fire alarm system shall include visual signals and audible alarms that can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals in accordance with NFPA 72, 1999 edition. At a minimum, the complete fire alarm system shall consist of manual pull stations at or near each attendant's station and each required exit and smoke detectors interconnected to the complete fire alarm system. Specific minimum requirements relating to the interconnected smoke detectors are found in subsections (10)(I) and (10)(J) of this rule. I/II

(B) All facilities shall test and maintain the complete fire alarm system in accordance with NFPA 72, 1999 edition. I/II

(C) All facilities shall have inspections and written certifications of the complete fire alarm system completed by an approved qualified service representative in accordance with NFPA 72, 1999 edition, at least annually. I/II

(D) The complete fire alarm system shall be activated by all of the following: sprinkler system flow alarm, smoke detectors, heat detectors, manual pull stations, and activation of the range hood extinguishment system. II/III

(E) Facilities shall test every complete fire alarm system at least once a month. II/III

(F) Facilities shall maintain a record of the complete fire alarm system tests, inspections and certifications required by subsections (10)(B), (10)(C), and (10)(E) of this rule. III

(G) Upon discovery of a fault with the complete fire alarm system, the facility shall promptly correct the fault. I/II

(H) When a complete fire alarm system is to be out-of-service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and the local fire authority and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the fire alarm system has returned to full service. I/II

(I) Facilities that have a sprinkler system in accordance with NFPA 13, 1999 edition, shall have smoke detectors interconnected to the complete fire alarm system in all corridors and spaces open to the corridor. Smoke detectors shall be no more than thirty feet (30') apart with no point on the ceiling more than twenty-one feet (21') from a smoke detector. I/II

(J) Facilities that do not have a sprinkler system in accordance with NFPA 13, 1999 edition, shall have smoke detectors interconnected to the complete fire alarm system in all accessible spaces within the facility as required by NFPA 72, 1999 edition. Smoke detectors shall be no more than thirty feet (30') apart with no point on the ceiling more than twenty-one feet (21') from a smoke detector. Smoke detectors shall not be installed in areas where environmental influences may cause nuisance alarms. Such areas include, but are not limited to, kitchens, laundries, bathrooms, mechanical air handling rooms, and attic spaces. In these areas, heat detectors interconnected to the complete fire alarm system shall be installed. Bathrooms not exceeding fifty-five (55) square feet and clothes closets, linen closets, and

pantries not exceeding twenty-four (24) square feet are exempt from having any detection device if the wall and ceilings are surfaced with limited-combustible or noncombustible material as defined in NFPA 101, 2000 edition. Concealed spaces of noncombustible or limited-combustible construction are not required to have detection devices. These spaces may have limited access but cannot be occupied or used for storage. I/II

(11) Sprinkler System.

(A) All facilities shall have inspections and written certifications of the sprinkler system completed by an approved qualified service representative in accordance with NFPA 25, 1998 edition. The inspections shall be in accordance with the provisions of NFPA 25, 1998 edition, with certification at least annually by a qualified service representative. I/II

(B) All facilities licensed prior to August 28, 2007, that do not have a complete sprinkler system in accordance with NFPA 13 shall have until December 31, 2012, to comply with NFPA 13, 1999 edition. I/II Exceptions shall be granted to this requirement if the following conditions are met:

1. The water supply for an NFPA 13 sprinkler system is unavailable, and the department receives a statement in writing from a licensed engineer or a certified sprinkler representative documenting the unavailability of water; or

2. The facility meets Chapter 33 of NFPA 101, *Life Safety Code*, 2000 edition, and the evacuation capability of residents meets the standards in NFPA 101A, *Guide to Alternative Approaches to Life Safety*, 2001 edition. I/II

(C) Facilities that have sprinkler systems installed prior to August 28, 2007, shall inspect, maintain, and test these systems in accordance with NFPA 13, 1999 edition, and NFPA 25, 1998 edition. I/II

(D) Facilities licensed on or after August 28, 2007, and any facility performing major renovations to the facility, shall have a complete sprinkler system installed in accordance with NFPA 13, 1999 edition. I/II

(E) When a sprinkler system is to be out-of-service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and the local fire authority and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the sprinkler system has returned to full service. I/II

(12) All facilities shall submit, by July 1, 2008, a plan for compliance to the state fire marshal showing how the facility meets the requirements of sections (10), (11), (28), and (29) of this rule. If the facility's plan for compliance does not meet the requirements of sections (10), (11), (28), and (29) of this rule, the facility shall provide the state fire marshal with a written plan to include, at a minimum, an explanation of how the requirements of sections (10), (11), (28), and (29) will be met, when they will be met, and contact information in the event the plan does not evidence compliance with these requirements. II

(A) To qualify for a sprinkler system exception, the facility shall present evidence to the state fire marshal in writing from a certified sprinkler system representative or licensed engineer that the facility is unable to install an approved National Fire Protection Association 13 system due to the unavailability of water supply requirements associated with this system or the facility meets the safety requirements of Chapter 33 of existing residential board and care occupancies of NFPA 101, *Life Safety Code*. II

*[(25)]***(13)** Each floor of an existing licensed facility shall have at least two (2) unobstructed exits remote from each other. One (1) of the required exits in an existing multi-story facility must be an outside stairway or an enclosed stair that is separated by one (1)-hour construction from each floor and has an exit leading directly outside at grade level. One (1) exit may lead to a lobby with exit facilities to the ground level outside instead of leading directly to the outside. **The lobby shall have at least a one (1)-hour fire-rated separation from the remainder of the exiting floor.** I/II

*[(26)]***(14)** If facilities have outside stairways, they shall be substantially constructed to support residents during evacuation. These stairways shall be protected or cleared of ice and snow. Fire escapes added to existing buildings, whether interior or exterior, shall have at least a minimum thirty-six-inch (36") width, eight-inch (8") maximum risers, a nine-inch (9") minimum tread, no winders, a maximum height between landings of twelve feet (12'), minimum landing dimensions of forty-four inches (44"), landings at each exit door**,** and handrails on both sides. Stairways shall be of sturdy construction using at least two-inch (2") lumber and shall be continuous to ground level. Exit(s) to fire escapes shall be at least thirty-six inches (36") wide**,** and the fire-escape door shall swing outward. **All treads and risers shall be of the same height and width throughout the entire stairway, not including landings.** II/III

*[(27)]***(15)** Facilities with three (3) or more floors shall comply with the provisions of Chapter 320, RSMo**,** which requires that outside stairways be constructed of iron or steel. II

*[(28)]***(16)** *[If it is necessary to lock exit doors or resident room doors, the]* **Door** locks shall be of a type that can be opened from the inside by turning the knob or operating a simple device that will release the lock**, or shall meet the requirements of Section 19.2 of NFPA 101, 2000 edition.** Only one (1) lock will be permitted on any one (1) door. I/II

*[(29)]***(17)** All exit doors in existing licensed facilities shall be at least thirty inches (30") wide. II

*[(30)]***(18)** All exit doors in new facilities shall be at least forty-four inches (44") wide. II

*[(31)]***(19)** In all facilities, all exit doors and vestibule doors shall swing outward in the direction of exit travel. II

*[(32)]***(20)** In all existing licensed facilities, all horizontal exit doors in fire walls and all doors in smoke barrier partitions may swing in either direction. These doors normally may be open, but shall be automatically self-closing in case of smoke or fire. They shall be capable of being manually released to self-closing action. II/III

*[(33)]***(21)** Facilities shall maintain corridors to be free of *[permanent]* obstruction or equipment or supplies not in use. Doors to resident rooms shall not swing into the corridor. II/III

*[(34)]***(22)** Facilities shall place signs bearing the word EXIT in plain, legible block letters at each required exit, except at doors directly from rooms to exit corridors or passageways. II

*[(35)]***(23)** Wherever necessary, the facility shall place additional signs in corridors and passageways to indicate the exit's direction. Letters on these signs shall be at least six inches (6") high and **principle strokes** three-fourths inch*[es]* (3/4") wide, except that the letters of internally illuminated exit signs may be not less than four *[and one-half]* inches *[(4 1/2")]* **(4")** high. III

*[(36)]***(24)** Facilities shall maintain all exit and directional signs to be clearly legible *[by electric illumination or]* **and electrically illuminated at all times by** acceptable means such as emergency lighting when *[natural light]* **lighting** fails. II

(25) Facilities shall have emergency lighting of sufficient intensity to provide for the safety of residents and other people using any

exit, stairway, and corridor. The lighting shall be supplied by an emergency service, an automatic emergency generator or battery lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. In an existing licensed facility, battery lights, if used, shall be wet cell units or other rechargeable-type batteries that shall be UL-approved and capable of operating the light for at least one and one-half (1 ½) hours. Battery-operated emergency lighting shall be tested for at least thirty (30) seconds every thirty (30) days, and an annual function test shall be conducted for the full operational duration of one and one-half (1 ½) hours. Records of these tests shall be documented and maintained for review. II

*[(37)]***(26)** If existing licensed facilities have laundry chutes, dumbwaiter shafts**,** or other similar vertical shafts, they shall have a fire resistance rating of at least one (1) hour **if serving three (3) or fewer stories. Enclosures serving four (4) or more stories shall have at least a two (2)-hour fire-rated enclosure.** These chute or shaft doors shall be self-closing or shall have any other approved device that will guarantee separation between floors. II

*[(38)]***(27)** Existing licensed multistoried facilities shall provide a smoke separation barrier between the basement and the first floor and the floors of resident-use areas. At a minimum, this barrier shall consist of one-half inch (1/2") gypsum board, plaster**,** or equivalent. There shall be a one and three-fourths inch (1 3/4") thick solid-core wood door, or equivalent, at the top or bottom of the stairs. If the door is glazed, it shall be glazed with wired glass. II

(28) Each floor accessed by residents shall be divided into at least two (2) smoke sections with each section not exceeding one hundred fifty feet (150') in length or width. If the floor's dimensions do not exceed seventy-five feet (75') in length or width, a division of the the floor into two (2) smoke sections will not be required. II

(29) Each smoke section shall be separated by one (1)-hour fire-rated walls that are continuous from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. All doors in this wall shall be at least twenty (20)-minute fire rated or its equivalent, self-closing, and may be held open only if the door closes automatically upon activation of the fire alarm system. II

*[(39)]***(30)** Existing licensed facilities shall have attached self-closing devices on all doors providing separation between floors. If the doors are to be held open, they shall have electromagnetic hold-open devices that are interconnected with either a smoke alarm or with other smoke-sensitive fire extinguishment or alarm systems in the building. II/III

[(40) Facilities shall have emergency lighting of sufficient intensity to provide for the safety of residents and other people using any exit, stairway and corridor. The lighting shall be supplied by an emergency service, an automatic emergency generator or battery lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. In an existing licensed facility, battery lights, if used, shall be wet cell units or other rechargeable-type batteries that shall be Underwriters' Laboratory (UL)-approved and capable of operating the light for at least one and one-half (1 1/2) hours. II]

[(41) All facilities shall notify the division immediately if there is a fire involving death or harm to a resident which requires medical attention by a physician or causes substantial damage to the facility The division facility shall be notified in writing within seven (7) days in the event of any other fire, regardless of the size of the fire or the loss involved. II/III]

*[(42)]***(31)** *[Smoking shall not be permitted in sleeping quarters except when direct supervision is provided. Areas where smoking is permitted shall be designated as such and shall be directly supervised.]* **Smoking shall be permitted only in designated areas. Areas where smoking is permitted shall be directly supervised unless the resident has been assessed by the facility and determined capable of smoking unassisted. At least annually, the facility shall reassess those residents the facility has determined to be capable of smoking unsupervised and shall also reassess such resident when changes in his or her condition indicate the resident may no longer be capable of smoking without supervision. The facility shall document this assessment in the resident's medical record.** II

(32) Designated smoking areas shall have ashtrays of noncombustible material and of safe design. The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material. II/III

[(43) All facilities shall develop a written plan for fire drills and evacuation and annually shall request consultation and assistance from a local fire unit, if available, to review the plan. If the consultation cannot be obtained, the facility shall inform the division immediately in writing and request assistance in review of the plan. The plan shall include, at a minimum, written instructions for evacuation of each floor and a floor plan indicating the location of exits, fire alarm stations and extinguishers. The written plan shall show the location of any water sources on the property or adjacent property such as cisterns, wells, lagoons, ponds or creeks. The plan shall provide for the safety and comfort of residents evacuated. The facility shall post the written plan and evacuation diagram on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III]

[(44) Fire drills shall be conducted at least every three (3) months on each shift with a minimum of twelve (12) drills annually. Staff shall be trained how to proceed in the event of a fire, that is, who to call, how to evacuate injured residents, which residents will need special assistance in evacuation and how to operate fire alarm and extinguishing equipment. II/III]

[(45) All fire drills shall be recorded including the date, time, participating personnel and special problems. II/III]

(33) Fire Drills and Evacuation Plans.

(A) All facilities shall develop a written plan for fire drills and other emergencies and evacuation and shall request consultation and assistance annually from a local fire unit. If the consultation cannot be obtained, the facility shall inform the state fire marshal immediately in writing and request assistance in review of the plan. II/III

(B) The plan shall include, but is not limited to—

1. A phased response ranging from relocation of residents within the facility to relocation to an area of refuge, if applicable, to total evacuation. This phased response part of the plan shall be consistent with the direction of the local fire unit or state fire marshal and shall be appropriate for the fire or emergency;

2. Written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and floor plan showing the location of exits, fire alarm pull stations, fire extinguishers, and any areas of refuge;

3. Evacuating residents, if necessary, from an area of refuge to a point of safety outside the building;

4. The location of any additional water sources on the property such as cisterns, wells, lagoons, ponds, or creeks;

5. Procedures for the safety and comfort of residents evacuated;

6. Staffing assignments;

7. Instructions for staff to call the fire department or other outside emergency services;

8. Instructions for staff to call alternative resource(s) for housing residents, if necessary;

9. Administrative staff responsibilities; and

10. Designation of a staff member to be responsible for accounting for all residents' whereabouts. II/III

(C) The written plan shall be accessible at all times and an evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III

(D) A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. At least four (4) of the required fire drills must be unannounced to residents and staff, excluding staff who are assigned to evaluate staff and resident response to the fire drill. The fire drills shall include a simulated resident evacuation that involves the local fire department or emergency service at least once a year. II/III

(E) The fire alarm shall be activated during all fire drills unless the drill is conducted between 9 p.m. and 6 a.m., when a facility-generated predetermined message is acceptable in lieu of the audible and visual components of the fire alarm. II/III

(F) The facility shall keep a record of all fire drills including the simulated resident evacuation. The record shall include the time, date, personnel participating, length of time to complete the fire drill, and a narrative notation of any special problems. III

(34) Fire Safety Training Requirements.

(A) The facility shall ensure that fire safety training is provided to all employees during employee orientation, conducted at least every six (6) months after the initial training received during orientation, and when training needs are identified as a result of fire drill evaluations. II/III

(B) The training shall include, but is not limited to, the following:

1. Prevention of fire ignition, detection of fire, and control of fire development;

2. Confinement of the effects of fire;

3. Procedures for moving residents to an area of refuge, if applicable;

4. Use of alarms;

5. Transmission of alarms to the fire department;

6. Response to alarms;

7. Isolation of fire;

8. Evacuation of the immediate area and building;

9. Preparation of floors and facility for evacuation; and

10. Use of the evacuation plan required by section (33) of this rule. II/III

*[(46)]***(35)** The use of wood- or gas-burning fireplaces will be permitted only if the fireplaces are built of firebrick or metal, enclosed by masonry**,** and have metal or tempered glass screens. The chimneys shall be of masonry construction with flue linings that have at least eight inches (8") of masonry separating the flue lining and the fireplace from any combustible material. All fireplaces shall be installed, operated**,** and maintained in a safe manner. Fireplaces not in compliance with these requirements may be provided if they are for decorative purposes only or if they are equipped with decorative-type electric logs or other electric heaters which bear the UL label and are constructed of electrical components complying with and installed in compliance with the *National Electrical Code*, incorporated by reference in this rule. **Fireplaces meeting standards set forth in NFPA 211, 2000 edition, are considered in compliance with this rule.** II/III

*[(47)]***(36) All** *[E]*lectric or gas clothes dryers shall be vented to the outside and the lint trap cleaned regularly. II/III

*[(48)]***(37)** In existing licensed facilities, all wall and ceiling surfaces shall be smooth and free of highly**-**combustible materials. II/III

*[(49)]***(38)** All curtains in resident-use areas shall be rendered and maintained flame-resistant **in accordance with NFPA 701, 1999 edition**. II/III

*[(50)]***(39)** All new floor covering installed *[in new and existing licensed facilities on or after January 1, 1999,]* shall be Class I in nonsprinklered buildings and Class II in sprinklered buildings*[. Class I shall have a critical radiant flux of zero point forty-five (0.45) or more watts per square centimeter when tested according to the 1995 NFPA 253, which is incorporated by reference in this rule. Class II shall have a critical radiant flux of zero point twenty-two (0.22) or more watts per square centimeter when tested according to the standards stated in the 1995]* **in accordance with** NFPA 253*[.]*, **2000 edition.** *[Those facilities who installed new floor covering on or before December 31, 1998, shall comply with the requirements of the 1978 edition of the NFPA 253.]* II/III

(40) Trash and Rubbish Disposal Requirements.

*[(51)]***(A)** Only metal or UL- or Factory Mutual (FM)-approved wastebaskets shall be used for the collection of trash. II

[(52) All electrical appliances shall be UL-approved, shall be maintained in good repair and no appliances or electrical equipment shall be used which emit fumes or which could in any other way present a hazard to the residents. I/II]

*[(53)]***(B)** The facility shall maintain the exterior premises in a manner as to provide for fire safety. II

*[(54)]***(C)** Trash shall be removed from the premises as often as necessary to prevent fire hazards and public health nuisance. II

*[(55)]***(D)** No trash shall be burned within fifty feet (50') of any facility except in an approved incinerator. I/II

*[(56)]***(E)** Trash may be burned only in a masonry or metal container. The container shall be equipped with a metal cover with openings no larger than one-half inch (1/2") in size. II/III

*[(57)]***(41)** Minimum staffing for safety and protective oversight to residents shall be—

(A) In a fire-resistant or sprinklered building—

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)	1	3–10*
3 p.m. to 11 p.m. (Evening)	1	3–15*
11 p.m. to 7 a.m. (Night)	1	3–20*

*One (1) additional staff person for every fraction after that; or I/II

(B) In a nonfire-resistant, nonsprinklered building—

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)	1	3–10*
3 p.m. to 11 p.m. (Evening)	1	3–15*
11 p.m. to 7 a.m. (Night)	1	3–15*

*One (1) additional staff person for every fraction after that. I/II

*AUTHORITY: sections **198.074 and** 198.079, RSMo [1994] **Supp. 2007**. This rule originally filed as 13 CSR 15-14.022. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 24, 2008, effective Dec. 4, 2008, expires June 1, 2009. Amended: Filed Nov. 24, 2008.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions $1,163,960 in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities $17,853,740 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 85

Rule Number and Name:	85.022 Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Fire Alarm Systems – 8 Intermediate Care Facilities and Skilled Nursing Facilities	**$89,520**
NFPA 13 Sprinkler Systems – 8 Intermediate Care Facilities and Skilled Nursing Facilities	**$1,074,240**
K-Rated Fire Extinguishers – 1 Intermediate Care Facility	**$200**

III. WORKSHEET

Fire Alarm Systems
This proposed amendment requires all intermediate care and skilled nursing facilities to have a complete fire alarm system installed by December 31, 2008.

Existing regulations for intermediate care and skilled nursing facilities require a fire alarm system, but that system may not meet the new statutory definition of a complete fire alarm system. These facilities will be able to add to their existing fire alarms systems in order to meet the new statutory definition of a complete fire alarm system. There are currently 8 intermediate care and skilled nursing facilities that fall into this category.

Sprinkler Systems
The proposed amendment requires all intermediate care and skilled nursing facilities to install a NFPA 13 sprinkler system. There are approximately 8 intermediate care and skilled nursing facilities that currently do not have a NFPA 13 sprinkler system. These facilities must install a NFPA 13 sprinkler system by December 31, 2012.

K-Rated Fire Extinguishers
This proposed amendment requires all intermediate care facilities and skilled nursing facilities to have a K-Type fire extinguisher in the kitchen cooking area of the facility. There is currently 1 intermediate care facility that falls into this category.

IV. ASSUMPTIONS

Fire Alarm Systems
The fiscal note for these facilities is based on the cost to add components to the existing fire alarm system in order for the fire alarm system to comply with the new statutory definition of a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to add components to the existing fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while adding components to the existing fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $89,520: (895 total beds/8 facilities = 111.9 average beds) x (200 square feet per bed) x (8 facilities) x ($.50 cost per square foot).

The minimum requirements for a complete fire alarm system are described in statute (Section 198.074.7.1, RSMo Supp. 2007). In an effort to intermediate care facilities and skilled nursing facilities with consistent guidance for installation of a complete fire alarm system so these facilities can meet statutory requirements, the proposed amendment provides specific installation guidance (for spacing and placement) in accordance with the NFPA standards referenced in the statute.

DHSS contends that the total cost is imposed by statute, (section 198.074 RSMo Supp. 2007) because the statute, in addition to referencing the components of a complete fire alarm system, also requires the complete fire alarm system to be in compliance with NFPA 101 and NFPA 72. These NFPA standards outline the same placement and spacing requirements as contained in this proposed amendment.

Sprinkler Systems
The fiscal note for intermediate care and skilled nursing facilities is based on the cost to install a NFPA 13 sprinkler system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to install a NFPA 13 sprinkler system). These costs were derived from sprinkler system installation companies. These costs are also based on the installer not encountering difficulties or obstacles while installing the sprinkler system. DHSS estimates the total cost in the aggregate for these facilities to be $1,074,240: (895 total beds/8 facilities = 111.9 average beds) x (200 square feet per bed) x (8 facilities) x ($6.00 cost per square foot).

DHSS contends that the total cost is imposed by statute, (Section 198.074, RSMo) because the statute requires these facilities to install a NFPA 13 sprinkler system.

K-Rated Fire Extinguisher
This fiscal note for this facility is based on the cost of a K-Rated fire extinguisher. The cost of a K-Rated fire extinguisher was derived from a local fire safety company. DHSS estimates the total cost for this facility to be $200 (1 facility) x ($200 for a K-Rated fire extinguisher).

FISCAL NOTE
PRIVATE COST

I. Department Title: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 85

Rule Number and Title:	85.022 Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Fire Alarm Systems – 122 Intermediate Care Facilities and Skilled Nursing Facilities	**Intermediate Care Facilities and Skilled Nursing Facilities**	**$1,365,180**
NFPA 13 Sprinkler Systems – 122 Intermediate Care Facilities and Skilled Nursing Facilities	**Intermediate Care Facilities and Skilled Nursing Facilities**	**$16,382,160**
Smoke Separation – 10 Intermediate Care Facilities and Skilled Nursing Facilities	**Intermediate Care Facilities and Skilled Nursing Facilities**	**$100,000**
K-Rated Fire Extinguishers – 32 Intermediate and Skilled Nursing Facilities	**Intermediate Care Facilities and Skilled Nursing Facilities**	**$6,400**

III. WORKSHEET

Fire Alarm Systems
This proposed amendment requires all intermediate care and skilled nursing facilities to have a complete fire alarm system installed by December 31, 2008.

Existing regulations for intermediate care and skilled nursing facilities require a fire alarm system, but that system may not meet the new statutory definition of a complete fire alarm system. These facilities will be able to add to their existing fire alarms systems in order to meet the new statutory definition of a complete fire alarm system. There are currently 122 intermediate care and skilled nursing facilities that fall into this category.

Sprinkler Systems
The proposed amendment requires all intermediate care and skilled nursing facilities to install a NFPA 13 sprinkler system. There are approximately 122 intermediate care and skilled nursing facilities that currently do not have a NFPA 13 sprinkler system. These facilities must install a NFPA 13 sprinkler system by December 31, 2012.

Smoke Separation
This proposed amendment requires all intermediate care facilities and skilled nursing facilities whose dimensions (width or length) exceed 75 feet to divide each resident-accessed floor into at least two smoke sections. There are currently 10 intermediate care and skilled nursing facilities that fall into this category, based on plans for compliance submitted by facilities.

K-Rated Fire Extinguishers
This proposed amendment requires all intermediate care facilities and skilled nursing facilities to have a K-Type fire extinguisher in the kitchen cooking area of the facility. There are currently 32 intermediate care and skilled nursing facilities that fall into this category.

IV. ASSUMPTIONS

Fire Alarm Systems
The fiscal note for these facilities is based on the cost to add components to the existing fire alarm system in order for the fire alarm system to comply with the new statutory definition of a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to add components to the existing fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while adding components to the existing fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $1,365,180: (13,652 total beds/122 facilities = 111.9 average beds) x (200 square feet per bed) x (122 facilities) x ($.50 cost per square foot).

The minimum requirements for a complete fire alarm system are described in statute (Section 198.074.7.1, RSMo Supp. 2007). In an effort to assist intermediate care facilities and skilled nursing facilities with consistent guidance for installation of a complete fire alarm system so these facilities can meet statutory requirements, the proposed amendment provides specific installation guidance (for spacing and placement) in accordance with the NFPA standards referenced in the statute.

DHSS contends that the total cost is imposed by statute, (section 198.074 RSMo Supp. 2007) because the statute, in addition to referencing the components of a complete fire alarm system, also requires the complete fire alarm system to be in compliance with NFPA 101 and NFPA 72. These NFPA standards outline the same placement and spacing requirements as contained in this proposed amendment.

Sprinkler Systems
The fiscal note for intermediate care and skilled nursing facilities is based on the cost to install a NFPA 13 sprinkler system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to install a NFPA 13 sprinkler system). These costs were derived from sprinkler system installation companies. These costs were derived from sprinkler system installation companies. These costs are also based on the installer not encountering difficulties or obstacles while installing the sprinkler system. DHSS estimates the total cost in the aggregate for these facilities to be $16,382,160: (13,652 total beds/122 facilities = 111.9 average beds) x (200 square feet per bed) x (122 facilities) x ($6.00 cost per square foot).

DHSS contends that the total cost is imposed by statute, because the statute requires these facilities to install a NFPA 13 sprinkler system.

Smoke Separation
The fiscal note for these facilities is based on the average cost to install a smoke barrier. The following formula was used to determine the cost: (total number of facilities that will be required to install a smoke barrier) x (average estimated cost to install the smoke barrier). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. The cost is an average of the estimates submitted by facilities, because the degree of work required varies widely among the facilities. For example, some facilities may have to install doors only while others may have to install doors and walls in attics and on the resident use floor. These costs are also based on the installer not encountering difficulties or obstacles while installing the smoke barrier. DHSS estimates the total cost in the aggregate for these facilities to be $100,000: (10 facilities) x ($10,000 average cost per smoke barrier).

DHSS contends that the total cost is imposed by statute, (Section 198.074, RSMo) because statute requires all intermediate care facilities and skilled nursing facilities whose dimensions (width or length) exceed 75 feet to divide each resident-accessed floor into at least two smoke sections.

K-Rated Fire Extinguisher
This fiscal note for these facilities is based on the cost of a K-Rated fire extinguisher. The following formula was used to determine the cost: (total number of facilities that will be required to install a K-Rated fire extinguisher) x (the cost of a K-Rated fire extinguisher). The cost of a K-Rated fire extinguisher was derived from a local fire safety company. DHSS estimates the total cost in the aggregate for these facilities to be $6,400 (32 facilities) x ($200 for a K-Rated fire extinguisher).

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.022 Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities. The department is amending the Purpose of the rule; amending sections (1)–(5); adding sections (6) and (12); deleting section (16); renumbering throughout; and amending newly-renumbered sections (7)–(11), (14), and (15).

PURPOSE: This amendment revises the rule purpose statement to correctly define the purpose of this rule; defines the terms "accessible spaces" and "major renovation"; updates the incorporated by reference material; clarifies the requirements for notifying and submitting written reports to the Department of Health and Senior Services (department) when there is a fire in the building and premises; clarifies and revises the requirements for smoke sections, designated smoking areas, fire drills, fire safety training, range hood extinguishing systems, fire extinguishers, fire drills and evacuation plans, and conducting a fire watch upon discovery of a fire; updates the requirements for installation, operation, maintenance, certification, and testing for sprinkler and complete fire alarm systems; and adds the requirement for all facilities to submit a plan of compliance to the state fire marshal describing how the facility meets the standards of NFPA 13 or 13R as required for that facility, for sprinkler systems and NFPA 72, 1999 edition, for fire alarm systems as required by section 198.074, RSMo Supp. 2007.

*PURPOSE: This rule establishes fire[/]safety standards for [new and existing] residential care facilities [I and II] **and assisted living facilities**.*

(1) Definitions. For the purpose of this rule, the following definitions shall apply:

(A) Accessible spaces—shall include all rooms, halls, storage areas, basements, attics, lofts, closets, elevator shafts, enclosed stairways, dumbwaiter shafts, and chutes.

*[(A)]***(B)** Area of refuge—*[A]***a** space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and**, if applicable,** evacuation has begun.

(C) Major renovation—shall include the following:

1. Addition of any room(s), accessible by residents, that either exceeds fifty percent (50%) of the total square footage of the facility or exceeds four thousand five hundred (4,500) square feet; or

2. Repairs, remodeling, or renovations that involve more than fifty percent (50%) of the building; or

3. Repairs, remodeling, or renovations that involve more than four thousand five hundred (4,500) square feet of a smoke section.

4. If the addition is separated by two (2)-hour fire-resistant construction, only the addition portion shall meet the requirements for an NFPA 13, 1999 edition, sprinkler system, unless the facility is otherwise required to meet NFPA 13, 1999 edition.

(D) Fire-resistant construction—type of construction in residential care and assisted living facilities in which bearing walls, columns, and floors are of noncombustible material in accordance with NFPA 101, 2000 edition. All load-bearing walls, floors, and roofs shall have a minimum of a one (1)-hour fire-resistant rating.

(2) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 10, *Standard for Portable Fire Extinguishers*, *[1994]* **1998** edition; NFPA 13R, *Installation of Sprinkler Systems*, 1996 edition; NFPA 13, *Installation of Sprinkler Systems*, 1976 edition; NFPA 13 or NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height*, 1999 edition; NFPA 13 *[or NFPA 13D], Standard for the Installation of Sprinkler Systems*, 1999 edition; *[NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 1994 edition;]* NFPA 96, ***Standard for** Ventilation Control and Fire Protection of Commercial Cooking Operations*, *[1994]* **1998** edition; NFPA 101, *The Life Safety Code*, 2000 edition; NFPA 72, *National Fire Alarm Code*, *[1996]* **1999** edition; NFPA 72A, *Local Protective Signaling Systems*, 1975 edition; NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 1998 edition; *[and NFPA 253, Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source, 2000 edition]* **and NFPA 101A, *Guide to Alternative Approaches to Life Safety*, 2001 edition,** with regard to the minimum fire safety standards for residential care facilities and assisted living facilities are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above. **This rule does not prohibit facilities from complying with the standards set forth in newer editions of the incorporated by reference material listed in this subsection of this rule, if approved by the department.**

[(B) For the purpose of this rule, fire-resistant construction is defined as that type of construction in which bearing walls, columns and floors are of noncombustible material and all bearing walls, floors and roofs shall have a minimum of a one (1)-hour fire-resistant rating.

(C) All licensed facilities shall meet and maintain the facility in accordance with the fire safety standards in effect at the time of initial licensing, unless there is a specific requirement cited in this rule. I/II]

*[(D)]***(C)** All facilities shall notify the *[D]***d**epartment *[of Health and Senior Services hereinafter the department]* immediately if there is a fire *[involving death or harm to a resident requiring medical attention by a physician or substantial damage to the facility. The department shall be notified in writing]* **in the facility or premises and shall submit a complete written fire report to the department** within seven (7) days *[in case of any other fire]* **of the fire**, regardless of the size of the fire or the loss involved. II/III

*[(E)]***(D)** The department shall have the right of inspection of any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction *[or the building is equipped with a complete sprinkler in accordance with NFPA 13 or NFPA 13R and the unlicensed portion is separated by one (1)-hour fire-resistant construction]*. No section of the building shall present a fire hazard. I/II

(E) Following the discovery of any fire, the facility shall monitor the area and/or the source of the fire for a twenty-four (24)-hour period. This monitoring shall include, at a minimum, hourly visual checks of the area. These hourly visual checks shall be documented. I/II

(F) The facility shall maintain the exterior premises in a manner as to provide for fire safety. II

(G) *[When the facility accepts residents who are deaf, residential care facilities with an asleep night attendant]* **Residential care facilities that accept deaf residents** shall have appropriate assistive devices to enable each deaf person to negotiate a path to safety, including, but not limited to, visual or tactile alarm systems. *[I//]*II/**III**

(H) Facilities shall not use space under stairways to store combustible materials. I/II

(3) Fire Extinguishers.

(A) Fire extinguishers shall be provided at a minimum of one (1) per floor, so that there is no more than *[one hundred feet (100')]* **seventy-five feet (75')** travel distance from any point on that floor to an extinguisher. I/II

(B) All new or replacement portable fire extinguishers shall be ABC-*[type]***rated** extinguishers, in accordance with the provisions of *[the 1994 National Fire Protection Association (NFPA) 10, Standard for Portable Fire Extinguishers.]* **NFPA 10, 1998 edition. A K-rated extinguisher or its equivalent shall be used in lieu of an ABC-rated extinguisher in the kitchen cooking areas.** II

(C) Fire extinguishers shall have a rating of at least:

1. Ten *[(10)]* pounds **(10 lbs.)**, **ABC-rated** or the equivalent, in or within fifteen feet (15') of hazardous areas as defined in *[13 CSR 15-11]* **19 CSR 30-83.010**; and

2. Five *[(5)]* pounds **(5 lbs.), ABC-rated** or the equivalent**,** in other areas. II

(D) *[Every]* **All** fire extinguishers shall bear the label of the Underwriters' Laboratories (UL) or the Factory Mutual (FM) Laboratories and *[the extinguisher, its installation, maintenance and use shall comply with the provisions of the 1994 edition of the NFPA 10]* **shall be installed and maintained in accordance with NFPA 10, 1998 edition**. This includes the documentation and dating of a monthly pressure check. II/III

(4) Range Hood Extinguishing Systems.

(A) In facilities licensed on or before July 11, 1980, or in any facility with fewer than twenty-one (21) beds, the kitchen shall provide either:

1. An approved automatic range hood extinguishing system properly installed and maintained in accordance with *[the 1994]* NFPA 96, *[Standard on Ventilation Control and Fire Protection of Commercial Cooking Operations;]* **1998 edition;** or

2. A portable fire extinguisher of at least ten *[(10)]* pounds **(10 lbs.) ABC-rated**, or the equivalent, in the kitchen area in accordance with *[the 1994]* NFPA 10**, 1998 edition**. II/III

(B) In licensed facilities with a total of twenty-one (21) or more licensed beds and whose application was filed after July 11, 1980**,** and prior to October 1, 2000:

1. The kitchen shall be provided with a range hood and an approved automatic range hood extinguishing system*[;]* **unless the facility has an approved sprinkler system. Facilities with range hood systems shall continue to maintain and test these systems; and**

[2. The range hood extinguishing system shall have the capacity of being manually operated, unless there is an approved sprinkler system; and]

*[3.]***2.** The extinguishing system shall be installed, **tested,** and maintained in accordance with *[the applicable edition of]* NFPA 96**, 1998 edition**. II/III

[(C) Facilities licensed on or after October 1, 2000, shall not be required to install and maintain range hood extinguishing systems since facilities shall be required to have complete sprinkler systems; however, if facilities have range hood extinguishing systems, they shall comply with the provisions of the 1994 NFPA 96. II/III]

*[(D)]***(C)** The range hood and its extinguishing system shall be *[inspected and]* certified at least twice annually in accordance with *[the 1994 edition of]* NFPA *[19]*96**, 1998 edition**. II/III

(5) Fire Drills **and Evacuation Plans**.

(A) All facilities shall develop a written plan for fire drills *[or]* **and** other emergencies*[,]* and evacuation and shall request consultation and assistance annually from a local fire unit. *[Such plan shall include, if consistent with the direction of the local fire unit and as appropriate for the fire or emergency, a phased response ranging from relocation of residents within the facility, to relocation to an area of refuge, to total evacuation.]* **If the consultation cannot be obtained, the facility shall inform the state fire marshal in writing and request assistance in review of the plan.** II/III

(B) The plan shall include, *[as a minimum, written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and floor plan showing the location of exits, fire alarm pull stations, fire extinguishers and any areas of refuge.]* **but is not limited to, the following:**

1. A phased response ranging from relocation of residents within the facility to relocation to an area of refuge, if applicable, to total evacuation. This phased response part of the plan shall be consistent with the direction of the local fire unit or state fire marshal and appropriate for the fire or emergency;

2. Written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and a floor plan showing the location of exits, fire alarm pull stations, fire extinguishers, and any areas of refuge;

3. Evacuating residents, if necessary, from an area of refuge to a point of safety outside the building;

4. The location of any additional water sources on the property such as cisterns, wells, lagoons, ponds, or creeks;

5. Procedures for the safety and comfort of residents evacuated;

6. Staffing assignments;

7. Instructions for staff to call the fire department or other outside emergency services;

8. Instructions for staff to call alternative resource(s) for housing residents, if necessary;

9. Administrative staff responsibilities; and

10. Designation of a staff member to be responsible for accounting for all residents' whereabouts. II/III

[(C) The evacuation plan for facilities with areas of refuge shall also include plans for evacuating residents from the area of refuge to a point of safety outside the building, if necessary. II/III

(D) The written plan shall show the location of any additional water sources on the property such as cisterns, wells, lagoons, ponds or creeks. II/III

(E) The evacuation plan shall include procedures for the safety and comfort of residents evacuated including:

1. Staffing assignments;

2. Whom staff are to call including but not limited to fire department or other outside emergency services, alternative resource(s) for housing residents if necessary, administrative staff; and

3. Which staff member is charged with accounting for residents' whereabouts. II/III]

*[(F)]***(C)** The written plan **shall be accessible at all times** and **an** evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III

*[(G)]***(D)** A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. **At least four (4) of the required fire drills must be unannounced to residents and staff, excluding staff who are assigned to evaluate staff and resident response to the fire drill.** The fire drills shall include a resident evacuation at least once a year. II/III

[(H) The staff shall be trained on how to proceed in the event of a fire. The training shall include:

1. All components of evacuation plan;

2. How to properly evacuate injured residents;

3. Which residents may need to be awakened or may need special assistance; and

4. How to operate fire-extinguishing equipment. II/III]

*[(I)]***(E)** The facility shall keep a record of all fire drills. The record shall include the time, date, personnel participating, length of time to complete the fire drill, and a narrative notation of any special problems. III

(F) The fire alarm shall be activated during all fire drills unless the drill is conducted between 9 p.m. and 6 a.m., when a facility-generated predetermined message is acceptable in lieu of the audible and visual components of the fire alarm. II/III

(6) Fire Safety Training.

(A) The facility shall ensure that fire safety training is provided to all employees during employee orientation, conducted at least every six (6) months after the initial training received during orientation and when training needs are identified as a result of fire drill evaluations. II/III

(B) The training shall include, but is not limited to, the following:

1. Prevention of fire ignition, detection of fire, and control of fire development;

2. Confinement of the effects of fire;

3. Procedures for moving residents to an area of refuge, if applicable;

4. Use of alarms;

5. Transmission of alarms to the fire department;

6. Response to alarms;

7. Isolation of fire;

8. Evacuation of immediate area and building;

9. Preparation of floors and facility for evacuation; and

10. Use of the evacuation plan as required by section (5) of this rule. II/III

*[(6)]***(7)** Exits, Stairways**,** and Fire Escapes.

(A) Each floor of a facility shall have at least two (2) unobstructed exits remote from each other.

1. For a facility whose plans were approved on or before December 31, 1987, or a facility licensed for twenty (20) or fewer residents, one (1) of the required exits from a multi-story facility shall be an outside stairway or an enclosed stairway that is separated by one (1)-hour rated construction from each floor with an exit leading directly to the outside at grade level. Existing plaster or gypsum board of at least one-half inch (1/2") thickness may be considered equivalent to one (1)-hour rated construction. The other required exit may be an interior stairway leading through corridors or passageways to outside or to a two (2)-hour rated horizontal exit as defined by paragraph 3.3.61 of the 2000 edition NFPA 101. Neither of the required exits shall lead through a furnace or boiler room. Neither of the required exits shall be through a resident's bedroom, unless the bedroom door cannot be locked. **I/II**

2. For a facility whose plans were approved after December 31, 1987, for more than twenty (20) residents, the required exits shall be doors leading directly outside, one (1)-hour enclosed stairs or outside stairs or a two (2)-hour rated horizontal exit as defined by paragraph 3.3.61 of 2000 edition NFPA 101. The one (1)-hour enclosed stairs shall exit directly outside at grade. Access to these shall not be through a resident bedroom or a hazardous area. I/II

3. Only one (1) of the required exits may be a two (2)-hour rated horizontal exit. **I/II**

(B) In facilities with plans approved after December 31, 1987, doors to resident use rooms shall not be more than one hundred feet (100') from an exit. In facilities equipped with a complete sprinkler system in accordance with NFPA 13 or NFPA 13R, **1999 edition,** the exit distance may be increased to one hundred fifty feet (150'). Dead-end corridors shall not exceed thirty feet (30') in length. II

(C) In residential care facilities and facilities formerly licensed as residential care facilities II, floors housing residents who require the use of a walker, wheelchair**,** or other assistive devices or aids, or who are blind, must have two (2) accessible exits to grade or such residents must be housed near accessible exits as specified in 19 CSR 30-86.042(33) for residential care facilities and 19 CSR 30-86.043(31) for facilities formerly licensed as residential care facilities II unless otherwise prohibited by 19 CSR 30-86.045 or 19 CSR 30-86.047, facilities equipped with a complete sprinkler system, in accordance with *[the 1996 edition of]* NFPA 13 or NFPA 13R**, 1999 edition,** with sprinklered attics, and smoke partitions, as defined by subsection *[(9)(I)]* **(10)(I)** of this rule, may house such residents on floors that do not have accessible exits to grade if each required exit is equipped with an area of refuge as defined and described in subsections *[(1)(A)]* **(1)(B)** and *[(6)(D)]* **(7)(D)** of this rule. I/II

(D) An "area of refuge" shall have:

1. An area separated by one (1)-hour rated smoke walls, from the remainder of the building. This area must have direct access to the exit stairway or access the stair through a section of the corridor that is separated by smoke walls from the remainder of the building. This area may include no more than two (2) resident rooms;

2. A two (2)-way communication or intercom system with both visible and audible signals between the area of refuge and the bottom landing of the exit stairway, attendants' work area, or other primary location as designated in the written plan for fire drills and evacuation;

3. Instructions on the use of the area during emergency conditions that are located in the area of refuge and conspicuously posted adjoining the communication or intercom system;

4. A sign at the entrance to the room that states "AREA OF REFUGE IN CASE OF FIRE" and displays the international symbol of accessibility;

5. An entry or exit door that is at least a one and three-fourths inch (1 3/4") solid core wood door or has a fire protection rating of not less than twenty (20) minutes with smoke seals and positive latching hardware. These doors shall not be lockable;

6. A sign conspicuously posted at the bottom of the exit stairway with a diagram showing each location of the areas of refuge;

7. Emergency lighting for the area of refuge; and

8. The total area of the areas of refuge on a floor shall equal at least twenty (20) square feet for each resident who is blind or requires the use of wheelchair or walker housed on the floor. II

(E) If it is necessary to lock exit doors, the locks shall not require the use of a key, tool, special knowledge**,** or effort to unlock the door from inside the building. Only one (1) lock shall be permitted on each door. Delayed egress locks complying with section 7.2.1.6.1 of the 2000 edition NFPA 101 shall be permitted, provided that not more than one (1) such device is located in any egress path. Self-locking exit doors shall be equipped with a hold-open device to permit staff to reenter the building during the evacuation. I/II

(F) If it is necessary to lock resident room doors, the locks shall not require the use of a key, tool, special knowledge**,** or effort to unlock the door from inside the room. Only one (1) lock shall be permitted on each door. Every resident room door shall be designed to allow the door to be opened from the outside during an emergency when locked. The facility shall ensure that facility staff have the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

(G) All stairways and corridors shall be easily negotiable and shall be maintained free of obstructions. II

(H) Outside stairways shall be constructed to support residents during evacuation and shall be continuous to the ground level. Outside stairways shall not be equipped with a counter-balanced device. They shall be protected from or cleared of ice or snow. II/III

(I) Facilities with three (3) or more floors shall comply with the provisions of Chapter 320, RSMo which requires outside stairways to be constructed of iron or steel. II

(J) Fire escapes constructed on or after November 13, 1980, whether interior or exterior, shall be thirty-six inches (36") wide, shall have eight-inch (8") maximum risers, nine-inch (9") minimum tread, no winders, maximum height between landings of twelve feet (12'), minimum dimensions of landings of forty-four inches (44"), landings at each exit door, **and** handrails on both sides and be of sturdy construction, using at least two-inch (2") lumber. Exit doors to these fire escapes shall be at least thirty-six inches (36") wide and the door shall swing outward. II/III

(K) If a ramp is required to meet residents' needs under 19 CSR 30-86.042, the ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II/III

*[(7)]***(8)** Exit Signs.

(A) Signs bearing the word EXIT in plain, legible letters shall be placed at each required exit, except at doors directly from rooms to exit passageways or corridors. Letters of all exit signs shall be at least six inches (6") high and **principle strokes** three-fourths of an inch (3/4") wide, except that letters of internally illuminated exit signs shall not be less than four *[and one-half]* inches *[(4 1/2")]* **(4")** high. II

(B) Directional indicators showing the direction of travel shall be placed in corridors, passageways**,** or other locations where the direction of travel to reach the nearest exit is not apparent. II/III

(C) All required exit signs and directional indicators shall be positioned so that *[they are illuminated by]* both normal and emergency lighting **illuminates them**. II/III

*[(8)]***(9) Complete** Fire Alarm Systems.

(A) *[All facilities shall have inspections and written certifications of the fire alarm system completed by an approved qualified service representative in accordance with the 1996 NFPA 72, National Fire Alarm Code, at least annually. II/III]* **Facilities shall have a complete fire alarm system installed in accordance with NFPA 101, Section 18.3.4, 2000 edition. The complete fire alarm shall automatically transmit to the fire department, dispatching agency, or central monitoring company. The complete fire alarm system shall include visual signals and audible alarms that can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. At a minimum, the complete fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit in accordance with NFPA 72, 1999 edition, and the following: I/II**

1. For facilities with a sprinkler system in accordance with NFPA 13, 1999 edition, smoke detectors interconnected to the complete fire alarm system shall be installed in all corridors and spaces open to the corridor. Smoke detectors shall be no more than thirty feet (30') apart with no point on the ceiling more than twenty-one feet (21') from a smoke detector; I/II

2. For facilities with a sprinkler system in accordance with NFPA 13R, 1999 edition, smoke detectors interconnected to the complete fire alarm system shall be installed in corridors, spaces open to the corridor, and in accessible spaces, as required by NFPA 72, 1999 edition, not protected by the sprinkler system. Smoke detectors shall be no more than thirty feet (30') apart with no point on the ceiling more than twenty-one feet (21') from a smoke detector. Smoke detectors shall not be installed in areas where environmental influences may cause nuisance alarms. Such areas include, but are not limited to kitchens, laundries, bathrooms, mechanical air handling rooms, and attic spaces. In these areas, heat detectors interconnected to the complete fire alarm system shall be installed. Bathrooms not exceeding fifty-five (55) square feet and clothes closets, linen closets, and pantries not exceeding twenty-four (24) square feet are exempt from having any detection device if the wall and ceilings are surfaced with limited-combustible or noncombustible material as defined in NFPA 101, 2000 edition. Concealed spaces of noncombustible or limited-combustible construction are not required to have detection devices. These spaces may have limited access but cannot be occupied or used for storage; and I/II

3. For facilities without an approved sprinkler system, smoke detectors interconnected to the complete fire alarm system shall be installed in all accessible spaces, as required by NFPA 72, 1999 edition, within the facility. Smoke detectors shall be no more than thirty feet (30') apart with no point on the ceiling more than twenty-one feet (21') from a smoke detector. Smoke detectors shall not be installed in areas where environmental influences may cause nuisance alarms. Such areas include, but are not limited to kitchens, laundries, bathrooms, mechanical air handling rooms, and attic spaces. In these areas, heat detectors interconnected to the complete fire alarm system shall be installed. Bathrooms not exceeding fifty-five (55) square feet and clothes closets, linen closets, and pantries not exceeding twenty-four (24) square feet are exempt from having any detection device if the wall and ceilings are surfaced with limited-combustible or noncombustible material as defined in NFPA 101, 2000 edition. Concealed spaces of noncombustible or limited-combustible construction are not required to have detection devices. These spaces may have limited access but cannot be occupied or used for storage. I/II

(B) All facilities shall test and maintain the complete fire alarm system in accordance with NFPA 72, 1999 edition. I/II

*[(B)]***(C)** *[All residential care facilities licensed for more than twenty (20) residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72.]* **All facilities shall have inspections and written certifications of the complete fire alarm system completed by an approved qualified service representative in accordance with NFPA 72, 1999 edition, at least annually.** I/II

[(C) Facilities that are required to comply with the requirements of 19 CSR 30-86.043 shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(D) All residential care facilities and assisted living facilities with more than one (1) structure on the premises housing residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(E) A complete fire alarm system will not be required for facilities licensed prior to July 11, 1980, if the facility has a sprinkler system installed and maintained in accordance with the 1976 NFPA 13, Standard for the Installation of Sprinkler Systems. I/II

(F) Residential care facilities licensed for twenty (20) or fewer residents shall be equipped with a complete automatic fire alarm system or individual home-type detectors. The individual home-type detectors shall be UL-approved battery-powered detectors which sense smoke and automatically sound an alarm which can be heard throughout the facility. If individual home-type detectors are being used, there shall be one (1) detector per resident-use room, in corridors and stairwells and in any hazardous area other than the kitchen where either a smoke or heat detector may be used. I/II

(G) The fire alarm system shall be an electrically supervised system with standby emergency power installed and maintained in accordance with the 1996 NFPA 72. Those facilities that are required to comply with the requirements of 19 CSR 30-86.042 and 19 CSR 30-86.043, with plans approved prior to October 1, 2000, shall comply with the provision of the 1975 edition of NFPA 72A, Local Protective Signaling Systems. Those facilities with plans approved on or after October 1, 2000, shall comply with the 1996 edition of NFPA 72. I/II

(H) At a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and

each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. In facilities licensed prior to November 13, 1980, smoke detectors located every fifty feet (50') will be acceptable. The smoke detectors will not be required in facilities licensed prior to November 13, 1980, if a complete heat detector system, interconnected to the fire alarm system, is provided in every space throughout the facility. It must include audible signal(s) which can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. I/II]

*[(I)]***(D)** *[Every fire alarm system shall be tested at least once a month, and a record of all tests shall be maintained.]* **Facilities shall test every complete fire alarm system at least once a month.** II/III

(E) Facilities shall maintain a record of the complete fire alarm tests, inspections, and certifications required by subsections (9)(B) and (9)(C) of this rule. III

*[(J)]***(F)** *[Any fault with any part of the fire alarm system shall be corrected immediately upon discovery.]* **Upon discovery of a fault with the complete fire alarm system, the facility shall promptly correct the fault.** I/II

*[(K)]***(G)** When a **complete** fire alarm system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and **the local fire authority and** implement an approved fire watch **in accordance with NFPA 101, 2000 edition,** until the **complete** fire alarm system has *[been]* returned to full service. I/II

(H) The complete fire alarm system shall be activated by all of the following: sprinkler system flow alarm, smoke detectors, heat detectors, manual pull stations, and activation of the range hood extinguishment system. II/III

[(L) Detectors shall be tested monthly and batteries shall be changed as needed. A record shall be kept of the dates of testing and the changing of batteries. II/III

(M) Any fault with any detector shall be corrected immediately upon discovery. I/II

(N) Refer to section (16) of this rule for additional fire alarm standards for those assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.]

*[(9)]***(10)** Protection from Hazards.

(A) In **assisted living facilities and residential care** facilities licensed on or after November 13, 1980, for more than twelve (12) residents, hazardous areas shall be separated by construction of at least a one (1)-hour fire-resistant rating. In facilities equipped with a complete *[automatic]* fire alarm system, *[not individual residential-type detectors,]* the one (1)-hour fire separation is required only for furnace or boiler rooms. Hazardous areas equipped with a complete sprinkler system are not required to have this one (1)-hour fire separation. Doors to hazardous areas shall be self-closing and shall be kept closed unless an electromagnetic hold-open device is used which is interconnected with the fire alarm system. **When the sprinkler option is chosen, the areas shall be separated from other spaces by smoke-resistant partitions and doors. The doors shall be self-closing or automatic-closing.** Facilities formerly licensed as residential care facility I or II, and existing prior to November 13, 1980, shall be exempt from this requirement. II

(B) The storage of unnecessary combustible materials in any part of a building in which a licensed facility is located is prohibited. I/II

[(C) Space under stairways shall not be used for storage of combustible materials unless the space is separated by one (1)-hour rated construction and sprinklered. II/III]

*[(D)]***(C)** Electric or gas clothes dryers shall be vented to the outside. Lint traps shall be cleaned regularly to protect against fire hazard. II/III

*[(E)]***(D)** In facilities that are required to comply with the requirements of 19 CSR 30-86.043 and were formerly licensed as residential care facilities II on or after November 13, 1980, each floor shall be separated by construction of at least a one (1)-hour fire resistant rating. Buildings equipped with a complete sprinkler system may have a nonrated smoke separation barrier between floors. Doors between floors *[must]* **shall** be a minimum of one and three-fourths inches (1 3/4") thick and be solid core wood doors or metal doors with an equivalent fire rating. II

*[(F)]***(E)** In facilities licensed prior to November 13, 1980, and multi-storied residential care facilities formerly licensed as residential care facilities I licensed on or after November 13, 1980, there shall be a smoke separation barrier between the floors of resident-use areas and any floor below the resident-use area. This shall consist of a solid core wood door or metal door with an equivalent fire rating at the top or the bottom of the stairs. There shall not be a transom above the door that would permit the passage of smoke. II

*[(G)]***(F)** Atriums open between floors will be permitted if resident room corridors are separated from the atrium by one (1)-hour rated smoke walls. These corridors must have access to at least one (1) of the required exits without traversing any space opened to the atrium. II

*[(H)]***(G)** All doors providing separation between floors shall have a self-closing device attached. If the doors are to be held open, electromagnetic hold-open devices shall be used that are interconnected with either an individual smoke detector*[, a sprinkler system]* or a complete fire alarm system. II

[(I) In facilities whose plans were approved or which were initially licensed after December 31, 1987, for more than twenty (20) residents, each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke stop partitions are required unless the facility is required to comply with the requirements of 19 CSR 30-86.045 or 19 CSR 30-86.047. Openings in smoke stop partitions shall be protected by solid core doors equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm systems. Smoke dampers are not required where both smoke sections are protected by Quick Response Sprinklers. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II]

(H) Each floor accessed by residents shall be divided into at least two (2) smoke sections with each section not exceeding one hundred fifty feet (150') in length or width. If the floor's dimensions do not exceed seventy-five feet (75') in length or width, a division of the floor into two (2) smoke sections will not be required. II

(I) Each smoke section shall be separated by one (1)-hour fire-rated walls that are continuous from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. All doors in this wall shall be at least twenty (20)-minute fire-rated or its equivalent, self-closing, and may be held open only if the door closes automatically upon activation of the complete fire alarm system. II

(J) Facilities whose plans were approved or which were initially licensed after December 31, 1987, for more than twenty (20) residents and which are unsprinklered shall have one (1)-hour rated corridor walls with one and three-quarters inch (1 3/4") solid core wood doors or metal doors with an equivalent fire rating. II

(K) If two (2) or more levels of long-term care or two (2) different businesses are located in the same building, the entire building shall meet either the most strict construction and fire safety standards for the combined facility or the facilities shall be separated from the other(s) by two (2)-hour fire-resistant construction. In buildings equipped with a complete sprinkler system in accordance with NFPA 13 or NFPA 13R, **1999 edition,** this separation may be rated at one (1) hour. II

[(L) Refer to section (16) of this rule for additional standards for those assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.]

*[(10)]***(11)** Sprinkler Systems.

(A) *[In facilities that are required to comply with the requirements of 19 CSR 30-86.043, an automatic sprinkler system shall be installed and maintained according to the applicable edition of the NFPA 13, Standard for the Installation of Sprinkler Systems, if residents reside above the second floor and the facility is not of fire resistant construction.]* **Facilities licensed on or after August 28, 2007, or any facility performing major renovations to the facility shall have a complete sprinkler system installed in accordance with NFPA 13, 1999 edition.** I/II

(B) *[Residential care facilities that are not of fire-resistant construction and which house residents above the third floor shall be provided throughout with an automatic sprinkler system installed and maintained according to the applicable edition of the NFPA 13 or NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Story Dwellings and Manufactured Homes.]* **Facilities that have sprinkler systems installed prior to August 28, 2007, shall operate, maintain, and test these systems in accordance with NFPA 13, 1999 edition, or NFPA 13R, 1999 edition, and NFPA 25, 1998 edition.** I/II

(C) *[Facilities whose plans are approved or which are initially licensed after December 31, 1987, for more than twenty (20) residents shall be completely sprinklered if they are not of fire-resistant construction and if they are over one (1) story in height. One (1) story facilities shall be completely sprinklered unless all combustible structural members are provided with one (1)-hour fire-rated protection. One-half inch (1/2") gypsum board or plaster is considered equivalent to one (1)-hour protection. The sprinkler system shall comply with the applicable edition of either NFPA 13 or NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height.]* **All residential care facilities, and assisted living facilities that do not admit or retain a resident with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance, that were licensed prior to August 28, 2007, with more than twenty (20) residents, and do not have an approved sprinkler system in accordance with NFPA 13, 1999 edition, or NFPA 13R, 1999 edition, shall have until December 31, 2012, to install an approved sprinkler system in accordance with NFPA 13 or 13R, 1999 edition. I/II The department shall grant exceptions to this requirement if the facility meets Chapter 33 of NFPA 101, 2000 edition, and the evacuation capability of the facility meets the standards required in NFPA 101A, Guide to Alternative Approaches to Life Safety, 2001 edition.** I/II

(D) *[All facilities initially licensed or with plans approved on or after October 1, 2000, shall have complete sprinkler systems installed and maintained in accordance with the 1996 edition of NFPA 13 or NFPA 13R, except that multilevel assisted living facilities that are required to comply with the requirements in 19 CSR 30-86.045 and multilevel assisted living facilities built after August 28, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13. Multilevel assisted living facilities with major renovations after August 27, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13 in the portion of the facility where the major renovation occurred. In areas where public water supplies are not available, a private water supply meeting the requirements of the 1994 edition of NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, will be acceptable for all facilities except multilevel assisted living facilities that are required to comply with the requirements of 19 CSR 30-86.045 or 19 CSR 30-86.047.]* **Single-story assisted living facilities that provide care to one (1) or more residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13R, 1999 edition. I/II**

(E) *[All facilities shall have inspections and written certifications of the sprinkler system completed by an approved qualified service representative in accordance with the 1998 NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems. The inspections shall be in accordance with the provisions of NFPA 25, with certification at least annually by a qualified service representative. II/III]* **Multi-level assisted living facilities that provide care to one (1) or more residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13, 1999 edition. I/II**

(F) *[When a sprinkler system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and implement an approved fire watch until the sprinkler system has been returned to full service.]* **All facilities shall have inspections and written certifications of the approved sprinkler system completed by an approved qualified service representative in accordance with NFPA 25, 1998 edition. The inspections shall be in accordance with the provisions of NFPA 25, 1998 edition, with certification at least annually by a qualified service representative.** I/II

(G) *[Refer to section (16) of this rule for additional sprinkler system standards for those assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.]* **When a sprinkler system is to be out-of-service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the sprinkler system has been returned to full service. I/II**

(12) All facilities shall submit, by July 1, 2008, a plan for compliance to the state fire marshal showing how the facility meets the requirements of sections (9) and (11) and subsections (10)(H) and (10)(I) of this rule. If the facility's plan for compliance does not meet the requirements of sections (9) and (11) and subsections (10)(H) and (10)(I) of this rule, the facility shall provide the state fire marshal with a written plan to include at a minimum an explanation of how the requirements of sections (9) and (11) and subsections (10)(H) and (10)(I) will be met, when they will be met, and contact information in the event the plan does not evidence compliance with these requirements. II

(A) To qualify for a sprinkler system exception, the facility shall present evidence to the state fire marshal in writing that the facility meets the safety requirements of Chapter 33 of existing

residential board and care occupancies of NFPA 101 Life Safety Code. II

*[(11)]***(13)** Emergency Lighting.

(A) Emergency lighting of sufficient intensity shall be provided for exits, stairs, resident corridors**,** and attendants' station. II

(B) The lighting shall be supplied by an emergency service, an automatic emergency generator**,** or battery operated lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. II

(C) If battery powered lights are used, they shall be capable of operating the light for at least one and one-half (1 1/2) hours. II

*[(12)]***(14)** Interior Finish and Furnishings.

(A) In a facility licensed on or after November 13, 1980, for more than twelve (12) residents, wall and ceiling surfaces of all occupied rooms and all exitways shall be *[of a material or so treated as not to have a flame-spread classification of more than seventy-five (75) according to the method of the Fire Hazard Classification of Building Materials of Underwriters Laboratories, Inc.]* **classified either Class A or B interior finish as defined in NFPA 101, 2000 edition.** II

(B) In facilities licensed prior to November 13, 1980, all wall and ceiling surfaces shall be smooth and free of highly combustible materials. II

(C) In a facility licensed on or after November 13, 1980, for more than twelve (12) residents, the new or replacement floor covering and carpeting shall be Class I **interior floor finish** in non-sprinklered buildings and Class II **interior floor finish** in sprinklered buildings **as defined in NFPA 101, 2000 edition**. *[Class I has a critical radiant flux of zero point forty-five (0.45) or more watts per square centimeter when tested according to NFPA 253, Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source. Class II has a critical radiant flux of zero point twenty-two (0.22) or more watts per square centimeter when tested according to NFPA 253.]* II/III

(D) All new or replacement curtains and drapes in a licensed facility shall be certified or treated to be flame-resistant **as defined in NFPA 101, 2000 edition**. II

*[(13)]***(15)** Smoking.

(A) Smoking *[shall not be permitted in sleeping quarters except at that time as direct supervision is provided]* **shall be permitted in designated areas only**. Areas where smoking is permitted shall be designated as such and shall be supervised either directly or by a resident informing an employee of the facility that the area is being used for smoking. II/III

(B) Ashtrays shall be made of noncombustible material and safe design and shall be provided in all areas where smoking is permitted. II/III

(C) The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material. II/III

*[(14)]***(16)** Trash and Rubbish Disposal.

(A) Only metal or UL- or FM-fire-resistant rated wastebaskets shall be used for trash. II

(B) Trash shall be removed from the premises as often as necessary to prevent fire hazards and public health nuisance. II

(C) No trash shall be burned within fifty feet (50') of any facility except in an approved incinerator. I/II

(D) Trash may be burned only in a masonry or metal container. II

(E) The container shall be equipped with a metal cover with openings no larger than one-half inch (1/2") in size. III

*[(15)]***(17)** Standards for Designated Separated Areas.

(A) When a resident resides among the entire general population of the facility, the facility shall take necessary measures to provide such residents with the opportunity to explore the facility and, if appropriate, its grounds. When a resident resides within a designated, separated area that is secured by limited access, the facility shall take necessary measures to provide such residents with the opportunity to explore the separated area and, if appropriate, its grounds. If enclosed or fenced courtyards are provided, residents shall have reasonable access to such courtyards. Enclosed or fenced courtyards that are accessible through a required exit door shall be large enough to provide an area of refuge for fire safety at least thirty feet (30') from the building. Enclosed or fenced courtyards that are accessible through a door other than a required exit shall have no size requirements. II

(B) The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms. I/II

(C) The facility may allow resident room doors to be locked providing the residents request to lock their doors. Any lock on a resident room door shall not require the use of a key, tool, special knowledge**,** or effort to lock or unlock the door from inside the resident's room. Only one (1) lock shall be permitted on each door. The facility shall ensure that facility staff has the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

(D) The facility may provide a designated, separated area where residents, who are mentally incapable of negotiating a pathway to safety, reside and receive services and which is secured by limited access if the following conditions are met:

1. Dining rooms, living rooms, activity rooms, and other such common areas shall be provided within the designated, separated area. The total area for common areas within the designated, separated area shall be equal to at least forty (40) square feet per resident; II/III

2. Doors separating the designated, separated area from the remainder of the facility or building shall not be equipped with locks that require a key to open; I/II

3. If locking devices are used on exit doors egressing the facility or on doors accessing the designated, separated area, delayed egress magnetic locks shall be used. These delayed egress devices shall comply with the following:

A. The lock must unlock when the fire alarm is activated;

B. The lock must unlock when the power fails;

C. The lock must unlock within thirty (30) seconds after the release device has been pushed for at least three (3) seconds, and an alarm must sound adjacent to the door;

D. The lock must be manually reset and cannot automatically reset; and

E. A sign shall be posted on the door that reads: PUSH UNTIL ALARM SOUNDS, DOOR CAN BE OPENED IN 30 SECONDS. I/II

4. The delayed egress magnetic locks may also be released by a key pad located adjacent to the door for routine use by staff. I/II

[(16) Additional fire safety standards for assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance. All such facilities must comply with the following requirements:

(A) The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of subsection 13-3.4 of the 1997 Life Safety Code for Existing Health Care Occupancy, incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials. At a minimum the system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke

detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department; I/II

(B) Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. At a minimum, openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or labeled, fire rated doors with an equivalent or greater fire rating. The doors shall be equipped with closures and if held open, shall be equipped with magnetic hold-open devices that automatically release upon activation of the fire alarm system. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke dampers are not required where both smoke sections are protected throughout the entire section by quick response sprinklers on an NFPA 13 system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck; II and

(C) In addition to the requirements at subsections (4)(A)1. and 2. of this rule, all facilities shall be equipped with a complete automatic sprinkler system installed and maintained in accordance with the following:

1. The 1996 edition of the National Fire Protection Association (NFPA) 13, Standard for the Installation of Sprinkler Systems (1996 edition of NFPA 13); or

2. The 1996 edition of NFPA 13R, Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height (1996 edition of NFPA 13R), which are incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials; and

3. Single story facilities must comply with either NFPA 13 or NFPA 13R;

4. Multistory facilities must comply with NFPA 13. I/II]

*AUTHORITY: sections [RSMo 2000 and 198.005 and] 198.073, **198.074, and** 198.076, RSMo Supp. [2006] **2007**. This rule originally filed as 13 CSR 15-15.022. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 24, 2008, effective Dec. 4, 2008, expires June 1, 2009. Amended: Filed Nov. 24, 2008.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions two hundred seventy-nine thousand eight hundred ninety-six dollars ($279,896) in the aggregate

PRIVATE COST: This proposed amendment will cost private entities $9,388,028 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Kimberly O'Brien, Director for the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 86

Rule Number and Name:	86.022 Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Fire Alarm Systems - 12 Residential Care Facilities publicly owned and operated	**$32,076**
Fire Alarm Systems - 4 Assisted Living Facilities publicly owned and operated	**$7,740**
Sprinkler Systems – Residential Care Facilities and Assisted Living Facilities publicly owned and operated	**$236,880**
K-Rated Fire Extinguishers – 16 Residential Care Facilities and Assisted Living Facilities	**$3,200**

III. WORKSHEET

Fire Alarm Systems
This proposed amendment requires all residential care and assisted living facilities to have a complete fire alarm system installed by December 31, 2008.

Existing regulations for residential care facilities formerly licensed as RCF IIs require some type of fire alarm system, but that system may not meet the new statutory definition of a complete fire alarm system. These facilities will be able to add to their existing fire alarms systems in order to meet the new statutory definition of a complete fire alarm system. There are currently 12 residential care facilities formerly licensed as RCF IIs.

Existing regulations for assisted living facilities require some type of fire alarm system, but that system may not meet the new statutory definition of a complete fire alarm system. These facilities will be able to add to their existing fire alarms systems in order to meet the new statutory definition of a complete fire alarm system. There are currently 4 assisted living facilities.

Sprinkler Systems
The proposed amendment requires all residential care facilities and assisted living facilities with more than 20 residents, unless the assisted living facility was previously required to have an NFPA 13 sprinkler system, to install a NFPA 13R sprinkler system. There are approximately 5 residential care facilities and assisted living facilities licensed for more than 20 beds that currently do not have a NFPA 13R sprinkler system. These facilities must install a NFPA 13R sprinkler system by December 31, 2012.

K-Rated Fire Extinguishers
This proposed amendment requires all residential care facilities and assisted living facilities to have a K-Type fire extinguisher in the kitchen cooking area of the facility. There are currently 16 residential care facilities and assisted living facilities that fall into this category.

IV. ASSUMPTIONS

Fire Alarm Systems
The fiscal note for residential care facilities formerly licensed as RCF IIs is based on the cost to add components to the existing fire alarm system in order for the fire alarm system to comply with the new statutory definition of a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to add components to the existing fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while adding components to the existing fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $32,076: (356 total beds/12 facilities = 29.7 average beds) x (180 square feet per bed) x (12 facilities) x ($.50 cost per square foot).

The fiscal note for assisted living facilities is based on the cost to add components to the existing fire alarm system in order for the fire alarm system to comply with the new statutory definition of a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to add components to the existing fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while adding components to the existing fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $7,740: (86 total beds/4 facilities = 21.5 average beds) x (180 square feet per bed) x (4 facilities) x ($.50 cost per square foot).

DHSS estimates that total cost of adding components to an existing fire alarm system in the aggregate to be $39,816: ($32,076 + $7,740).

The minimum requirements for a complete fire alarm system are described in statute (Section 198.074.7.1, RSMo Supp. 2007). In an effort to assist residential care and assisted living facilities with consistent guidance for installation of a complete fire alarm system so these facilities can meet statutory requirements, the proposed amendment provides specific installation guidance (for spacing and placement) in accordance with the NFPA standards referenced in the statute.

DHSS contends that the total cost is imposed by statute, (section 198.074 RSMo Supp. 2007) because the statute, in addition to referencing the components of a complete fire alarm system, also requires the complete fire alarm system to be in compliance with NFPA 101 and NFPA 72. These NFPA standards outline the same placement and spacing requirements as contained in this proposed amendment.

Sprinkler Systems

The fiscal note for residential care facilities and assisted living facilities licensed for more than 20 beds is based on the cost to install a NFPA 13R sprinkler system. The number of beds was used to determine the requirement for a NFPA 13R sprinkler system, i.e., more than twenty beds. The statute requires residential care facilities and assisted living facilities with more than twenty residents to install a NFPA 13R sprinkler system. Because the number of residents in continually changing, this fiscal note is based on those facilities licensed for more than 20 beds. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to install a NFPA 13R sprinkler system). These costs were derived from sprinkler system installation companies. These costs are also based on the installer not encountering difficulties or obstacles while installing the sprinkler system. DHSS estimates the total cost in the aggregate for these facilities to be $236,880: (376 total beds/5 facilities = 75.2 average beds) x (180 square feet per resident) x (5 facilities) x ($3.50 cost per square foot).

DHSS contends that the total cost is imposed by statute, (Section 198.074, RSMo) because the statute requires these facilities to install a NFPA 13R sprinkler system.

K-Rated Fire Extinguisher

This fiscal note for these facilities is based on the cost of a K-Rated fire extinguisher. The following formula was used to determine the cost: (total number of facilities that will be required to install a K-Rated fire extinguisher) x (the cost of a K-Rated fire extinguisher). The cost of a K-Rated fire extinguisher was derived from a local fire safety company. DHSS estimates the total cost in the aggregate for these facilities to be $3,200 (16 facilities) x ($200 for a K-Rated fire extinguisher).

FISCAL NOTE
PRIVATE COST

I. Department Title: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 86

Rule Number and Title:	86.022 Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Fire Alarm Systems - 172 Residential Care Facilities (former RCF I) licensed for 20 or fewer beds	**Residential Care Facilities**	**$905,580**
Fire Alarm Systems - 68 Residential Care Facilities (former RCF I) licensed for more than 20 beds and 204 Residential Care Facilities formerly licensed as a RCF II	**Residential Care Facilities**	**$1,050,192**
Fire Alarm Systems - 152 Assisted Living Facilities	**Assisted Living Facilities**	**$618,336**
NFPA 13R Sprinkler Systems – 120 Residential Care Facilities and Assisted Living Facilities licensed for more than 20 beds	**Residential Care Facilities and Assisted Living Facilities**	**$5,685,120**
Smoke Separation – 101 Residential Care Facilities and Assisted Living Facilities	**Residential Care Facilities and Assisted Living Facilities**	**$1,010,000**
K-Rated Fire Extinguishers – 594 Residential Care Facilities and Assisted Living Facilities	**Residential Care Facilities and Assisted Living Facilities**	**$118,800**

III. WORKSHEET

Fire Alarm Systems
This proposed amendment requires all residential care and assisted living facilities to have a complete fire alarm system installed by December 31, 2008.

Existing regulations for residential care facilities (former RCF I) licensed for 20 or fewer beds allow for home-type smoke detectors. These facilities must install all components of a complete fire alarm system. There are currently 172 residential care facilities licensed for 20 or fewer beds.

Existing regulations for residential care facilities (former RCF I) licensed for more than 20 beds and all residential care facilities formerly licensed as RCF IIs require some type of fire alarm system, but that system may not meet the new statutory definition of a complete fire alarm system. These facilities will be able to add to their existing fire alarms systems in order to meet the new statutory definition of a complete fire alarm system. There are currently 68 residential care facilities (former RCF I) licensed for more than 20 beds and 204 residential care facilities formerly licensed as RCF IIs.

Existing regulations for assisted living facilities require some type of fire alarm system, but that system may not meet the new statutory definition of a complete fire alarm system. These facilities will be able to add to their existing fire alarms systems in order to meet the new statutory definition of a complete fire alarm system. There are currently 152 assisted living facilities.

Sprinkler Systems
The proposed amendment requires all residential care facilities and assisted living facilities with more than 20 residents, unless the assisted living facility was previously required to have an NFPA 13 sprinkler system, to install a NFPA 13R sprinkler system. There are approximately 120 residential care facilities and assisted living facilities licensed for more than 20 beds that currently do not have a NFPA 13R sprinkler system. These facilities must install a NFPA 13R sprinkler system by December 31, 2012.

Smoke Separation
This proposed amendment requires all residential care and assisted living facilities whose dimensions (width or length) exceed 75 feet to divide each resident-accessed floor into at least two smoke sections. There are currently 101 residential care and assisted living facilities that fall into this category, based on plans for compliance submitted by facilities.

K-Rated Fire Extinguishers
This proposed amendment requires all residential care facilities and assisted living facilities to have a K-Type fire extinguisher in the kitchen cooking area of the facility. There are currently 594 residential care facilities and assisted living facilities that fall into this category.

IV. ASSUMPTIONS

Fire Alarm Systems

The fiscal note for residential care facilities (former RCF I) licensed for 20 or fewer beds is based on the cost to install a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to install a complete fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while installing the complete fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $905,580: (2232 total beds/172 facilities = 13 average beds) x (180 square feet per resident) x (172 facilities) x ($2.25 cost per square foot).

The fiscal note for residential care facilities licensed (former RCF I) for more than 20 beds and all residential care facilities formerly licensed as RCF IIs is based on the cost to add components to the existing fire alarm system in order for the fire alarm system to comply with the new statutory definition of a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to add components to the existing fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while adding components to the existing fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $1,050,192: (11,679 total beds/272 facilities = 42.9 average beds) x (180 square feet per bed) x (272 facilities) x ($.50 cost per square foot).

The fiscal note for assisted living facilities is based on the cost to add components to the existing fire alarm system in order for the fire alarm system to comply with the new statutory definition of a complete fire alarm system. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to add components to the existing fire alarm system). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. These costs are also based on the installer not encountering difficulties or obstacles while adding components to the existing fire alarm system. DHSS estimates the total cost in the aggregate for these facilities to be $618,336: (6,871 total beds/152 facilities = 45.2 average beds) x (180 square feet per bed) x (152 facilities) x ($.50 cost per square foot).

DHSS estimates that total cost of installing a complete fire alarm system and/or adding components to an existing fire alarm system in the aggregate to be $2,574,108: ($905,580 + $1,050,192 + $618,336).

The minimum requirements for a complete fire alarm system are described in statute (Section 198.074.7.1, RSMo Supp. 2007). In an effort to assist residential care and assisted living facilities with consistent guidance for installation of a complete fire alarm

system so these facilities can meet statutory requirements, the proposed amendment provides specific installation guidance (for spacing and placement) in accordance with the NFPA standards referenced in the statute.

DHSS contends that the total cost is imposed by statute, (section 198.074 RSMo Supp. 2007) because the statute, in addition to referencing the components of a complete fire alarm system, also requires the complete fire alarm system to be in compliance with NFPA 101 and NFPA 72. These NFPA standards outline the same placement and spacing requirements as contained in this proposed amendment.

Sprinkler Systems
The fiscal note for residential care facilities and assisted living facilities licensed for more than 20 beds is based on the cost to install a NFPA 13R sprinkler system. The number of beds was used to determine the requirement for a NFPA 13R sprinkler system, i.e., more than twenty beds. The statute requires residential care facilities and assisted living facilities with more than twenty residents to install a NFPA 13R sprinkler system. Because the number of residents in continually changing, this fiscal note is based on those facilities licensed for more than 20 beds. The following formula was used to determine cost: (total number of facility beds divided by the number of facilities = average size of facility) x (number of square feet per bed) x (total number of facilities) x (estimated cost per square foot to install a NFPA 13R sprinkler system). These costs were derived from sprinkler system installation companies. These costs are also based on the installer not encountering difficulties or obstacles while installing the sprinkler system. DHSS estimates the total cost in the aggregate for these facilities to be $5,685,120: (9024 total beds/120 facilities = 75.2 average beds) x (180 square feet per resident) x (120 facilities) x ($3.50 cost per square foot).

DHSS contends that the total cost is imposed by statute, because the statute requires these facilities to install a NFPA 13R sprinkler system.

Smoke Separation
The fiscal note for these facilities is based on the average cost to install a smoke barrier. The following formula was used to determine the cost: (total number of facilities that will be required to install a smoke barrier) x (average estimated cost to install the smoke barrier). These costs were derived from recent architectural plan review estimates submitted by long term care facilities. The cost is an average of the estimates submitted by facilities, because the degree of work required varies widely among the facilities. For example, some facilities may have to install doors only while others may have to install doors and walls in attics and on the resident use floor. These costs are also based on the installer not encountering difficulties or obstacles while installing the smoke barrier. DHSS estimates the total cost in the aggregate for these facilities to be $1,010,000: (101 facilities) x ($10,000 average cost per smoke barrier).

DHSS contends that the total cost is imposed by statute, (Section 198.074, RSMo) because statute requires all residential care and assisted living facilities whose dimensions (width or length) exceed 75 feet to divide each resident-accessed floor into at least two smoke sections.

K-Rated Fire Extinguisher

This fiscal note for these facilities is based on the cost of a K-Rated fire extinguisher. The following formula was used to determine the cost: (total number of facilities that will be required to install a K-Rated fire extinguisher) x (the cost of a K-Rated fire extinguisher). The cost of a K-Rated fire extinguisher was derived from a local fire safety company. DHSS estimates the total cost in the aggregate for these facilities to be $118,800 (594 facilities) x ($200 for a K-Rated fire extinguisher).

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 5—Examinations

PROPOSED AMENDMENT

20 CSR 2030-5.030 Standards for Admission to Examination—Architects. The board is proposing to amend section (1).

PURPOSE: This amendment allows a person participating in the Intern Development Program through the National Council of Architectural Registration Boards who has graduated with a National Architectural Accreditation Board accredited degree or equivalent degree from Canada to use the title of "Architectural Intern."

(1) Every graduate from a curriculum fully accredited by the National Architectural Accreditation Board (NAAB), or other designated agencies as recognized by the National Council of Architectural Registration Boards (NCARB), who shall apply for architectural licensure shall submit with and as a part of the application documents as required in section 327.131, RSMo, a fully certified and completed Intern Development Program (IDP) record. **A person participating in IDP through NCARB who has graduated with a NAAB accredited degree or equivalent degree from Canada may use the term "Architectural Intern."**

*AUTHORITY: sections 327.041 and 327.131, RSMo Supp. [2004] **2007** and **sections** 327.141 and 327.221, RSMo 2000. This rule originally filed as 4 CSR 30-5.030. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 21, 2008.*

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 Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, 3605 Missouri Boulevard, Suite 380, Jefferson City, MO 65109, by facsimile at 573-751-8046, or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules

PROPOSED RESCISSION

20 CSR 2095-1.060 License Renewal and Changes to License. This rule provided information and the requirements regarding the annual renewal of a license and the procedure for notifying the committee of name and address changes.

PURPOSE: This rule is being rescinded and readopted as several new rules in Chapter 1 to make the rule easier to follow.

AUTHORITY: sections 337.507, RSMo Supp. 2004 and 337.515 and 337.520(1), RSMo 2000. This rule originally filed as 4 CSR 95-1.060. Original rule filed Dec. 1, 2004, effective June 30, 2005. Moved to 20 CSR 2095-1.060, effective Aug. 28, 2006. Rescinded: Filed Nov. 21, 2008.

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules

PROPOSED RULE

20 CSR 2095-1.060 Changes to License

PURPOSE: This rule provides the procedure for notifying the committee of name and address changes.

A licensed professional counselor, counselor-in-training, or provisional licensed professional counselor shall inform the committee in writing within thirty (30) days of a name and/or address change. If a name is changed by marriage or court order, a copy of the documentation authorizing the name change shall be submitted to the committee. No other name changes shall be accepted.

AUTHORITY: section 337.507, RSMo Supp. 2007. This rule originally filed as 4 CSR 95-1.060. Original rule filed Dec. 1, 2004, effective June 30, 2005. Moved to 20 CSR 2095-1.060, effective Aug. 28, 2006. Rescinded and readopted: Filed Nov. 21, 2008.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately fifteen dollars and forty-three cents ($15.43) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately five dollars and twenty cents ($5.20) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.060 Changes to License
Prepared June 23, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance	
Committee for Professional Counselors	$15.43	
	Total Annual Cost of Compliance for the Life of the Rule	$15.43

III. WORKSHEET

Duplicate licenses are issued to licensees with name changes who provide the proper paperwork. The Licensure Tech II processes the name change paperwork, requests a duplicate license, and mails it to the licensee.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	NUMBER OF APPLICATIONS	TOTAL COST PER RENEWAL PERIOD
Licensure Tech II	$25,428	$37,859.75	$18.20	$0.30	30 Seconds	20	$3.03
						Total Annual Personal Service Costs	$3.03

Expense and Equipment Dollars

Expense & Materials	Cost Per Item	Number of Items	Total Cost
Envelope	$0.20	20	$4.00
Postage	$0.42	20	$8.40
Total Expense and Equipment Cost Per Item	$0.62	Total Annual Expense and Equipment Costs	$12.40

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then devided by 60 to determine cost per minute.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.060 Changes to License
Prepared June 23, 2008 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 rule by affected entities:
10	Licensees w/ Name Changes (Postage @ $0.42)	$4.20
10	Licensees w/ Name Changes (Copies @ $0.10)	$1.00
	Estimated Annual Cost of Compliance for the Life of the	**$5.20**

III. WORKSHEET

See table above.

IV. ASSUMPTION

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules

PROPOSED RULE

20 CSR 2095-1.062 License Renewal and Reinstatement of Lapsed License

PURPOSE: This rule provides information and the requirements regarding the annual renewal of a license and reinstating the license upon expiration.

(1) A license shall be renewed on or before the expiration of the license by submitting the renewal notice and fee pursuant to 20 CSR 2095-1.040(1)(D). Renewals shall be postmarked no later than the expiration date of the license to avoid the late fee as defined in 20 CSR 2095-1.020(1)(D)1. and 2.

(2) Failure to receive a renewal notice shall not excuse the licensee from the requirement to renew a license as outlined in sections 337.507.2 and 337.515, RSMo.

(3) Failure to provide information for a renewal and/or failure to pay the required renewal fee by the expiration date of the license shall result in the license becoming lapsed and expired. The licensee shall be prohibited from practicing professional counseling until applying for reinstatement to the committee and paying the applicable fee(s).

(4) Any licensed professional counselor failing to renew a license on or before the license expiration date may apply to the committee for reinstatement of the license within two (2) years subsequent to the date the license expired. To apply, the licensee shall—

(A) Pay the required fee as defined in 20 CSR 2095-1.020(1)(D)2.;

(B) Provide proof of completing the required continuing education requirements as defined in 20 CSR 2095-1.060(6)(E); and

(C) Provide proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor(s) for both a Missouri State Highway Patrol and Federal Bureau of Investigation background check if the licensee has not previously submitted fingerprints for a background check for licensure purposes.

1. Proof shall consist of any documentation acceptable to the committee.

2. Any fees due for the background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s).

(5) If a license is not current for more than two (2) years subsequent to the license renewal date, the former licensee shall submit a new application for licensure, comply with current licensure requirements as defined by law and regulations, and pay the required fee as defined in 20 CSR 2095-1.020(1)(A).

(6) A professional counselor previously licensed in Missouri and currently licensed as a counselor in another state may apply for reactivation/reinstatement of an expired license upon submission of the following:

(A) Application for reactivation/reinstatement;

(B) Reactivation/Reinstatement fee as defined in 20 CSR 2095-1.020(1)(D);

(C) Proof that the applicant is licensed to practice professional counseling in another state;

(D) Completion of forty (40) hours of continuing education as defined within this regulation or documentation of completion of the continuing education hours required by the state in which the applicant is licensed; and

(E) Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor(s) for a Missouri State Highway Patrol and Federal Bureau of Investigation background check.

1. Proof shall consist of any documentation acceptable to the committee.

2. Any fees due for the background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s).

AUTHORITY: section[s] 337.507, RSMo Supp. 2007 and sections 337.515 and 337.520(1), RSMo 2000. Material in this rule originally filed as 4 CSR 95-1.060 and 20 CSR 2095-1.060. Original rule filed Nov. 21, 2008.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately four hundred twenty-three dollars and eighty-one cents ($423.81) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately one thousand fifty-nine dollars ($1,059) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.062 License Renewal and Reinstatement of Lapsed License

Prepared May 27, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance	
Committee for Professional Counselors	$423.81	
	Total Biennial Cost of Compliance for the Life of the Rule	**$423.81**

III. WORKSHEET

For the renewal of licenses, the Executive I will review incoming applications for completion and prepare follow-up letters. The Licensure Technician II will prepare the files for committee review. The Executive Director will address areas of concern related to required documentation. For reinstatement of licenses, the Licensure Technician II will prepare the file for committee review. The Executive Director will address areas of concern related to reinstatement. The time estimates are for each staff's combined time to complete.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	TIME PER APPLICATION	TOTAL COST PER RENEWAL PERIOD
Executive I	$34,908	$51,974.52	$24.99	8 Hours Per Renewal Period	$199.90
Licensure Tech II	$25,428	$37,859.75	$18.20	2 Hours Per Renewal Period	$36.40
Executive Director	$64,143	$95,502.51	$45.91	4 Hours Per Renewal Period	$183.66
			Total Biennial Cost of Compliance for Implementation of this Rule		**$419.96**

Expense and Equipment Dollars

Expense & Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	$0.15	5	$0.75
Envelope	$0.20	5	$1.00
Postage	$0.42	5	$2.10
Total Expense and Equipment Cost Per Item	**$0.77**	**Total Biennial Expense and Equipment Costs**	**$3.85**

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.062 License Renewal and Reinstatement of Lapsed License

Prepared May 27, 2008 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	Applicants for Reinstatement Fee @ $150	$750
5	Applicants for Reinstatement Notary @ $2.50	$13
5	Applicants for Reinstatement Background Check @ $59.20	$296
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$1,059**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based upon the last two renewal cycles.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.
3. The division is statutorily obligated to enforce and administer the provisions of sections 337.500 - 337.540, RSMo. Pursuant to Section 337.507, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 337.500-337.540, 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 337.500-337.540, RSMo.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules

PROPOSED RULE

20 CSR 2095-1.064 Continuing Education Requirements

PURPOSE: This rule establishes the requirements for continuing education.

(1) Pursuant to section 337.510.5, RSMo, all licensed professional counselors shall complete at least forty (40) hours of continuing education (CE) prior to the expiration date of the license. Such hours shall be relevant to the practice of professional counseling as defined in sections 337.500(5), (6), and (7), RSMo.

(2) For the purpose of the regulation an hour of continuing education shall be defined as fifty (50) minutes of instruction or study.

(3) For the license renewal due on June 30, 2007, and each renewal cycle thereafter, the licensee shall certify completion of the required continuing education hours on the renewal form.

(4) A licensee shall obtain forty (40) hours of continuing education prior to the expiration date of a license, and such hours shall consist of at least twenty (20) hours of formal continuing education hours and not more than twenty (20) hours of self study.

(5) Formal continuing education is defined as follows:

(A) Post-graduate course work offered by an acceptable education institution as defined in 20 CSR 2095-2.010(4)(A)–(J). Such course work shall be relevant to professional counseling as defined in section 337.500(5), (6), and (7), RSMo, and shall not be part of the graduate course work required for licensure. One (1) semester hour of graduate credit constitutes fifteen (15) hours of continuing education;

(B) Presenting research at a formal professional meeting. A presentation shall include a paper presented in a professional journal, book, or original chapter in an edited book. Credit will be given at the rate of four (4) hours for each paper or presentation. No credit shall be granted for any subsequent presentation on the same subject matter during the same renewal period;

(C) Attending relevant professional meetings when such meetings include verification of attendance. Such meetings can be international, national, regional, state, or local and must be related to the profession. The licensee shall receive three (3) hours of continuing education credit for a full day of meeting attendance;

(D) Attending workshops, seminars, or continuing education courses relevant to counseling as defined in section 337.500(5), (6), and (7), RSMo. The licensee shall provide verification of attendance such as a certificate or letter of attendance indicating the date, time, and number of hours of continuing education from the workshop, seminar, or course provider;

(E) Written contributions to relevant professional books, journals, or periodicals. A licensee is eligible to receive three (3) hours of continuing education for publication in a non-referee journal, six (6) hours of continuing education for publication in a referee journal, eight (8) continuing education hours for each chapter in a book, ten (10) continuing education hours for editing a book, and fifteen (15) continuing education hours for the publication of a book;

(F) Presenting at relevant professional meetings such as international, national, regional, state, or local professional associations. A licensee shall be eligible for a maximum of three (3) hours per presentation. No credit shall be granted for any subsequent presentation on the same subject matter during the same renewal period;

(G) Licensees who are faculty members at an approved educational institution as defined in 20 CSR 2095-2.010(4)(A) may receive up to a maximum of twenty (20) hours per year of continuing education credit for teaching at the educational institution. The areas of study shall be in compliance with 20 CSR 2095-2.010(4)(A)–(J). For the purpose of this regulation, the licensee must teach for a minimum of four (4) clock hours as defined in 20 CSR 2095-1.060(6)(C); and

(H) A licensee who teaches formal continuing education hours may receive up to a maximum of four (4) hours per biennial cycle of continuing education credit for teaching courses relating to core areas as defined in 20 CSR 2095-2.010(4)(A)–(J). For the purpose of this regulation the licensee must teach for a minimum of four (4) clock hours as defined in 20 CSR 2095-1.060(6)(C).

(6) A licensee may obtain no more than twenty (20) hours of self study continuing education.

(A) Self study of professional material includes relevant books, journals, periodicals, tapes, and other materials and preparation for relevant lectures and talks to public groups.

(B) Preparation credit may not be claimed pursuant to this regulation for presentations that are credited under 20 CSR 2095-1.060(6)(E)1.

(7) Personal counseling, psychotherapy, workshops on personal growth, supervision of applicants for licensure, or services provided to professional associations or organizations shall not meet the requirements for continuing education.

(8) Acceptable providers of continuing education programs include:

(A) American Counseling Association (ACA) and any chapter or division of the American Counseling Association;

(B) National Board for Certified Counselors (NBCC);

(C) Local, state, regional, or national psychological associations;

(D) Local, state, regional, or national social worker associations;

(E) Local, state, regional, or national marital and family associations;

(F) State and national school counselor associations;

(G) State and national substance abuse counselor associations;

(H) American Medical Association; and

(I) Professional organizations or groups recognized by continuing education providers listed in this regulation.

AUTHORITY: sections 337.507 and 337.510, RSMo Supp. 2007 and sections 337.515 and 337.520(1), RSMo 2000. Original rule filed Nov. 21, 2008.

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 approximately $1,785,000 to $4,392,800 biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.064 Continuing Education Requirements
Prepared May 27, 2008 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:
3,400	Active Licenses Registration Fee @ $149 - $270	$506,600 - $918,000
3,400	Active Licenses Lodging @ $204 - $417	$693,600 - $1,417,800
3,400	Active Licenses Meals @ $72 - $147	$244,800 - $499,800
3,400	Active Licenses Airfare @$0 - $358	$0 - $1,217,200
3,400	Active Licenses Miscellaneous Costs (Cab fare, parking, and gratuities) @ $100	$340,000
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$1,785,000 - $4,392,800**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on the following:
   Formal hours of continuing education credit can be obtained from local, state and national meetings of professional associations, course work, as well as webinars. Given the numerous sources of formal continuing education hours, the committee is providing a range of costs based upon attending an annual, state, or national meeting which is one of the most frequent venues licensees utilize to obtain continuing education hours.

   To attend the annual meeting of the Missouri Mental Health Counselors Assocation in Osage Beach an estimated cost would be as follows: Registration fee @ $149; Two days lodging totaling $204, meals for two days at the Lake @ $72 total. Mileage would vary based on the travel distance to/from licensee's domicile to the meeting site.

To attend the national annual meeting of the American Counseling Association in North Carolina (2009 conference site) an estimate would be as follows: Registration fee @ $270; airfare @ $358 ; lodging for three days @ $139/day = $417; meals for three days @ $147, miscellaneous costs such as cab fare, parking, and gratuities @ $100.

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules

PROPOSED RULE

20 CSR 2095-1.068 Continuing Education Records

PURPOSE: This rule establishes the criteria for maintaining continuing education course records.

(1) A licensed professional counselor shall maintain full and complete documentation of all continuing education credits earned for the two (2) previous renewal cycles in addition to the current reporting period. The committee may conduct an audit of licensees to verify compliance with the continuing education requirement.

(2) Documentation shall include the name of the continuing education course, continuing education provider name, content, date, location, hours earned, and any certificate of attendance or transcript issued by the continuing education provider.

(3) Licensees shall assist the committee in its audit by providing timely and complete responses to the committee's inquiries. A response is considered timely if received in the committee office within thirty (30) days of a written request by the committee for such information.

AUTHORITY: section 337.618, RSMo Supp. 2007. Original rule filed Nov. 21, 2008.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately nine hundred sixty-six dollars and thirty-three cents ($966.33) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately two hundred five dollars and fifty cents ($205.50) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.068 Continuing Education Records

Prepared May 27, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance	
Committee for Professional Counselors	$966.33	
	Total Biennial Cost of Compliance for the Life of the Rule	**$966.33**

III. WORKSHEET

To prepare for an audit, the Executive I will prepare and mail audit notifications. The Executive Director addresses areas of concern related to continuing education documentation once it is received back in the office.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	TIME PER APPLICATION	TOTAL COST PER RENEWAL PERIOD
Executive I	$34,908	$51,974.52	$24.99	12 Hours Per Audit Cycle	$299.85
Executive Director	$64,143	$95,502.51	$45.91	12 Hours Per Audit Cycle	$550.98
			Total Biennial Cost of Compliance for Implementation of this Rule		**$850.83**

Expense and Equipment Dollars

Expense & Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	$0.15	150	$22.50
Envelope	$0.20	150	$30.00
Postage	$0.42	150	$63.00
Total Expense and Equipment Cost Per Item	**$0.77**	**Total Biennial Expense and Equipment Costs**	**$115.50**

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.068 Continuing Education Records
Prepared May 27, 2008 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:
150	Audit Candidates Postage @ $0.42	$63.00
150	Audit Candidates Copy Fee @ $0.10 per page (Average 6 pages)	$90.00
150	Audit Candidates Mailing Materials @ $0.35	$52.50
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$205.50**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based upon an audit of 5% of renewed licenses.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules

PROPOSED RULE

20 CSR 2095-1.070 Continuing Education Exemption

PURPOSE: This rule sets forth the exemptions from continuing education requirements in certain circumstances.

(1) A licensee unable to complete the requisite number of continuing education hours because of personal illness or other circumstances beyond the licensee's control may apply for an extension of time to complete the continuing education requirements. Any extension of time to complete the continuing education requirements shall be granted solely at the discretion of the committee.

(A) The licensee shall submit a written request for any extension of time prior to the deadline for completion of the continuing education requirement.

(B) The written request shall include documentation of the grounds supporting the reason(s) for which an extension is sought.

(2) A Missouri professional counselor licensed prior to July 1 of an even year shall be exempt from the continuing education requirements for that renewal year.

(3) A Missouri licensed professional counselor shall be exempt from the continuing education requirements if currently licensed in another state and in compliance with that state's continuing education requirements.

(4) Pursuant to section 41.946, RSMo, a person who is called to full-time active duty in the service of United States under competent orders shall, during the period of full-time active duty, be exempted from any such requirement for continuing education or training without his/her status, license, certification, or right to practice his/her trade or profession being affected and shall not be required, upon returning from full-time active-duty, to make up or retake any training or education for which he/she was exempt under the provisions of this section.

AUTHORITY: section 337.618, RSMo Supp. 2007. Original rule filed Nov. 21, 2008.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one thousand nine hundred thirty-nine dollars and thirty-three cents ($1,939.33) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately thirty-one dollars and twenty-five cents ($31.25) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.070 Continuing Education Exemption

Prepared May 27, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance	
Committee for Professional Counselors	$1,939.33	
	Total Biennial Cost of Compliance for the Life of the Rule	**$1,939.33**

III. WORKSHEET

The Executive I tracks continuing education extension deadlines and mails follow-up correspondence. The Licensure Technician II prepares the file for committee review. The Executive Director addresses areas of concern related to the extension applications or waivers.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	TIME PER APPLICATION	TOTAL COST PER RENEWAL PERIOD
Executive I	$34,908	$51,974.52	$24.99	24 Hours Per Renewal Period	$599.71
Licensure Tech II	$25,428	$37,859.75	$18.20	12 Hours Per Renewal Period	$218.42
Executive Director	$64,143	$95,502.51	$45.91	24 Hours Per Renewal Period	$1,101.95
			Total Biennial Cost of Compliance for Implementation of this Rule		**$1,920.08**

Expense and Equipment Dollars

Expense & Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	$0.15	25	$3.75
Envelope	$0.20	25	$5.00
Postage	$0.42	25	$10.50
Total Expense and Equipment Cost Per Item	**$0.77**	**Total Biennial Expense and Equipment Costs**	**$19.25**

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule - 20 CSR 2095-1.070 Continuing Education Exemption
Prepared May 27, 2008 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:
25	Applicants for CE Extension or Waiver Postage @ $0.42	$10.50
20	Applicants for CE Extension or Waiver Copy Fee @ $0.10 per page (Average 6 pages)	$12.00
25	Applicants for CE Extension or Waiver Mailing Materials @ $0.35	$8.75
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$31.25**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based upon the committee's experience during the first year of implementation of the law mandating continuing education.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED RULE

20 CSR 2095-2.005 Provisional License

PURPOSE: This rule defines the requirements for provisional licensure.

(1) A provisional license issued to an individual with a master's degree in compliance with 20 CSR 2095-2.010 shall be valid for at least two (2) years from the date of issuance and shall be deemed void upon its expiration date or upon termination of supervision, whichever occurs first.

(2) A provisional license issued to an individual with thirty (30) semester hours of post-degree counseling course work, specialist, or doctoral degree in compliance with 20 CSR 2095-2.010 shall be valid for at least one (1) year from the date of issuance and shall be deemed void upon its expiration date or termination of supervision, whichever occurs first.

(3) Upon request, the committee may extend a provisional license for good cause at the discretion of the committee. An application for an extension of a provisional license shall be submitted to the committee prior to the expiration of the provisional license.

AUTHORITY: section 337.507, RSMo Supp. 2007 and sections 337.515 and 337.520(1), RSMo 2000. Original rule filed Nov. 21, 2008.

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED RESCISSION

20 CSR 2095-2.010 Educational Requirements. *This rule defined the educational requirements for professional counselors.*

PURPOSE: This rule is being rescinded and readopted to further clarify the educational requirements for professional counselors.

AUTHORITY: sections 337.510, RSMo Supp. 2004 and 337.520, RSMo 2000. This rule originally filed as 4 CSR 95-2.010. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed Nov. 21, 2008.*

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED RULE

20 CSR 2095-2.010 Educational Requirements

PURPOSE: This rule defines the educational requirements for professional counselors.

(1) In order to qualify for supervision, provisional licensure, or licensure as a professional counselor, an applicant shall have received a graduate degree at the master's, specialist, or doctoral level that consisted of a course of study with a major in counseling from an acceptable educational institution.

(A) An acceptable educational institution shall mean a regionally accredited institution approved by the United States Department of Elementary and Secondary Education.

(B) A master's degree with a major in counseling shall consist of at least forty-eight (48) semester hours or seventy-two (72) quarter hours.

(C) Any course offered primarily via correspondence course, Internet (such as a chat room or discussion group), electronic mail (email), or other delivery method or system, or whether by audio or video tape, or any other form of communication that does not allow the participants to interact verbally and visually, shall not be acceptable for course work pursuant to 20 CSR 2095-2.010(4)(A)–(K) even if credit is awarded by the educational institution and the offering appears on the transcript.

1. For the purpose of this rule, non-interactive communication shall be defined as those courses in which the student has no means of simultaneously interacting with the course instructor visually and verbally during the transmission of course information.

(D) Continuing education or work experience shall not be considered as a form of graduate course work, even if credit is awarded by the educational institution and the offering appears on the transcript.

(2) Pursuant to sections 337.510.1(1) and 337.520(1)5, RSMo, a course of study with a major in counseling shall teach counseling principles, theories, techniques, and counseling interventions and shall be defined as one (1) of the following:

(A) A graduate degree accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), or its successor organization, or the Counseling on Rehabilitation Education, Incorporated (CORE), or its successor organization;

(B) A graduate degree in counseling or guidance and counseling; or

(C) A graduate degree in counseling psychology, clinical psychology, or school psychology that includes a three (3)-semester hour graduate course in each core area as defined in 20 CSR 2095-2.010(4)(A) through (J).

(3) An applicant with a master's degree that is less than forty-eight (48) semester hours or seventy-two (72) quarter hours may submit a written request to the committee to conduct an educational review to determine compliance with 20 CSR 2095-2.010(2)(B) or (C). To be licensed, the applicant shall submit a written plan to the committee to obtain the required graduate course work to meet the forty-eight (48) semester-hour or seventy-two (72) quarter-hour and core course work requirements.

(4) The applicant shall have the burden of demonstrating that the degree consisted of a course of study with a major in counseling. If the applicant's transcript does not clearly delineate that the degree consisted of a course of study with a major in counseling, the applicant may be required to obtain a letter from the chair of the department of counseling education, or other appropriate school official, stating that the applicant has a master's, specialist, or doctoral degree consisting of a course of study with a major in counseling. The letter shall be on official letterhead of the college or university. The applicant may also be required to provide evidence that the degree program included no less than one (1) three (3) semester-hour or one (1) five (5) quarter-hour graduate course in each of the following core areas:

(A) Counseling Theory—Courses acceptable for this area shall cover the various major theories and techniques of counseling; and

(B) Human Growth and Development—Courses acceptable for this area shall cover various stages of the human growth cycle and include information about theories of development or various aspects of development; and

(C) Social and Cultural Diversity—Courses acceptable for this area cover various cultural and social class issues in areas such as race, sexual orientation, aging, disability, socioeconomic, ethnic, gender related, or other issues of diversity that emerge in a pluralistic society; and

(D) Helping Relationship—Courses acceptable for this area cover theoretical foundations pertaining to professional skill training that enable the counselor to understand the client's problems more fully and accurately and to interview effectively; and

(E) Group Counseling—Courses acceptable for this area cover the theories, principles, and techniques of providing counseling or psychotherapy with groups of people; and

(F) Career Development—Courses acceptable for this area cover concepts about how career development unfolds, the lifelong processes, and the influences upon clients or patients that lead to work values, occupational choice, creation of a career pattern, decision-making style, integration of roles, issues concerning identity, and patterns of work adjustment; and

(G) Appraisal—Courses acceptable for this area cover structured and unstructured assessment of the mental health functions and psychopathology of a person; and

(H) Research Methods—Courses acceptable for this area cover principles, methods, techniques, and tools used in performing research in counseling; and

(I) Professional Orientation—Courses acceptable for this area cover such areas as professionalism, legal issues and responsibilities, ethics, fields of training, and practice specialization; and

(J) Diagnosis—Courses acceptable for this area provide an understanding and a working knowledge of psychodiagnostics using classification systems with an emphasis on the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM). Course content regarding the DSM must include understanding the organizational structure, professional terminology used in the manual, and competence in its application as it is used in the assessment process and subsequent treatment planning; and

(K) At least six (6) semester hours or nine (9) quarter hours of graduate level supervised practicum, internship, or field experience in the practice of counseling.

1. Any practicum, internship, or field experience shall be clearly delineated on the transcript with graduate level credit and a passing grade.

(5) In determining whether a degree program included no less than one (1) three (3) semester-hour or a five (5) quarter-hour graduate course in a core area, the following shall apply:

(A) It shall be the applicant's responsibility to document that the course was an in-depth study of a particular core area through course descriptions from official school catalogues, course syllabi, bulletins, or with written documentation from an appropriate school official;

(B) A seminar course shall be acceptable if the applicant is awarded a passing grade and graduate credit is clearly delineated on the transcript;

(C) Reading courses or independent study shall be submitted to the committee for review;

(D) Undergraduate course work shall not be in compliance with core requirements unless graduate credit is clearly delineated on the transcript;

(E) When evaluating transcripts based upon a quarter-hour system, the committee shall consider a quarter hour of graduate credit as two-thirds (2/3) of a semester hour. A semester hour of graduate credit shall be defined as fifteen (15) clock hours of regularly scheduled classroom study; and

(F) No more than six (6) semester hours or nine (9) quarter hours in seminar course work or independent study shall be applicable to the total number of hours of graduate study comprising a course of study with a major in counseling.

(6) Upon receipt of official educational transcripts from the college or university and/or information relating to the program, and upon payment of the fee for an educational review as defined in 20 CSR 2095-1.040(1), the committee will review education credentials or a proposed plan for obtaining the appropriate education in compliance with these rules. All information shall be submitted to the committee no later than thirty (30) days prior to the next regularly scheduled committee meeting. Information received fewer than thirty (30) days before a committee meeting may be reviewed at the committee's discretion.

(7) Graduate course work consisting of a course of study with a major in counseling and from a school, college, university, or other institution of higher learning outside of the United States, may be considered in compliance with these rules if, at the time the school, college, university, or other institution of higher learning where the applicant was enrolled or graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions accredited by one of the regional accredited commissions recognized by the United States Department of Elementary and Secondary Education. The committee shall determine if the standard of training was substantially the same as those institutions accredited by one (1) of the regional accrediting commissions recognized by the United States Department of Elementary and Secondary Education.

(A) It shall be the applicant's responsibility to document that the course work consisted of a course of study with a major in counseling, is substantially the same as those institutions accredited by one (1) of the regional accrediting commissions recognized by the United States Department of Elementary and Secondary Education through course descriptions from official school catalogues, course syllabi, bulletins, or with written documentation from an appropriate school official explaining how the course was an in-depth study of a particular core area as defined in subsections (4)(A)–(K).

AUTHORITY: section 337.510, RSMo Supp. 2007 and section 337.520, RSMo 2000. This rule originally filed as 4 CSR 95-2.010.

Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the ***Code of State Regulations****. Rescinded and readopted: Filed Nov. 21, 2008.*

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 approximately seventy-six thousand three hundred fifty-nine dollars through one hundred ninety thousand eight hundred nine dollars ($76,359–$190,809) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 2 - Licensure Requirements
Proposed Rule - 20 CSR 2095-2.010 Educational Requirements
Prepared May 27, 2008 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:
75	Licensure Applicants Courses @ $1009 - $2535	$75, 675 - $190,125
5	Licensure Applicants Education Review Requests Postage @ $0.42	$2
10	Licensure Applicants (Letter from school stating that their degree consists of a course of study with a major in counseling) Postage @ $0.42	$4
65	Licensure Applicants Transcript @ $10.00	$650
65	Licensure Applicants Postage for Submitting Transcript @ $0.42	$27
	Estimated Annual Cost of Compliance for the Life of the Rule	**$76,359 - $190,809**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on the following:
   If an applicant does not have a course in diagnosis within the graduate degree, the applicant must obtain a course in that area. Costs for graduate courses vary among colleges and universities in and outside of Missouri. This estimate is based upon the cost of a graduate course at the University of Missouri-St. Louis and Saint Louis University in the past year. These two schools were selected due to their location in the same city. The number of applicants requiring a course in diagnosis is based upon applicant transcripts reviewed from the effective law date of August 28, 2007 to May, 2008. The committee also estimates that over time, the number of counselors required to take a course in diagnosis will decrease as more applicants complete graduate studies that include the course within the master's degree.

   University of Missouri-St Louis $1,009 per course x 75 applicants = $75,675
   Saint Louis University $2,535 x 75 applicants = $190,125

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

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2095-2.020 Supervised Counseling Experience. The board is proposing to amend sections (1)–(7), (12), and (13).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 95 are being amended throughout the rule. This amendment also defines the requirements for supervised counseling experience.

(1) As applied to periods of supervision beginning on or after January 1, 1989, the phrase "acceptable supervised counseling experience**,**" as used in section 337.510(1), RSMo, shall mean training in counseling as defined in section 337.500(6) and (7), RSMo, registered with and approved by the committee and beginning after the graduate degree *[in counseling or a mental health discipline as defined in 4 CSR 95-2.010(2)]* **consisting of a course of study with a major in counseling has been conferred**. All educational requirements as defined in sections (1) and (3) shall have been met before any supervised counseling experience commences.

(A) For the purpose of provisional licensure or licensure as a professional counselor, supervision shall be obtained from a licensed professional counselor, licensed psychologist, or psychiatrist. **For the purpose of this regulation an inactive, provisional, expired, temporary, retired, probated, or suspended license shall not meet this requirement.** The registered supervisor shall not be a relative of the applicant or have engaged in the activities described in *[4 CSR 95-3.010]***20 CSR 2095-3.010**(12)(A)–(F) during the supervised counseling experience.

(2) The applicant shall obtain the appropriate form *[and fingerprint cards]* for filing the application for registration of supervision by writing to the *[Division of Professional Registration or]* Committee for Professional Counselors, PO Box 1335, Jefferson City, MO 65102-1335, calling (573) 751-0018, sending a fax to (573) 751-0735, or sending an e*[-]*mail to profcounselor**s**@pr.mo.gov. The TDD number is (800) 735-2996. **The applicant shall submit to a background check and pay all applicable fees pursuant to 20 CSR 2095-1.040.**

(A) For the purpose of conducting a background check, the applicant shall provide proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor(s) for both a Missouri State Highway Patrol and Federal Bureau of Investigation background check. Proof shall consist of any documentation acceptable to the committee. Any fees due for the background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s).

*[(A)]***(B)** All proposed supervision arrangements beginning on or after July 1, 1989**,** shall be approved by the committee. An application for supervision or change of supervision shall not be considered as officially filed with the committee unless it is typewritten or printed in black ink, signed, accompanied by all documents required by the committee and the applicant pays the required application fee. The effective or starting date of supervision shall be the date the application is received in the committee's office and contingent upon the committee's approval. Following the review of the application for supervision by the committee, the applicant shall be informed in writing of the committee's decision.

*[(B)]***(C)** The completed application for supervision or change of supervision including all supporting material required by the committee shall be received at least thirty (30) days before the meeting of the committee. Applications received less than thirty (30) days before the next regularly scheduled committee meeting may be reviewed at the committee's discretion.

(3) To begin supervised counseling experience, the applicant shall have a master**'s**, specialist**,** or doctoral degree in counseling or another mental health discipline as defined in *[4 CSR 95-2.010]***20 CSR 2095-2.010**(2) and have received graduate credit for at least three (3) semester hours or five (5) quarter hours in counseling theory as defined in *[4 CSR 95-2.010]***20 CSR 2095-2.010**(4)(A) and at least two (2) semester hours or four (4) quarter hours in supervised practicum as defined in *[4 CSR 95-2.010]***20 CSR 2095-2.010**(3)(B)1. The committee may approve the applicant for supervision while the applicant completes core course deficiencies. All core course deficiencies shall be completed prior to being eligible for provisional licensure or licensure as a professional counselor.

(4) An applicant approved for supervision or provisional licensure based upon a master's degree pursuant to section 337.510.1(c), RSMo**,** shall obtain**,** in no more than sixty (60) calendar months:

(B) A minimum of twenty-four (24) calendar months of continuous supervised counseling experience. The counselor-in-training or provisional licensed professional counselor shall obtain an average of at least fifteen (15) hours of supervised counseling experience per week in order for the experience to be considered by the committee. If a counselor-in-training or provisional licensed professional counselor is unable to obtain at least an average of fifteen (15) hours per week, *[s/he]* **he/she** must advise the committee in writing regarding the reason that such hours cannot be obtained. The committee shall determine if such hours can be acceptable for licensure.

(5) An applicant approved for supervised counseling experience based upon a specialist or doctoral degree in counseling or other mental health discipline as defined in *[4 CSR 95-2.010]***20 CSR 2095-2.010**(2) or based upon thirty (30) hours of post master's course work in counseling or other mental health discipline as defined in *[4 CSR 95-2.010]***20 CSR 2095-2.010**(2) shall obtain**,** in no more than thirty-six (36) calendar months:

(6) The counselor-in-training, provisional licensed professional counselor**,** and registered supervisor shall either be employed at the same counseling setting or affiliated to the setting by contract. A counselor-in-training or provisional licensed professional counselor shall not operate a private practice. An applicant may register multiple counseling settings and register more than one (1) supervisor in compliance with *[4 CSR 95-2.020]* **20 CSR 2095-2.020** by submitting an application for registering or changing supervision and paying the applicable fee as defined in *[4 CSR 95-1.020]* **20 CSR 2095-1.020**.

(7) A counselor-in-training or provisional licensed professional counselor shall receive at least one (1) hour of face-to-face supervision per week from the registered supervisor. All face-to-face supervision shall be included in the total number of supervised experience hours required in this rule.

(C) The use of electronic communication**, to include a cellular telephone or Internet,** is not acceptable for meeting the supervisory requirement of this rule unless the communication is contemporaneously or simultaneously visually and verbally interactive between the registered supervisor and counselor-in-training or provisional licensed professional counselor.

(12) A counselor-in-training or provisional licensed professional counselor shall request and return a change of supervision form within fifteen (15) working days of changing a counseling setting or registered supervisor previously approved by the committee. The change

of supervision form shall be accompanied by the required fee as outlined in *[4 CSR 95-1.020]***20 CSR 2095-1.020**(1)(C) and shall be considered effective upon receipt of the application in the committee office and contingent upon approval by the committee. If the application for a change in supervision is denied, the applicant shall be informed, in writing, of the reason(s) for the denial.

(13) An applicant may submit supervised experience obtained out of state from a licensed professional counselor, licensed psychologist, or psychiatrist for review by the committee. **For the purpose of this regulation, an inactive, provisional, expired, temporary, retired, probated, or suspended license shall not meet this requirement.**

*AUTHORITY: section[s] 337.510, RSMo Supp. [2004] **2007** and **section** 337.520, RSMo 2000. This rule originally filed as 4 CSR 95-2020. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 21, 2008.*

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2095-2.021 Supervisors and Supervisory Responsibilities. The board is proposing to amend sections (1)–(3).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 95 are being amended throughout the rule. This amendment also clarifies the requirements for supervisors and their supervisory responsibilities.

(1) For the purpose of these rules, a registered supervisor for a counselor-in-training or provisional licensed professional counselor in Missouri shall be currently licensed either as a professional counselor, psychologist**,** or psychiatrist. **An inactive, provisional, expired, temporary, retired, probated, or suspended license shall not meet this requirement.**

(A) An applicant for licensure or supervision may submit postgraduate supervised experience from another state for consideration by the committee. The supervisor must have been licensed during the time of supervision in the state where supervised experience occurred as a professional counselor, psychologist**,** or psychiatrist. **An inactive, provisional, expired, temporary, retired, probated, or suspended license shall not meet this requirement.** Credit will not be given if postgraduate supervised experience fails to comply with *[4 CSR 95-2.020]* **20 CSR 2095-2.020**.

(2) In order to provide supervision for a counselor-in-training or a provisional licensed professional counselor, a registered supervisor shall document the following:

(A) *[Current licensure]* **Licensure** as a professional counselor, psychologist, or psychiatrist**. For the purpose of this regulation, an inactive, provisional, expired, temporary, retired, probated, or suspended license shall not meet this requirement**;

(3) The registered supervisor shall evaluate and provide feedback to the counselor-in-training or provisional licensed professional counselor relating to *[4 CSR 95-2.020]* **20 CSR 2095-2.020**.

(A) The supervisor shall be able to provide counseling services in the event the counselor-in-training or provisional licensed professional counselor is unable, for any reason including lack of competence, to do so. If, for any reason, a counselor-in-training or provisional licensed professional counselor is unable to provide counseling services, including incompetence, the supervisor shall be able to provide counseling services or assist in maintaining such services for the client.

*AUTHORITY: section[s] 337.510, RSMo Supp. [2004] **2007** and **section** 337.520, RSMo 2000. This rule originally filed as 4 CSR 95-2.021. Original rule filed Dec. 1, 2004, effective June 30, 2005. Moved to 20 CSR 2095-2.021, effective Aug. 28, 2006. Amended: Filed Nov. 21, 2008.*

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2095-2.030 Examinations. The board is proposing to add a new section (2) and renumber the remaining section accordingly.

PURPOSE: This amendment further clarifies the requirements and procedures for obtaining a professional counselor license by examination.

(2) An applicant for provisional licensure or licensure as a professional counselor shall comply with NBCC test administration rules and requirements related to applicant conduct during the administration of the NCE.

*[(2)]***(3)** The committee shall maintain the applicant's examination answer sheet for one (1) year from the date the examination results were reported to the committee. After one (1) year, the answer sheet will be destroyed.

*AUTHORITY: section[s] 337.507, RSMo Supp. [2004] **2007** and **section** 337.520, RSMo 2000. This rule originally filed as 4 CSR 95-2.030. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 21, 2008.*

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2095-2.065 Application for Licensure. The board is proposing to amend sections (1) and (2).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 95 are being amended throughout the rule. This amendment also clarifies the procedure for application for licensure as a professional counselor.

(1) An application for licensure shall be made on a form(s) provided by the *[Missouri Division of Professional Registration or the]* Committee for Professional Counselors, PO Box 1335, Jefferson City, MO 65102–1335, and may be obtained by calling (573) 751-0018, sending a fax to (573) 751-0735, or sending an e*[-]*mail to profcounselor**s**@pr.mo.gov. The TDD number is (800) 735-2996.

(2) An application shall not be considered as officially filed with the committee unless it is typewritten or printed in black ink, signed, notarized, accompanied by all documents required by the committee to include *[fingerprint cards]* **a background check,** and all applicable fees pursuant to *[4 CSR 95-1.040]***20 CSR 2095-1.040**(1)(A) and (F). The fee shall be in the form **of** a cashier's check, personal check, or money order.

(A) For the purpose of conducting a background check, the applicant shall provide proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor(s) for both a Missouri State Highway Patrol and Federal Bureau of Investigation background check. Proof shall consist of any documentation acceptable to the committee. Any fees due for the background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s).

*[(A)]***(B)** A counselor-in-training or provisional licensed professional counselor may submit an application for licensure up to thirty (30) days in advance of completing the required hours and months of supervision. Applications received more than sixty (60) days in advance of completion of the required hours and months of supervision shall be rejected by the committee as untimely.

*AUTHORITY: section[s] 337.507, RSMo Supp. [2004] **2007** and **section** 337.520, RSMo 2000. This rule originally filed as 4 CSR 95-2.065. Original rule filed Dec. 1, 2004, effective June 30, 2005. Moved to 20 CSR 2095-2.065, effective Aug. 28, 2006. Amended: Filed Nov. 21, 2008.*

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 approximately one hundred seventy-eight dollars and ten cents ($178.10) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 2 - Licensure Requirements
Proposed Rule - 20 CSR 2095-2.065 Application for Licensure
Prepared May 27, 2008 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:
13	Applicants for Licensure Background Checks @ $13.70	$178.10
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$178.10**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based upon the number of applications for licensure by reciprocity in fiscal year 2007.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.
3. There is no anticipated growth in applications in this area.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 3—Professional Responsibility

PROPOSED AMENDMENT

20 CSR 2095-3.010 Scope of Coverage. The board is proposing to amend section (8).

PURPOSE: Pursuant to Executive Order 06-04, the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 95 are being amended throughout the rule.

(8) For the purpose of the ethical standards for counselors, a therapeutic relationship shall encompass any of the following:

(A) A mutual understanding of the counseling process as evidenced by a signed informed consent agreement as defined in *[4 CSR 95-3.015]***20 CSR 2095-3.015**(1)(A)–(H);

AUTHORITY: sections 337.520 and 337.525, RSMo 2000. This rule originally filed as 4 CSR 95-3.010. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Rescinded and readopted: Filed July 3, 1990, effective Dec. 31, 1990. Rescinded and readopted: Filed Dec. 1, 2004, effective June 30, 2005. Moved to 20 CSR 2095-3.010, effective Aug. 28, 2006. Amended: Filed Nov. 21, 2008.

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 Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via email at profcounselors@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians

PROPOSED AMENDMENT

20 CSR 2270-2.031 Examinations. The board is proposing to amend section (1).

PURPOSE: This amendment changes the deadline dates for the North American Veterinary Licensing Examination (NAVLE) in order for the board to comply with NAVLE's examination requirements and will provide applicants with an exact deadline date to apply for the exam.

(1) *[All applicants for licensure as veterinarians in Missouri shall take the North American Veterinary Licensing Examination (NAVLE) or its successor and the State Board Examination. The deadline for applying to take the NAVLE shall be ninety-two (92) days prior to the scheduled commencement date of the test window. The State Board Examination deadline shall be sixty (60) days prior to the scheduled date of the examination.]* **All applicants for licensure as veterinarians in Missouri shall take both—**

(A) The North American Veterinary Licensing Examination (NAVLE).

1. The deadline for applying to take the NAVLE shall be August 1 and January 3 prior to each test window; and

(B) The State Board Examination.

1. The deadline for applying to take the State Board Examination shall be sixty (60) days prior to the scheduled date of examination.

*AUTHORITY: section[s] 340.210, RSMo 2000 and **section** 340.234, RSMo Supp. [2006] **2007**. This rule originally filed as 4 CSR 270-2.031. Original rule filed Nov.4, 1992, effective July 8, 1993. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 21, 2008.*

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 Veterinary Medical Board, PO Box 633, Jefferson City, MO 65102, by facsimile at 573-751-3856, or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians

PROPOSED AMENDMENT

20 CSR 2270-2.041 Reexamination. The board is proposing to amend section (1).

PURPOSE: This amendment changes the deadline dates for the North American Veterinary Licensing Examination (NAVLE) in order for the board to comply with NAVLE's examination requirements, will provide applicants with an exact deadline date to apply for the exam and changes the deadline date for the State Board Examination.

(1) Any applicant who fails an examination for licensure as a veterinarian may be reexamined by making application to the board office and paying the appropriate nonrefundable examination fee and registration fee and provide two **(2)** additional photographs. The deadline for applying to retake the North American Veterinary Licensing Examination (NAVLE) **shall be August 1 and January 3 prior to each test window** and the State Board Examination shall be *[sixty (60)]* **thirty (30)** days prior to the scheduled examinations.

*AUTHORITY: sections 340.210 and 340.232, RSMo [Supp. 1999] **2000**. This rule originally filed as 4 CSR 270-2.041. Original rule file Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 21, 2008.*

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 Veterinary Medical Board, PO Box 633, Jefferson City, MO 65102, by facsimile at 573-751-3856, or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 11—Large Animal Veterinary Student Loan Program

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 340.341, SB 931, Second Regular Session, Ninety-fourth General Assembly, 2008, the department adopts a rule as follows:

2 CSR 30-11.010 Large Animal Veterinary Student Loan Program **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1706–1709). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2000 and section 386.890, RSMo Supp. 2007, the commission amends a rule as follows:

4 CSR 240-20.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2008 (33 MoReg 1397–1407). This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held September 2 through September 8, 2008, and the public comment period ended September 2, 2008. Written comments were received from the Staff of the Missouri Public Service Commission (staff), Union Electric Company d/b/a AmerenUE (AmerenUE), Rolla Municipal Utilities (RMU), The Missouri Energy Development Association (MEDA), The Missouri Public Utility Alliance (MPUA), and the Missouri Joint Municipal Electric Utility Commission (MJMEUC). Verbal comments were made by Steven Dottheim and David Elliott on behalf of the staff; Lewis Mills, the Public Counsel; Larry Dority on behalf of "the Kansas City Power and Light Entities"; Wendy Tatro and Wade Miller on behalf of AmerenUE; Warren Wood on behalf of MEDA; and Brenda Wilbers on behalf of the Department of Natural Resources' Energy Center. The only person to testify at the hearing was staff witness Daniel I. Beck.

All participants agreed that, due to changes in the law concerning net metering, amendment of the rule is necessary.

COMMENT #1: Staff counsel noted that the rule as currently drafted only sets the floor for the amount that the electric utility must credit the customer-generator for energy it generates in excess of its own needs, as it requires the amount paid to the customer-generator to be at least equal to the electric utility's avoided fuel costs. Customers who routinely exceed their own demand can qualify to receive payments under the tariffed cogeneration rates that are based on the avoided fuel costs plus other avoided generation costs. Staff proposes two alternatives; The first is to change subsection (6)(C) "Determination of Net Electrical Energy" as follows:

> If the electricity generated by the customer-generator exceeds the electricity supplied by the electric utility during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with section (3) of this rule and shall be credited with an amount that is the greater of the avoided fuel cost or the electric utility's avoided costs under the current tariffed cogeneration rate for the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period.

The second alternative would change the definition of "avoided fuel cost" in the rule to:

> (A) Avoided fuel cost means the greater of the current annual average cost of fuel for the electric utility as calculated from information contained on the Steam-Electric Generating Plant Statistics sheets in the most recent annual report submitted to the commission pursuant to 4 CSR 240-3.165, or the current average cost of fuel for the electric utility defined as the avoided cost in section (4) of the commission's rule 4 CSR 240-20.060 Cogeneration and as filed in compliance with 4 CSR 240-3.155 Requirements for Electric Utility Cogeneration Tariff Filings. Annual average cost of fuel will be calculated from information on the Steam-Electric Generating Plant Statistics Sheets of the annual report. This annual average avoided fuel cost of fuel shall be identified in the net metering tariffs on file with the commission and shall be updated

annually within thirty (30) days after the electric utility's annual report is submitted.

As staff and AmerenUE noted, the cogeneration rules apply to independent power producers who purposely generate energy to sell to the electric utility, whereas the net metering rule is for customer-generators who primarily are generating to meet their own needs and may have excess energy. This distinction does not justify the payment differential, as it should be based on the electric utility's avoided cost, which is the same irrespective of whether the electricity comes from a cogenerator or net-metering customer.

In response to the staff's suggested changes, AmerenUE, OPC, and staff witness, Mr. Beck, noted that in the case of net-metering customers, it is unlikely that the customer will generate more electricity than the customer uses in a month. As such, any electricity generated by such a customer in excess of its instant needs and that is sent to its electric utility is used to offset the customer's usage in kilowatt hours, thereby effectively paying the customer-generator the retail unit price, which is greater than the cogeneration tariff rate. In light of the practicable application of these "payment" methods, AmerenUE, KCP&L, and MEDA were not generally opposed to paying the cogeneration rate to net metering customers. All commenters were opposed to staff's proposal to change the definition of "avoided fuel costs" to include avoided costs other than fuel.

However, AmerenUE (in whose comments KCP&L joined) noted that all customer-generators who qualify as net metering customers also qualify as cogenerators, and can sign up under the cogeneration tariff if they wish. AmerenUE further noted that creating the system the staff proposed would be expensive and time-consuming to implement, and finally asserted that the staff can require the cogeneration rate to be the net metering rate when those tariffs are filed, without any alteration to the proposed amendment.

The public counsel and staff noted that "regardless of whether it's a huge customer that's generating steam for its own processes and sells a lot of electricity back or someone that just has a few extra kilowatt hours per month in the summertime because their solar panels are sized for year-round use, the utility's avoided cost in either instance is going to be the same, so the rate paid per kilowatt hour to either of those entities ought to be the same."

RESPONSE: The commission finds that those customers who generate electricity in excess of their total usage in a given month should be compensated at the cogeneration rate. The commission finds that such a rate can be enforced in the tariff approval process, without any change to the language of the proposed amendment.

COMMENT #2: AmerenUE suggested modification to the Interconnection Form (100 kW or less) contained within the proposed amendment. In the section entitled "For Customers Who Have Received Approval of Customer-Generator System Plans and Specifications," the form requires that after the qualified generation unit is built, but prior to the interconnection of it to the electric utility, the customer-generator will furnish the utility a certification from a qualified professional electrician or engineer that the installation meets the plans and specification described in the application. Upon receipt of that certification, the utility will schedule interconnection within fifteen (15) days if the premises already has electric service. AmerenUE requested that the commission remove the fifteen (15) day requirement. The requirement is unchanged from the previous version of the rule, which was specifically required by the former statute. However, this language is removed from the new statute. AmerenUE believed that requested interconnections will normally occur within fifteen (15) days, but asserted that the commission should not create a preference for customer-generators over other types of service requests. A fifteen (15)-day interconnection requirement could force AmerenUE to delay prior service requests so that it can interconnect a customer-generator within the required fifteen (15) days.

RESPONSE: In light of the fact that potential customer generators must submit their plans to the electric utility, which has thirty to sixty (30–60) days (depending on the generating unit size) to review and accept or reject the plan, then the customer constructs the system, then they have the construction certified and so notify the utility, and then the utility has fifteen (15) days (unless a longer time is mutually agreed upon) in which to interconnect (as long as the premises already has electric service, otherwise the time frame is fifteen (15) days from when service is established), the commission finds that this time requirement is not onerous. Moreover, although this was in the previous version of the rule, AmerenUE provided no support, even anecdotal, for the assertion that the requirement has caused any delays in serving other customers. No change will be made as a result of this comment.

COMMENT #3: There were two (2) major issues concerning the liability insurance provisions included in or excluded from the proposed amendment.

First, in 4 CSR 240-20.065(4)(A), the proposed amendment requires a customer-generator with a system greater than ten kilowatt (10 kW) to carry no less than one hundred thousand dollars ($100,000) of liability insurance. AmerenUE agrees that customer-generators with a system greater than ten kilowatt (10 kW) should carry insurance; however, it believes the commission should require no less than one (1) million dollars of liability insurance. The amended rule specifies that this policy is to cover property damage as well as personal injury, including death. AmerenUE commented that one hundred thousand dollars ($100,000) is insufficient to cover the stated risks and should be increased to one (1) million dollars. RMU agreed in its comments, noting other instances with commensurate risk in which the law requires one (1) million dollars in liability insurance. AmerenUE and all other commenters except staff and OPC noted that a customer-generator with a ten kilowatt (10 kW) system (or higher) will not likely find this requirement to be unreasonable, as a customer-generator with a system of that size will have at least that level of insurance to cover its own potential liability. As the amended rule proposes, this insurance may be in the form of an endorsement on an existing policy.

The second issue pertains to whether customer-generators of ten kilowatts (10 kW) or less are required to carry any liability at all. The presently effective rule requires at least one hundred thousand dollars ($100,000) in insurance coverage, which requirement is eliminated in the proposed amendment. In addition, the proposed amendment affirmatively states that no additional insurance is required.

Section 386.890.6(2), RSMo Supp. 2007, says "For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;" however, there is no mention of a minimum amount of liability insurance for customer-generators in subdivision (1) or subsection 4.

All commenters except staff and OPC assert that the phrase "additional liability insurance beyond what is required" indicates a legislative intent for there to be some liability insurance required. OPC notes that the "old" section 386.877, RSMo, which was the first net metering act, specifically gave the commission the authority to set liability insurance levels for customer-generators. Section 386.890, RSMo, the "new" net metering act, does not explicitly authorize the commission to require liability insurance. RMU concludes that the legislature meant to include some level of liability insurance, while OPC asserts that it is also easy to conclude that the legislature did not. As such, the commission's authority under section 386.890, RSMo Supp. 2007, to establish a requirement that a smaller customer generator be required to carry liability insurance in the amount of one hundred thousand dollars ($100,000), or any other amount, is unclear. OPC opposes including the insurance requirement at this time, as the legislature can revisit the matter and clarify whether such

insurance is required. In light of the differences between sections 386.890 and 386.877, RSMo, OPC believes the intent was not to require liability insurance for the smaller customer-generators, in keeping with the intent of the new statute, which is to enable customer generators to more simply and easily hook up their own generating systems to the utility grid.

RMU noted that it had surveyed other states' net metering statutes and rules concerning liability insurance and found that in states where liability on the part of the electric company was limited in situations in which a net metering customer's equipment or actions harmed a third party, there was no insurance requirement. In states like Missouri, without liability immunity, insurance was usually required. RMU noted the dangerous nature of electricity and opined that electric utilities and other cooperative and municipal electric suppliers will be the "deep pockets" to which harmed entities will turn for recourse. However, section 386.890.11, RSMo Supp. 2007, provides that for any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier. RMU asserts that as it is not absolutely immune, it will necessarily incur expenses defending suits in which they are named, but were not at fault. It further notes that the additional coverage, in the form of a rider or special endorsement would cost approximately twenty-one dollars to twenty-seven dollars ($21–$27) each year for one hundred thousand dollars ($100,000) to one (1) million dollars in liability coverage. RMU believes that section (4) should read as follows:

(4) Customer-Generator Liability Insurance Obligations.

(A) The customer-generator shall carry no less than one hundred thousand dollars ($100,000) of liability insurance that provides for coverage of all risk of liability for personal injuries (including death) and damages to property arising out of or caused by the operation of the net metering unit. Insurance may be in the form of an existing policy or an endorsement on an existing policy.

(B) Customer-generator systems greater than ten kilowatts (10 kW) shall carry no less than one (1) million dollars of liability insurance.

RESPONSE AND EXPLANATION OF CHANGE: The commission's authority to establish a requirement that a smaller customer-generator (less than ten kilowatts (10 kW)) be required to carry liability insurance in the amount of one hundred thousand dollars ($100,000), or any other amount, is not clear under section 386.890, RSMo Supp. 2007. However, the commission finds that its authority is clear under sections 386.040, 386.250.7, 386.310, and 386.610, RSMo 2000, that establishing liability insurance levels for customer-generators is within the commission's jurisdiction to promote and safeguard health and safety, thus providing a view to the public welfare with regard to customer-generators. The cost to customer-generators to buy the required liability insurance is de minimus and the potential for harm is great; it is thus reasonable to continue to require smaller customer-generators to carry one hundred thousand dollars ($100,000) of liability insurance.

As to customer-generator systems in excess of ten kilowatts (10 kW), the commission finds it has clear authority to impose insurance requirements, agrees that the one hundred thousand dollars ($100,000) amount is insufficient, and will require a minimum liability insurance rider or endorsement of at least one (1) million dollars, as more fully set forth below.

COMMENT #4: MEDA sought clarification of paragraph (1)(C)7. of the proposed amendment. That paragraph requires that a customer-generator system contain a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the electric utility's electrical lines in the event that service to the customer-generator is interrupted. Companies are interpreting this to require that the unit be "disabled" only to the extent of interrupting power flow from the customer's equipment to the power lines in the event of a power outage or unacceptable service conditions. They are not interpreting this as a requirement that customers' back-up sources of power during power outages must be turned off until power is restored, as this would clearly be an absurd reading of the statute. This reading would also be in clear conflict with Section C of the contract in the proposed amendment where it refers to a parallel blocking scheme being permissible. MEDA requests that the rulemaking order comment on the accuracy of that interpretation.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the interpretation, but finds that the proposed language is confusing. The definition will be clarified as set forth fully in paragraph (1)(C)7. below.

COMMENT #5: DNR noted that in Section B of the contract, where it gives system types, those types do not reflect changes in the statute. Solar should be Solar/Thermal. Wind is correct. Biomass should be removed. Fuel Cell should be added. Thermal should be added. Photovoltaic is correct. Hydroelectric should be added.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds these changes to be reasonable and will be make them to the Interconnection Application, as set forth below.

4 CSR 240-20.065 Net Metering

(1) Definitions.

(C) Customer-generator means the owner or operator of a qualified electric energy generation unit that meets all of the following criteria:

1. Is powered by a renewable energy resource;

2. Is an electrical generating system with a capacity of not more than one hundred kilowatts (100 kW);

3. Is located on premises that are owned, operated, leased, or otherwise controlled by the customer-generator;

4. Is interconnected and operates in parallel phase and synchronization with an electric utility and has been approved for interconnection by said electric utility;

5. Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

6. Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

7. Contains a mechanism that automatically disables the unit and interrupts the flow of electricity onto the electric utility's electrical lines whenever the flow of electricity to the customer-generator is interrupted.

(4) Customer-Generator Liability Insurance Obligation.

(A) Customer-generator systems ten kilowatts (10 kW) or less shall carry no less than one hundred thousand dollars ($100,000) of liability insurance that provides for coverage of all risk of liability for personal injuries (including death) and damage to property arising out of or caused by the operation of the net metering unit. Insurance may be in the form of an existing policy or an endorsement on an existing policy.

(B) Customer-generator systems greater than ten kilowatts (10 kW) shall carry no less than one (1) million dollars of liability insurance.

INTERCONNECTION APPLICATION/AGREEMENT FOR NET METERING SYSTEMS WITH CAPACITY OF ONE HUNDRED KILOWATTS (100 kW) OR LESS

B. Customer-Generator's System Information

Manufacturer Name Plate (if applicable) AC Power Rating: _____ kW Voltage: _____ Volts
System Type: __ Solar/Thermal __ Wind __ Fuel Cell __ Thermal __ Photovoltaic __ Hydroelectric __ Other (describe) _____
Service/Street Address: _____
Inverter/Interconnection Equipment Manufacturer: _____
Inverter/Interconnection Equipment Model No.: _____
Are required System Plans, Specifications, & Writing Diagram attached? Yes__ No __
Inverter/Interconnection Equipment Location (describe): _____
_____
Outdoor Manual/Utility Accessible & Lockable Disconnect Switch Location (describe):
_____
Existing Electrical Service Capacity: _____ Amperes Voltage: _____ Volts
Service Character: Single Phase __ Three Phase __

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—Missouri Universal Service Fund

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 392.248, and 392.470.1, RSMo 2000 and section 392.200.2, HB 1179, Second Regular Session, Ninety-fourth General Assembly, 2008, the commission amends a rule as follows:

4 CSR 240-31.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1660). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held October 3, 2008, and the public comment period ended October 3, 2008. No written comments were received and John VanEschen, on behalf of the staff of the Missouri Public Service Commission was the only person to testify. The staff supports the proposed amendment.

COMMENT #1: In order to prevent confusion in the future about whether a program qualifies a person to receive residential essential local telecommunications services at a reduced rate under the Missouri Universal Service Fund, it is appropriate to change the way "Medicaid" is listed to the more generic "a program pursuant to 42 U.S.C. sections 1396-1396v."
RESPONSE: No change is necessitated by this comment.

COMMENT #2: As for Medicaid, it would be clearer to change the other program names to something more generic as well. However, not all those programs have a discrete enabling statute. For that reason, the staff does not recommend that the other program titles be deleted, but supports the inclusion of their corresponding statutory authority together with the program name.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with this comment, and will add the statutory citations as set forth below.

4 CSR 240-31.010 Definitions

(9) Low-income customer—Any customer who requests or receives residential essential local telecommunications service and who participates or has a dependent residing in the customer's household who participates in a program pursuant to 42 U.S.C. sections 1396-1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program's free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94).

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 10—Division of Employment Security
Chapter 3—Unemployment Insurance

ORDER OF RULEMAKING

By the authority vested in the Division of Employment Security under sections 288.040 and 288.070, HB 2041, Second Regular Session, Ninety-fourth General Assembly, 2008 and section 288.220.5, RSMo 2000, the division amends a rule as follows:

8 CSR 10-3.010 Registration and Claims in General **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1710). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 31—Reimbursement for Services

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Mental Health under sections 630.050 and 633.401, SB 1081, Second Regular Session, Ninety-fourth General Assembly, 2008, the director adopt a rule as follows:

9 CSR 10-31.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2008 (33 MoReg 1407-1408). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Mental Health received a comment on the proposed rule from James Burns concerning three (3) issues.

ISSUE #1: In his comment, Mr. Burns indicated that the assessment will be at the rate of 5.49% of net revenues of each ICF/MR. Please clarify that the assessment will be on net patient revenues for providing ICF/MR services. Also, because the rate of tax is near the indirect hold-harmless threshold (currently, the threshold is 5.5%) and the basis is estimated revenues (second prior year trended forward), there will need to be an after-the-fact test to determine that the amount of taxes collected does not exceed the 5.5% threshold of actual revenues reported by the ICF/MR facilities for the tax year.
RESPONSE AND EXPLANATION OF CHANGE: Regarding the first part of the question, the assessment is based on net patient revenues. The revenues are taken directly from Schedule A on the cost report, i.e., the number of client days multiplied by the room and board rate. To respond to the issue regarding the hold-harmless threshold, the Department of Mental Health will add a new subsection.

ISSUE #2: In his comment, Mr. Burns indicated that the taxed entities will pay their assessment into the ICF/MRFRA Fund in the state treasury. It is also stated that the state-operated facilities will utilize funds appropriated from the state general revenue fund to pay their assessments. Further down in his comment, Mr. Burns states that the non-federal share of the amount appropriated by the general revenue fund will be restored by a transfer from the ICF/MRFRA Fund. Please clarify the purpose and the reasons for the transfer from the ICF/MRFRA fund to the general revenue fund. It appears that this may represent a refund of the taxes paid.
RESPONSE: The transfer from the ICF/MRFRA fund to Missouri's general revenue fund is not a refund of the ICF/MR tax. Of the proceeds received from the public ICF/MRs, $2.7 million is transferred to the Department of Mental Health Fund, and $1.6 million is transferred to the General Revenue Fund for use as determined by the General Assembly.

ISSUE #3: Some providers that are subject to healthcare related taxes for other classes of service have entered into voluntary arrangements to redistribute the Medicaid payments they receive. Will this be the case with the ICF/MR providers?
RESPONSE: The state is not aware of any arrangements to redistribute the Medicaid payments. The department does not believe that this will be the case with any of the ICF/MR providers.

9 CSR 10-31.030 Intermediate Care Facility for the Mentally Retarded Federal Reimbursement Allowance

(2) Each ICF/MR operated primarily for the care and treatment of mental retardation/developmental disabilities engaging in the business of providing residential habilitation and other services in Missouri shall pay an ICF/MRFRA. The ICF/MRFRA shall be calculated by the department as follows:

(C) If the assessment amount determined using the second prior year cost report trended forward for the same year is greater than the actual assessment maximum amount (5.5 percent of revenues) on the current year ICF/MR provider tax revenues in the aggregate, then the department will offset the tax collections for the next year by each provider's pro-rata share of the difference between the amount of the tax as determined in subsection (2)(A) of 9 CSR 10-31.030 and the actual SFY amount determined from the current year ICF/MR cost report;

(D) If an ICF/MR does not have a base cost report, net revenues shall be estimated as follows:

1. Net revenues shall be determined by computation of the ICF/MR's projected annual patient days multiplied by its interim established per diem rate; and

(E) The ICF/MRFRA assessment for ICF/MRs that merge operation under one (1) MO HealthNet provider number shall be determined as follows:

1. The previously determined ICF/MRFRA assessment for each ICF/MR shall be combined under the active MO HealthNet provider number for the remainder of the State Fiscal Year after the division receives official notification of the merger; and

2. The ICF/MRFRA assessment for subsequent fiscal years shall be based on the combined data for both facilities.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission adopts a rule as follows:

10 CSR 10-2.385 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2008 (33 MoReg 1573–1574). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received comments on the proposed rule from ten (10) sources: The Boeing Company, Regulatory Environmental Group for Missouri (REGFORM), members of the Missouri Air Conservation Commission, Associated General Contractors (AGC) of Missouri, Inc., Johnson County, Kansas Environmental Department, Owner-Operator Independent Drivers Association (OOIDA), Missouri Motor Carriers Association (MMCA), The Builders' Association/Kansas City Chapter – AGC (Kansas City Builders Association), Mid America Regional Council (MARC), and U.S. Environmental Protection Agency (EPA). Due to the similarities between this rule and 10 CSR 10-5.385, all comments received on this proposed rule were also taken under consideration for 10 CSR 10-5.385.

COMMENT #1: The Boeing Company, REGFORM, and a commissioner on the MACC all commented that they felt that provisions in the rule that would require freight load/unload locations to be responsible

for heavy duty diesel vehicles to not idle for longer than thirty (30) minutes while waiting to load or unload is vague and unenforceable. Comments were also made on how the requirements would specifically affect Title V permit holders. This regulation will be submitted to EPA for inclusion in the Missouri State Implementation Plan and, therefore, Title V permit holders would be required to include deviations in their compliance self-reporting. Because the rule does not address how Title V permit locations would comply with the regulation, concern was raised for how permit writers would address this lack of guidance. Suggestions for changes to the proposed regulation included changing/removing wording, including additional information in the rule to ensure compliance, or removing the provisions relating to load/unload facilities from the rule.
RESPONSE AND EXPLANATION OF CHANGE: Including owners or operators of load/unload locations in the proposed regulation was intended to fulfill one of the objectives of the EPA model rule, which was to strike a balance between truck drivers and facility owners of load/unload locations. While including load/unload location requirements in the rule would assist heavy duty diesel vehicle operators in reducing idling, ultimately the owners and operators of these vehicles have direct control over idling their vehicles. If owners and operators of these vehicles abide by the idling requirements of the rule, including facility requirements will not result in any additional emission reductions. In addition, the rule does not currently provide a specific method for determining Title V compliance for load/unload locations. The department's Air Pollution Control Program does intend to work with facilities to develop idling reduction plans on a voluntary basis. For these reasons, the provisions relating specifically to freight load/unload locations in paragraph (3)(A)1. have been removed from the regulation, the wording in subsection (3)(B) has been clarified, and an additional exemption has been added to the regulation to allow thirty (30) minutes of idling while waiting to load or unload at a facility.

COMMENT #2: AGC of Missouri and a commissioner for the MACC commented that the threshold for idling restrictions seemed relatively low to them, as it included smaller pick ups that are used by both commercial vehicles and individuals. AGC of Missouri noted that the Federal Motor Carriers Safety Regulations that governed vehicles began at ten thousand one pounds (10,001 lbs.), and Missouri state regulations govern intrastate commerce apply to twelve thousand pounds (12,000 lbs.) for the pulling or hauling rating. AGC also recommended using the gross vehicle weight rating (GVWR) as the standard as it will be more readily understood by regulated businesses.
RESPONSE AND EXPLANATION OF CHANGE: The purpose of setting the applicability threshold for vehicles affected by the regulation at eight thousand five hundred pounds (8,500 lbs.) gross vehicle weight rating (GVWR) was intended to maintain consistency with the definition for heavy duty diesel vehicle already used in existing regulations. After further review of the idling regulations nationwide, it was determined that the weight limit for applicability varied greatly. However, many of the regulations followed the federal guidelines of ten thousand one pounds (10,001 lbs.) GVWR. Using the ten thousand pounds (10,000 lbs.), GVWR would eliminate some of the confusion as to which vehicles are affected, would be more consistent with federal guidelines, and would also match the separation used in the U.S. Department of Transportation Federal Highway Administration's Vehicle Inventory and Use Survey standards. Since the eight thousand five hundred pounds (8,500 lbs.), GVWR would also include a large number of personal vehicles that are exempt due to their use as passenger vehicles rather than those used by businesses, including these smaller sized heavy duty diesel vehicles would shift the focus of enforcement away from larger vehicles that are of greater concern for this regulation. Therefore, the definition of heavy duty diesel vehicle in this regulation has been changed to those vehicles with a GVWR over ten thousand pounds (10,000 lbs.).

COMMENT #3: AGC of Missouri and the Kansas City Builders Association commented that the definition for exempted passenger vehicles appeared inconsistent with the low eight thousand five hundred pounds (8,500 lbs.) GVWR that were considered to be defined as heavy duty diesel vehicles. AGC recommended clarifying the rule by exempting trucks rated for a gross weight less than twelve thousand pounds (12,000 lbs.) if not used primarily to transport loads up to the designated weight.
RESPONSE: By changing the eight thousand five hundred pounds (8,500 lbs.) GVWR to ten thousand one pounds (10,001 lbs.) GVWR as discussed in comment #2, the inconsistency between passenger vehicle and heavy duty diesel vehicle has been eliminated. Therefore, no changes were made to the rule text as a result of this comment.

COMMENT #4: AGC of Missouri and the Kansas City Builders Association commented that the definition of load/unload locations should be clarified to clearly state that locations where construction activity was occurring would be included as a load/unload location.
RESPONSE AND EXPLANATION OF CHANGE: Additional language has been added to the definition of load/unload location to help clarify what types of locations are considered to be load/unload locations.

COMMENT #5: Johnson County, Kansas Environmental Department and MARC stated their support of the proposed rule as published, and commented on their concern for revisions that would remove load/unload locations from applicability under regulation. Their concern stems from the increase in warehouse and distribution centers in the Kansas City area. Since these centers are largely responsible for scheduling truck loading/unloading operations, it is reasonable to impose a shared responsibility on both truck drivers and facility owner/operators to use the most effective methods of reducing emissions. It was also noted that the Kansas Department of Health and the Environment plans on adopting a rule similar to the Missouri Department of Natural Resources' Air Pollution Control Program's rule, and as drafted, this rule applies to both vehicle owners/operators and load/unload locations. They stressed that it is critical that the two (2) regulations be as consistent as possible in their applicability to emission sources in the Kansas City Maintenance Area to avoid confusion.
RESPONSE: The department's Air Pollution Control Program acknowledges the support of the regulation. However, as stated previously, based on comments received from other parties, paragraph (3)(A)1. relating to freight load/unload locations has been removed from the regulation. No changes were made to the rule text as a result of this comment.

COMMENT #6: OOIDA stated that they appreciated the Missouri Department of Natural Resources recognizing that idling during government mandated rest periods provided for a humane approach to safety by allowing truck drivers to have some comfort when trying to get their rest.
RESPONSE: The department's Air Pollution Control Program appreciates the support of OOIDA in the implementation of these regulations. No changes were made to the rule text as a result of this comment.

COMMENT #7: MMCA recommended that an addition be made to paragraph (3)(C)4. to include idling of the primary propulsion engine if conducted in accordance with the manufacturer's recommendations. This suggestion was made in light of some of the information MMCA has received from engine manufacturers regarding the new engine pollution control equipment some manufacturers are using. These recommendations may require idling in excess of five (5) minutes to avoid clogging filters on restart.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, language has been added to paragraph (3)(C)4. to include engine manufacturer recommended idling as an exemption.

COMMENT #8: The Kansas City Builders Association commented that in the winter, diesel engines are kept running to avoid mechanical difficulties and questioned if this would fall under one of the existing exemptions.
RESPONSE: Exemptions in paragraph (3)(C)2. already in the rule indicate that the engine may be kept running for safety reasons, in addition, language has been added to clarify paragraph (3)(C)4. to include idling that is recommended by the manufacturer. Therefore, idling to avoid mechanical difficulties have already been addressed in the regulation. No changes were made to the rule text as a result of this comment.

COMMENT #9: The Kansas City Builders Association commented that the regulation needed a definition of responsible party.
RESPONSE: The regulation does not include the term responsible party, therefore, defining it is unnecessary. The regulation does refer to owners/operators. This term is defined in 10 CSR 10-6.020 paragraph (2)(O)7. as any person who owns, leases, operates, controls, or supervises an air contaminant source. No changes were made to the rule text as a result of this comment.

COMMENT #10: The Kansas City Builders Association requested clarification on who would enforce these rules and what the repercussion were for noncompliance.
RESPONSE: Enforcement of this regulation will be handled through the department's Air Pollution Control Program and local agencies charged with enforcing all regulations enacted by the Department of Natural Resources. As with any rule promulgated under sections 643.010-643.190, RSMo, penalties may be assessed as cited in section 643.191, RSMo. Appropriate penalties will be determined by the Compliance/Enforcement Section of the department's Air Pollution Control Program. No changes were made to the rule text as a result of this comment.

COMMENT #11: EPA is concerned as to why the regulation only places limits on diesel vehicles, and makes no mention of alternatively fueled heavy duty vehicles, and suggests clarification if alternative heavy duty vehicles should comply with this regulation
RESPONSE: In subsection (2)(D), the definition of heavy duty diesel vehicle is clearly defined to include those vehicles powered by a diesel engine, and designed primarily for transporting persons or property on a public street or property. Therefore, if a vehicle powered by a diesel engine uses an alternative fuel, the regulation would still apply. No changes were made to the rule text as a result of this comment.

COMMENT #12: EPA commented that the exemptions in subsection (3)(C) of the rule, uses the term vehicles instead of passenger vehicles and suggested that, for consistency, the term passenger vehicles be used in subsection (3)(C) as well.
RESPONSE AND EXPLANATION OF CHANGE: Passenger vehicles are clearly exempt under subsection (1)(C). As a result of this comment, the term vehicles in subsection (3)(C) has been revised to heavy duty diesel vehicles for clarification that these exemptions apply to heavy duty diesel vehicles.

COMMENT #13: EPA expressed its concern that there is no compliance/enforcement section in the rule. EPA noted that the regulation would be submitted for inclusion in the Missouri State Implementation Plan (SIP) and this issue needed to be resolved prior to Missouri's request to include it.
RESPONSE: For consistency with existing regulations, including those incorporated into the Missouri State Implementation Plan, no compliance/enforcement section appears in the regulation. A compliance/enforcement section is not necessary in the regulation because compliance/enforcement is specified in the Revised Statutes of Missouri and, as with any rule promulgated under sections 643.010-643.190, RSMo, penalties may be assessed as cited in section 643.191, RSMo. No changes were made to the rule text as a result of this comment.

10 CSR 10-2.385 Control of Heavy Duty Diesel Vehicle Idling Emissions

(1) Applicability.
(C) Passenger vehicles as defined in subsection (2)(H) of this rule are exempt from this rule.

(2) Definitions.
(D) Heavy Duty Diesel Vehicle—A vehicle that—
1. Has a gross vehicle weight rating greater than ten thousand pounds (10,000 lbs.);
2. Is powered by a diesel engine; and
3. Is designed primarily for transporting persons or property on a public street or highway.
(G) Load/Unload Locations—Distribution centers, warehouses, retail stores, railroad facilities, ports, and any other sites where heavy duty diesel vehicles may idle their engines while waiting to load or unload.

(3) General Provisions.
(A) Passenger load/unload locations. No passenger load/unload location owner or operator shall cause or allow vehicles covered by this rule to idle for a period greater than five (5) minutes in any sixty (60) minute period.
(B) Requirement for heavy duty diesel vehicles. No owner/operator of a heavy duty diesel vehicle covered by this rule shall idle the vehicle for more than five (5) minutes in any sixty (60)-minute period except as noted in subsection (3)(C) of this rule.
(C) Exempt idling activities. The following activities are exempt from 10 CSR 10-2.385:
1. A heavy duty diesel vehicle idling while forced to remain motionless because of road traffic, an official traffic control device or signal, or at the direction of a law enforcement official;
2. A heavy duty diesel vehicle idling when operating defrosters, heaters, air conditioners, safety lights, or other equipment solely to prevent a safety or health emergency;
3. A police, fire, ambulance, public safety, utility service vehicle, military, other emergency or law enforcement vehicle, or any heavy duty diesel vehicle being used in an emergency capacity, idling while in an emergency or training mode, and not for the convenience of the heavy duty diesel vehicle operator;
4. The primary propulsion engine idling for maintenance, servicing, repairing, or diagnostic purposes if idling is necessary for such activity or if idling of the primary propulsion engine is being conducted in accordance with the manufacturer's recommendations;
5. A heavy duty diesel vehicle idling as part of a state or federal inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection;
6. A primary propulsion engine idling when necessary to power work related mechanical or electrical operations other than propulsion (e.g., mixing, operating hydraulic lifts, processing cargo, or straight truck refrigeration). This exemption does not apply when idling for cabin comfort or to operate non-essential on-board equipment;
7. An armored vehicle idling when a person remains inside the vehicle to guard the contents, or while the vehicle is being loaded or unloaded;
8. A bus idling for no greater than fifteen (15) minutes in any sixty (60) minute period to maintain passenger comfort while non-driver passengers are onboard;
9. An occupied heavy duty diesel vehicle with a sleeper berth compartment idling for purposes of air conditioning or heating during government mandated rest periods;
10. A heavy duty diesel vehicle idling due to mechanical difficulties over which the driver has no control;

11. Heavy duty diesel vehicles used exclusively for agricultural operations and only incidentally operated or moved upon public roads;

12. Operating an auxiliary power unit as an alternative to idling the main engine; and

13. A heavy duty diesel vehicle idling for no greater than thirty (30) minutes in any sixty (60)-minute period while waiting to load or unload at a freight load/unload location.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission adopts a rule as follows:

10 CSR 10-5.385 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2008 (33 MoReg 1574–1575). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received comments on the proposed rule from eleven (11) sources: the City of St. Louis Health Department, a private citizen, The Boeing Company, Regulatory Environmental Group for Missouri (REGFORM), members of the Missouri Air Conservation Commission, Associated General Contractors (AGC) of Missouri, Inc., AGC of St. Louis, Owner-Operator Independent Drivers Association (OOIDA), Missouri Motor Carriers Association (MMCA), U.S. Environmental Protection Agency (EPA), and the Air Pollution Branch of the St. Louis County Department of Health (DOH). Due to the similarities between this rule and 10 CSR 10-2.385, all comments received on this proposed rule were also taken under consideration for 10 CSR 10-2.385.

COMMENT #1: The City of St. Louis Department of Health voiced their support of the rule because it provides them with enforcement authority and the ability to refer for penalties.
RESPONSE: The regulation does provide those local agencies within the St. Louis Ozone Nonattainment Area with the ability to refer to the state agency for penalties for noncompliance with the regulation. No changes were made to the rule text as a result of this comment.

COMMENT #2: A private citizen remarked that the proposed idling regulation does not allow for the government mandated breaks, and asked for reconsideration of this exemption.
RESPONSE: The exemption included in paragraph (3)(C)9. is to allow for idling of a heavy duty diesel vehicle with a sleeper berth compartment during a government mandated rest period. No changes were made to the rule text as a result of this comment.

COMMENT #3: The Boeing Company, REGFORM, and a commissioner on the MACC all commented that they felt that provisions in the rule that would require freight load/unload locations to be responsible for heavy duty diesel vehicles to not idle for longer than thirty (30) minutes while waiting to load or unload is vague and unenforceable. Comments were also made on how the requirements would specifically affect Title V permit holders. This regulation will be submitted to EPA for inclusion in the Missouri State Implementation Plan and, therefore, Title V permit holders would be required to include deviations in their compliance self-reporting. Because the rule does not address how Title V permit locations would comply with the regulation, concern was raised for how permit writers would address this lack of guidance. Suggestions for changes to the proposed regulation included changing/removing wording, including additional information in the rule to ensure compliance, or removing the provisions relating to load/unload facilities from the rule.
RESPONSE AND EXPLANATION OF CHANGE: Including owners or operators of load/unload locations in the proposed regulation was intended to fulfill one of the objectives of the EPA model rule, which was to strike a balance between truck drivers and facility owners of load/unload locations. While including load/unload location requirements in the rule would assist heavy duty diesel vehicle operators in reducing idling, ultimately the owners and operators of these vehicles have direct control over idling their vehicles. If owners and operators of these vehicles abide by the idling requirements of the rule, including facility requirements will not result in any additional emission reductions. In addition, the rule does not currently provide a specific method for determining Title V compliance for load/unload locations. The department's Air Pollution Control Program does intend to work with facilities to develop idling reduction plans on a voluntary basis. For these reasons, the provisions relating specifically to freight load/unload locations in paragraph (3)(A)1. have been removed from the regulation, the wording in subsection (3)(B) has been clarified, and an additional exemption has been added to the regulation to allow thirty (30) minutes of idling while waiting to load or unload at a facility.

COMMENT #4: AGC of Missouri and a commissioner for the MACC commented that the threshold for idling restrictions seemed relatively low to them, as it included smaller pick ups that are used by both commercial vehicles and individuals. AGC of Missouri noted that the Federal Motor Carriers Safety Regulations that governed vehicles began at ten thousand one pounds (10,001 lbs.), and Missouri state regulations govern intrastate commerce apply to twelve thousand pounds (12,000 lbs.) for the pulling or hauling rating. AGC also recommended using the gross vehicle weight rating (GVWR) as the standard as it will be more readily understood by regulated businesses.
RESPONSE AND EXPLANATION OF CHANGE: The purpose of setting the applicability threshold for vehicles affected by the regulation at eight thousand five hundred pounds (8,500 lbs.) gross vehicle weight rating (GVWR) was intended to maintain consistency with the definition for heavy duty diesel vehicle already used in existing regulations. After further review of the idling regulations nationwide, it was determined that the weight limit for applicability varied greatly. However, many of the regulations followed the Federal guidelines of ten thousand one pounds (10,001 lbs.) GVWR. Using the ten thousand pounds (10,000 lbs.) GVWR would eliminate some of the confusion as to which vehicles are affected, would be more consistent with federal guidelines, and would also match the separation used in the U.S. Department of Transportation Federal Highway Administration's Vehicle Inventory and Use Survey standards. Since the eight thousand five hundred pounds (8,500 lbs.) GVWR would also include a large number of personal vehicles that are exempt due to their use as passenger vehicles rather than those used by businesses, including these smaller sized heavy duty diesel vehicles would shift the focus of enforcement away from larger vehicles that are of greater concern for this regulation. Therefore, the definition of heavy duty diesel vehicle in this regulation has been changed to those vehicles with a GVWR over ten thousand pounds (10,000 lbs.).

COMMENT #5: AGC of Missouri and AGC of St. Louis commented that the definition for exempted passenger vehicles appeared inconsistent with the low eight thousand five hundred pounds (8,500

lbs.) GVWR that were considered to be defined as heavy duty diesel vehicles. AGC recommended clarifying the rule by exempting trucks rated for a gross weight less than twelve thousand pounds (12,000 lbs.) if not used primarily to transport loads up to the designated weight.
RESPONSE: By changing the eight thousand five hundred pounds (8,500 lbs.) GVWR to ten thousand one pounds (10,001 lbs.) GVWR as discussed in comment #2, the inconsistency between passenger vehicle and heavy duty diesel vehicle has been eliminated. Therefore, no changes were made to the rule text as a result of this comment.

COMMENT #6: AGC of Missouri and AGC of St. Louis commented that the definition of load/unload locations should be clarified to clearly state that locations where construction activity was occurring would be included as a load/unload location.
RESPONSE AND EXPLANATION OF CHANGE: Additional language has been added to the definition of load/unload location to help clarify what types of locations are considered to be load/unload locations.

COMMENT #7: AGC of St. Louis commented that the regulation needed a definition of responsible party.
RESPONSE: The regulation does not include the term responsible party, therefore, defining it is unnecessary. The regulation does refer to owners/operators. This term is defined in 10 CSR 10-6.020 paragraph (2)(O)7. as any person who owns, leases, operates, controls, or supervises an air contaminant source. No changes were made to the rule text as a result of this comment.

COMMENT #8: AGC of St. Louis requested clarification on whether enforcement of this regulation was only applicable to right-of-way or also included private property sites.
RESPONSE: Both right-of-way and private property sites are intended to be subject to enforcement under this regulation. No changes were made to the rule as a result of this comment.

COMMENT #9: AGC of St. Louis requested clarification on who would enforce these rules and what the repercussion is for noncompliance.
RESPONSE: Enforcement of this regulation will be handled through the Department of Natural Resources' Air Pollution Control Program and local agencies charged with enforcing all regulations enacted by the Department of Natural Resources. As with any rule promulgated under sections 643.010-643.190, RSMo, penalties may be assessed as cited in section 643.191, RSMo. Appropriate penalties will be determined by the Compliance/Enforcement Section. No changes were made to the rule text as a result of this comment.

COMMENT #10: OOIDA stated that they appreciated the Missouri Department of Natural Resources recognizing that idling during government mandated rest periods provided for a humane approach to safety by allowing truck drivers to have some comfort when trying to get their rest.
RESPONSE: The department's Air Pollution Control Program appreciates the support of OOIDA in the implementation of these regulations. No changes were made to the rule text as a result of this comment.

COMMENT #11: MMCA recommended that an addition be made to paragraph (3)(C)4. to include idling of the primary propulsion engine if conducted in accordance with the manufacturer's recommendations. This suggestion was made in light of some of the information MMCA has received from engine manufacturers regarding the new engine pollution control equipment some manufacturers are using. These recommendations may require idling in excess of five (5) minutes to avoid clogging filters on restart.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, language has been added to paragraph (3)(C)4. to include engine manufacturer recommended idling as an exemption.

COMMENT #12: AGC of St. Louis commented that in the winter, diesel engines are kept running to avoid mechanical difficulties and questioned if this would this fall under one of the existing exemptions.
RESPONSE: Exemptions in paragraph (3)(C)2. already in the rule indicate that the engine may be kept running for safety reasons, in addition, language has been added to clarify paragraph (3)(C)4. to include idling that is recommended by the manufacturer. Therefore, idling to avoid mechanical difficulties has already been addressed in the regulation. No changes were made to the rule text as a result of this comment.

COMMENT #13: EPA is concerned as to why the regulation only places limits on diesel vehicles, and makes no mention of alternatively fueled heavy duty vehicles, and suggests clarification if alternative heavy duty vehicles should comply with this regulation
RESPONSE: In subsection (2)(D), the definition of heavy duty diesel vehicle is clearly defined to include those vehicles powered by a diesel engine, and designed primarily for transporting persons or property on a public street or property. Therefore, if a vehicle powered by a diesel engine uses an alternative fuel, the regulation would still apply. No changes were made to the rule text as a result of this comment.

COMMENT #14: EPA commented that the exemptions in subsection (3)(C) of the rule, uses the term vehicles instead of passenger vehicles and suggested that, for consistency, the term passenger vehicles be used in subsection (3)(C) as well.
RESPONSE AND EXPLANATION OF CHANGE: Passenger vehicles are clearly exempt under subsection (1)(C). As a result of this comment, the term vehicles in subsection (3)(C) has been revised to heavy duty diesel vehicles for clarification that these exemptions apply to heavy duty diesel vehicles.

COMMENT #15: EPA expressed its concern that there is no compliance/enforcement section in the rule. EPA noted that the regulation would be submitted for inclusion in the Missouri State Implementation Plan (SIP) and this issue needed to be resolved prior to Missouri's request to include it.
RESPONSE: For consistency with existing regulations, including those incorporated into the Missouri State Implementation Plan, no compliance/enforcement section appears in the regulation. A compliance/enforcement section is not necessary in the regulation because compliance/enforcement is specified in the Revised Statutes of Missouri and, as with any rule promulgated under sections 643.010-643.190, RSMo, penalties may be assessed as cited in section 643.191, RSMo. No changes were made to the rule text as a result of this comment.

COMMENT #16: The Air Pollution Branch of the St. Louis County DOH recommended eliminating allowing thirty (30) minutes of idling while waiting to load or unload.
RESPONSE: The basis for the regulation was the EPA developed Model State Idle Rule. This rule includes an allowance of thirty (30) minutes for trucks waiting to load or unload. Often trucks are required to wait to load or unload due to logistics issues at load/unload locations. This provision allows a truck driver to maintain some comfort when unable to leave their truck. No changes were made to the rule text as a result of this comment.

COMMENT #17: The Air Pollution Branch of the St. Louis County DOH commented that only the County Health Director can declare a health emergency and questioned how a safety or health emergency would be determined for this rule.
RESPONSE: The basis for this regulation was the EPA Model Rule. According to discussions that took place during the development of

the model rule, the majority of model rule workgroup participants felt that ambient temperatures did not reflect interior temperatures, which may be affected by solar intensity. A concern was raised to make sure that the use of defrosters, heaters, etc. was allowed only for emergency circumstances, such as a school bus breaking down or other unavoidable issue. It is expected that discretion of the enforcing officer be used in determining if the circumstances constitute an emergency situation. No changes were made to the rule text as a result of this comment.

COMMENT #18: The Air Pollution Branch of the St. Louis County DOH suggested eliminating the exemption for government mandated rest periods in its entirety and relying on other alternatives such as onboard auxiliary power units, truck stop electrification, or other rest/lodging options for pollution prevention.
RESPONSE: The trucking industry does bear some of the responsibility to reduce idling. However, merely passing a state regulation and passing on the expense to truckers to reduce idling was not deemed to be reasonable. At this time, no state program has been established to assist truckers in purchasing devices such as auxiliary power units that would allow them to reduce their idling, but still rest in relative comfort. The number of locations offering truck stop electrification in the St. Louis area is relatively low compared to the number of truck stop spaces, and is not sufficient for the number of trucks resting in the area. Heavy duty diesel vehicles with sleeper berths are specifically designed to allow their users to rest within the truck. Current operating costs and fuel prices are significantly reducing these operators's annual income and to require them to spend additional resources on their required rest period is not reasonable. Therefore, at this time, the exemption for government mandate rest periods is necessary to establish a balance between air quality needs and the reasonable treatment of truck operators. If sufficient financial assistance is provided in the future, the necessity of this exemption can be reexamined at that time. No changes were made to the rule text as a result of this comment.

10 CSR 10-5.385 Control of Heavy Duty Diesel Vehicle Idling Emissions

(1) Applicability.

(C) Passenger vehicles as defined in subsection (2)(H) of this rule are exempt from this rule.

(2) Definitions.

(D) Heavy Duty Diesel Vehicle—A vehicle that—

1. Has a gross vehicle weight rating greater than ten thousand pounds (10,000 lbs.);

2. Is powered by a diesel engine; and

3. Is designed primarily for transporting persons or property on a public street or highway.

(G) Load/Unload Locations—Distribution centers, warehouses, retail stores, railroad facilities, ports, and any other sites where heavy duty diesel vehicles may idle their engines while waiting to load or unload.

(3) General Provisions.

(A) Passenger load/unload locations. No passenger load/unload location owner or operator shall cause or allow vehicles covered by this rule to idle for a period greater than five (5) minutes in any sixty (60) minute period.

(B) Requirement for heavy duty diesel vehicles. No owner/operator of a heavy duty diesel vehicle covered by this rule shall idle the vehicle for more than five (5) minutes in any sixty (60)-minute period except as noted in subsection (3)(C) of this rule.

(C) Exempt idling activities. The following activities are exempt from 10 CSR 10-5.385:

1. A heavy duty diesel vehicle idling while forced to remain motionless because of road traffic, an official traffic control device or signal, or at the direction of a law enforcement official;

2. A heavy duty diesel vehicle idling when operating defrosters, heaters, air conditioners, safety lights, or other equipment solely to prevent a safety or health emergency;

3. A police, fire, ambulance, public safety, utility service vehicle, military, other emergency or law enforcement vehicle, or any heavy duty diesel vehicle being used in an emergency capacity, idling while in an emergency or training mode, and not for the convenience of the vehicle operator;

4. The primary propulsion engine idling for maintenance, servicing, repairing, or diagnostic purposes if idling is necessary for such activity or if idling of the primary propulsion engine is being conducted in accordance with the manufacturer's recommendations;

5. A heavy duty diesel vehicle idling as part of a state or federal inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection;

6. A primary propulsion engine idling when necessary to power work related mechanical or electrical operations other than propulsion (e.g., mixing, operating hydraulic lifts, processing cargo, or straight truck refrigeration). This exemption does not apply when idling for cabin comfort or to operate non-essential on-board equipment;

7. An armored vehicle idling when a person remains inside the vehicle to guard the contents, or while the vehicle is being loaded or unloaded;

8. A bus idling for no greater than fifteen (15) minutes in any sixty (60) minute period to maintain passenger comfort while non-driver passengers are onboard;

9. An occupied heavy duty diesel vehicle with a sleeper berth compartment idling for purposes of air conditioning or heating during government mandated rest periods;

10. A heavy duty diesel vehicle idling due to mechanical difficulties over which the driver has no control;

11. Heavy duty diesel vehicles used exclusively for agricultural operations and only incidentally operated or moved upon public roads;

12. Operating an auxiliary power unit as an alternative to idling the main engine; and

13. A heavy duty diesel vehicle idling for no greater than thirty (30) minutes in any sixty (60)-minute period while waiting to load or unload at a freight load/unload location.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 6—Emergency Ambulance Program

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under sections 208.152 and 208.201, RSMo Supp. 2007, the division amends a rule as follows:

13 CSR 70-6.010 Emergency Ambulance Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2008 (33 MoReg 1672). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 25—Physician Program

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under sections 208.152, 208.153, and 208.201, RSMo Supp. 2007, the division amends a rule as follows:

13 CSR 70-25.110 Payment for Early Periodic Screening, Diagnostic and Treatment Program Services **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1722–1723). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 94—Rural Health Clinic Program

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.201, RSMo Supp. 2007, the division amends a rule as follows:

13 CSR 70-94.010 Independent Rural Health Clinic Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1723–1725). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 94—Rural Health Clinic Program

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.201, RSMo Supp. 2007, the division amends a rule as follows:

13 CSR 70-94.020 Provider-Based Rural Health Clinic **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1725–1727). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2070—State Board of Chiropractic Examiners
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Chiropractic Examiners under sections 331.010 and 331.030.5, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2070-2.031 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1731–1735). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Chiropractic Examiners received two (2) comments on the proposed amendment.

COMMENT #1: Page Crow, DC, FIACA, FASA submitted a comment regarding postgraduate education and the reduction of biennial continuing education hours to maintain the acupuncture certification from twenty-four (24) hours to twelve (12) hours. Dr. Crow stated in part, currently, there are four (4) groups practicing acupuncture in the United States: 1) Individuals who have achieved the degree of "LAC" (licensed in acupuncture) who go through a four to six (4–6) year education process to achieve said degree; 2) Chiropractors who have attended a one hundred to three hundred (100-300) hour postgraduate education; 3) Medical doctors; and 4) Asian nationals that practice in America by reciprocity. Communication and association with these different groups has led her to conclude that the chiropractors are the least educated in acupuncture. Reducing yearly education requirements will continue this trend. It is her recommendation that the state of Missouri lead the way in all states by maintaining high standards in education for Missouri chiropractors. Increased academic standards always makes for better practitioners, no matter what profession.
RESPONSE: The state board noted that the proposed regulation did not amend the required post graduate education to obtain certification in meridian therapy, acupuncture, and acupressure (MTAA). Therefore, the response will address the change in continuing education hours only. When considering changes to the continuing education requirements relating to acupuncture, the state board reviewed requirements of other states, input from schools and continuing education providers, and the utilization of acupuncture by Missouri licensed chiropractic physicians. As a practice, acupuncture is thousands of years old and the general principles have not changed over time. The Missouri licensed chiropractic physician must possess knowledge of the status and relevance of acupuncture points and combine such knowledge with education and training in chiropractic to ascertain the practical needs of treatment. Continuing education can address the developments within the practice such as the integration of modern technology or techniques. Furthermore, the proposed amendment in 20 CSR 2070-2.080(3) allows a Missouri licensed chiropractic physician certified in MTAA to integrate the remaining required twenty-four (24) hours of formal continuing education toward this specialty area. The state board voted to make no change to the proposed amendment.

COMMENT #2: In reviewing 20 CSR 2070-2.031(3)(D)1., the state board noted confusion and redundant language concerning the language regarding MTAA continuing education that can be applied toward the formal and general hours.
RESPONSE AND EXPLANATION OF CHANGE:The state board is deleting the last sentence.

20 CSR 2.070-2.031 Meridian Therapy/Acupressure/Acupuncture

(3) In order to ensure that the public health and safety are protected and to maintain high standards of trust and confidence in the chiropractic profession and ensure the proper conduct of the chiropractic practice involving the use of Meridian Therapy, the requirements contained in this rule must be met prior to one engaging in therapeutic procedures or announcing the availability of therapeutic procedures to the public.

(D) In order to maintain a valid certificate in Meridian Therapy, a licensee who holds a certificate at the time of making his/her license renewal must certify to the board that s/he has completed biennially a minimum of twelve (12) hours of continuing education, approved by the board, in Meridian Therapy. This continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), the general studies category of continuing education.

1. Continuing education in the area of Meridian Therapy, acupuncture, and acupressure may also be submitted to the board for approval as formal continuing education hours.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2070—State Board of Chiropractic Examiners
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Chiropractic Examiners under section 331.050, RSMo Supp. 2007 and section 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008, the board amends a rule as follows:

20 CSR 2070-2.080 Biennial License Renewal **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1736–1740). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Chiropractic Examiners received five (5) comments on the proposed amendment.

COMMENTS #1, #2 and #3: Dennis Baker, DC, FIAMA, FASA, along with Margaret Freihaut, DC and Deanna K Bates, DC, D.A.A.P.M., F.I.C.C. made similar comments and will be responded to as a group. They all recommended the addition of the category physical therapy. Mr. Baker stated that he had used it for thirty (30) years and did not wish to discontinue utilizing physical therapy techniques within his practice. Ms. Freihaut also noted that physiotherapy is a main service performed in chiropractic offices and that with evidence-based medicine leading the way, continuing education in this area will help keep Missouri licensed chiropractic physicians apprised of the most effective treatments for patients. Ms. Bates also recommended the addition of the categories geriatric care, pediatric care, rehabilitative exercise, myofascial evaluation and treatment, pain management, and interdisciplinary updates.
RESPONSE: The state board is presently monitoring pending litigation regarding the utilization and/or advertising of the term "physiotherapy" by a Missouri licensed chiropractic physician. Therefore, the state board must wait for the outcome of said litigation, prior to entertaining the comments suggesting the addition of this topic to the current list of proposed categories. Regarding the additional categories geriatric care, pediatric care, rehabilitative exercise, myofascial evaluation and treatment, pain management, and interdisciplinary updates, the state board acknowledges the importance of these practice areas. In drafting the proposed categories of continuing education, the state board identified practice areas germane to all Missouri licensed chiropractic physicians such as x-ray, differential and physical diagnosis and emergency procedures. Another area reviewed was complaints filed with the state board and malpractice insurance providers to identify major areas of noncompliance. Finally, the state board reviewed the results of a recent survey of Missouri licensed chiropractic physicians, along with recent changes to the chiropractic scope of practice. The suggested topics geriatric care, pediatric care, rehabilitative exercise, myofascial evaluation and treatment, pain management, and interdisciplinary updates easily fit into several of the categories proposed in the current regulation. The proposed categories contained with the amendment are purposely broad based to allow seminar providers greater latitude in developing content and emphasis area(s) and the Missouri licensed chiropractic physician greater choice in selecting continuing education relevant to their practice. Finally, effective in January of 2008, the state board promulgated 20 CSR 2070-2.032 relating to specialty certification. The topics listed by the commenters relating to practice or technique lend themselves to specialty areas recognized by the state board, pursuant to meeting the requirements of the regulation. Therefore, the state board made no changes to the proposed amendment.

COMMENT #4: Dr. Rhodes requested clarification concerning the effective date of the proposed amendments and the impact upon current continuing education requirements.
RESPONSE: The proposed amendment would take effect in 2009 meaning a chiropractic physician licensed in Missouri would need to obtain the required continuing education hours between March 1, 2009 and February 28, 2011. For the March 1, 2007 to February 28, 2009 renewal cycle, chiropractic physicians licensed in Missouri must obtain continuing education according to the current requirements. The state board made no changes to the proposed amendment based on this comment.

COMMENT #5: Darrell Monroe, DC, suggested the state board amend the continuing education requirement allowing a licensee to carry over at least twelve (12) hours of continuing education to the next biennial renewal cycle.
RESPONSE: In requiring that the continuing education hours be completed over a two (2) year time frame instead of annually, a Missouri licensed chiropractic physician can carry over continuing education hours from the first half of the biennial cycle to the second half of the same biennial cycle. The state board determined that the documentation and tracking of continuing education from one (1) biennial cycle to another would be unduly onerous for licensees. Therefore, no change was made to the proposed amendment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2070—State Board of Chiropractic Examiners
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Chiropractic Examiners under section 331.050, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2070-2.081 Postgraduate Education **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15,

2008 (33 MoReg 1741). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2070—State Board of Chiropractic Examiners
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Chiropractic Examiners under sections 43.543 and 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008, and section 331.070, RSMo 2000, the board amends a rule as follows:

20 CSR 2070-2.090 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1741–1744). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2070—State Board of Chiropractic Examiners
Chapter 4—Chiropractic Insurance Consultant

ORDER OF RULEMAKING

By the authority vested in the State Board of Chiropractic Examiners under sections 331.060 and 376.423, RSMo 2000, section 331.050, RSMo Supp. 2007, and section 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008, the board amends a rule as follows:

20 CSR 2070-4.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1745–1747). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board did not receive any written comments; however, in reviewing the proposed amendment the board noted confusion and redundant language concerning Meridian Therapy/acupressure/acupuncture (MTAA).

COMMENT: The board noted confusion and redundant language concerning MTAA continuing education hours that can be applied toward the formal and general areas of study.
RESPONSE AND EXPLANATION OF CHANGE: The board voted to clarify the language in the proposed amendment by deleting the last sentence from subsection (2)(A).

20 CSR 2070-4.030 Renewal and Postgraduate Education

(2) To renew the certification, the chiropractic insurance consultant biennially shall obtain twelve (12) hours of postgraduate education in insurance consulting approved by the board. This continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), the general studies category of continuing education.

(A) Continuing education in the area of insurance consulting may also be submitted to the board for approval as formal continuing education hours.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2267—Office of Tattooing, Body Piercing, and Branding
Chapter 2—Licensing Requirements

ORDER OF RULEMAKING

By the authority vested in the Office of Tattooing, Body Piercing, and Branding under section 324.522, RSMo Supp. 2007, the board rescinds a rule as follows:

20 CSR 2267-2.020 Fees **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1748). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2267—Office of Tattooing, Body Piercing, and Branding
Chapter 2—Licensing Requirements

ORDER OF RULEMAKING

By the authority vested in the Office of Tattooing, Body Piercing, and Branding under section 324.522, RSMo Supp. 2007, the board adopts a rule as follows:

20 CSR 2267-2.020 Fees **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 15, 2008 (33 MoReg 1748–1751). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.